

**IN THE COURT OF MUHAMMAD AYAZ KHAN,**  
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 232/1 of 2019  
Date of Institution: 19/12/2019  
Date of Decision: 28/01/2020

30

**Zafar Ali s/o Mureed Askar**

Resident of Village Noor Ali Garhi, PO Kalaya, Tehsil Lower Orakzai & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA KPK Peshawar.**
3. **Assistant Director, NADRA District Orakzai.**

(Defendants)

**SUIT FOR DECLARATION & PERMANENT INJUNCTION**

**JUDGEMENT:**

1. Plaintiff, **Zafar Ali**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **12.09.1984** while it has been wrongly mentioned as **1977** by the defendants, which is unnatural as the difference between the age of the plaintiff and his mother is only **13 years** and with his father is **15 years** which is against the **natural gapes**. Hence, the instant suit.
2. Defendants were summoned, who appeared through attorney namely **Syed Farhat Abbas** and submitted written statement, which is placed on file.

Divergent pleadings of the parties were reduced into the following issues;


**Issues:**

- (31)
1. Whether the plaintiff has got any cause of action?
  2. Whether suit of the plaintiff is within time?
  3. Whether the correct date of birth of the plaintiff is **12.09.1984**, while the date **1977** mentioned in CNIC of the plaintiff is incorrect.
  4. Whether the plaintiff is entitled to the decree as prayed for?
  5. Relief.

3. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses.

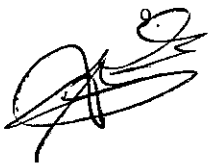
4. PW-1, Zafar Ali, is the plaintiff himself. He stated that his correct date of birth is **12.09.1984**, while it has been wrongly mentioned as **1977** by the defendants. He further stated that his age difference with his parents is unnatural. He produced his CNIC and exhibited copy of his CNIC as Ex.PW-1/1, copy of School certificate as Ex.PW-1/2 copy of CNIC of his father as Ex.PW-1/3 and CNIC of his mother as Ex.PW-1/4. He requested for grant of decree as prayed for. He is cross examined by the attorney of the defendants.

5. PW-2, Touheed, neighbor of the plaintiff, who appeared and recorded his statement. He produced and exhibited copy of his CNIC as Ex. PW-2/1. He stated that the correct date of birth of the plaintiff is **01.01.1984** and plaintiff has an unnatural date gap with his parents. He is cross examined by the defendants.

  
MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai at Hangu

- 6. PW-3, Aftab Ali, is brother of the plaintiff. He produced and exhibited his CNIC as Ex. PW-3/1. He supported the contention of the plaintiff and that the correct date of birth of the plaintiff is **01.01.1984**. He is cross examined by the attorney of the defendants.
- 7. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He is cross examined by the plaintiff.
- 8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:



**Issue No. 02:**


The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.

10. **Issue No.03:**

As per the available record and evidence, present on file, reveals that plaintiff claims his correct date of birth as

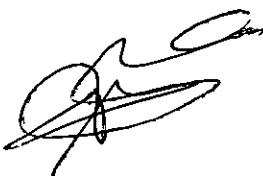
MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai at Hangu

12.09.1984 and he relied upon school leaving certificate, which is exhibited as Ex.PW-1/2. He also relied upon on account of unnatural gape with his mother namely Gul Pari Jan, which is 13 years, and with his father the gape is 15 years. Now, if we presume the present date of birth of the plaintiff as correct, which is **01.01.1977**, then, the gape with his mother is 13 years and with his father is 15 years respectively, which is not possible. The same is even against the law of nature. The difference must be more than 18 years, under the normal circumstances. The said difference of ages is unnatural and the same is not appealable to any prudent mind. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanoon-e-Shahadat Order, 1984. Even otherwise, it is the fundamental right of the plaintiff to correct his date of birth in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants. Nothing is produced in rebuttal by the defendants.



MUHAMMAD AYAZ  
Senior Civil Judge,  
Orakzai at Hangu

Now, the question before the court is, what is the correct date of birth of the plaintiff? The school leaving certificate, exhibited as Ex.PW-1/2 is not authentic document as compare to Matric certificate, which is maintained by the BISE and has got precedence over other documents. The date of birth mentioned in the school leaving certificate is not correct, so, no reliance can be placed on said certificate. The factor of unnatural gape between the plaintiff and his parents cannot be ignored, which needs to be corrected in order to avoid future complications. If the gape is 18 years, then, the issue of unnatural gape can be resolved. If we consider 12.09.1981 as correct date of birth of the plaintiff, then the gape between the plaintiff with his mother is more than 17 years and with father is 19 years, which is not unnatural gape. Hence, in circumstances, it is held that the correct date of birth of the plaintiff is 12.09.1981.

  
 MUHAMMAD AYAZ  
 Senior Civil Judge,  
 Orakzai at Hangu

In circumstances, the claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence. Hence, the issue in hand is decided in affirmative.

**Issue No. 01 & 04:**

Both issues are taken together. For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and she is entitled to the decree as prayed for.

The issues are decided in affirmative.

35

**Relief:**

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as **12.09.1981** forthwith. Plaintiff shall pay all the fee for correction as required by the NADRA.

11. Parties are left to bear their own costs.
12. File be consigned to the record room after its necessary completion and compilation.

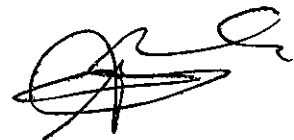
**Announced**  
28/01/2020



**(Muhammad Ayaz Khan)**  
Senior Civil Judge,  
Orakzai at Baber Mela

**CERTIFICATE**

Certified that this judgment of mine consists **06** (six) pages, each has been checked, corrected where necessary and signed by me.



**(MUHAMMAD AYAZ KHAN)**  
Senior Civil Judge,  
Orakzai (at Baber Mela).