

A

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

Civil Suit No. 173/1 of 2019  
Date of Institution: 12/09/2019  
Date of Decision: 16/10/2019

**Mst Rozina w/o Riaz Badshah**

Resident of Village Mazari Garhi, PO Ghiljo, Tehsil Upper 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, **Mst Rozina**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking therein that her correct date of birth is **01/01/1980** while it has been wrongly mentioned as **01/01/1986** by the defendants, which is incorrect and against the facts, so, liable to be corrected. Hence, the instant suit.
2. Defendants were summoned, who appeared through attorney namely **Habib Ullah Khan** and submitted written statement, which is placed on file.

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

**Issues:**

1. Whether the plaintiff has got any cause of action?

  
**MUHAMMAD AYAZ**  
Senior Civil Judge,  
Orakzai at Hangu

2. Whether suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is 01/01/1980, while the date 01/01/1986 as 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 two (02) witnesses.


4. PW-1 is Rehmat Ullah, son/attorney of the plaintiff, who appeared and recorded his statement, wherein he stated that the correct date of birth of the plaintiff is 01/01/1980 while it has been wrongly mentioned as 01/01/1986. He added that his date of birth is 02/04/2000, which is evident from the CNIC, exhibited as Ex. PW-1/1. As per the said record, the difference of age between the plaintiff and his son is only 14 years, which is not possible. He also produced and exhibited copy of SSC certificate as EX. PW-1/2, his power of attorney as Ex. PW-1/3. He requested for grant of decree as prayed for. He is cross examined by the attorney of the defendants.

5. PW-2, is Hisb Ullah, relative/witness of the plaintiff, who appeared and recorded his statement, wherein he supported the contention of the plaintiff and stated that the real date of birth of

**MD HAMID AYAZ**  
Senior Civil Judge,  
Orakzai at Hangul

the plaintiff is 01/01/1980. He exhibited his CNIC copy as Ex. PW-2/1. He was cross examined by the defendants.

6. 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.
7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
8. My issues wise findings are as under:
9. **Issue No.03:**

  
MUHAMMAD SYAZ  
Senior Civil Judge  
Orakzai at Mangu


Perusal of record reveals that correct date of birth of the plaintiff is 01/01/1980, which is evident from the evidence of the plaintiff. Further, CNIC of the attorney of the plaintiff, exhibited as Ex.PW-1/1, the real date of birth of the son of the plaintiff is 02/04/2000, which shows that there is difference of only 14 years of age between the plaintiff and her son, which is unnatural and against the norms of the society. This factum has not been rebutted by the defendants, which amounts to admission on part of defendants. 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 Qanun-e-Shahadat. Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said documents are admissible in evidence, which is relied upon in present

circumstances. Nothing is produced in rebuttal by the defendants.

Hence, claim of the plaintiff is accepted. 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. 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.

  
MOHAMMAD AYAZ  
Senior Civil Judge  
Orakzai at Hangu.

**Issue No. 01 & 04:**

Both issues are taken together for discussion. 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.


These issues are decided in affirmative.

**Relief:**

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as 01/01/1980 forthwith.


10. Parties are left to bear their own costs.
11. File be consigned to the record room after its completion.

**Announced**  
16/10/2019

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

**CERTIFICATE**

Certified that this judgment of mine consists **05** (five) pages, each has been checked, corrected where necessary and signed by me.

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