

IN THE COURT OF SYED ABBAS BUKHARI,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 35/1 of 2023
Date of Original Institution: 15.05.2023
Date of Decision: 02.06.2023

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Ziarat Shah S/O Maseen Shah, resident of Qoum Mishti,
Tappa Darvi Khel, Village Jano Maya, Tehsil Central, District:
Orakzai.

.....(Plaintiff)

VERSUS

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

.....(Defendants)

**SUIT FOR DECLARATION -CUM- PERPETUAL AND
MANDATORY INJUNCTION**

JUDGMENT

1. Brief facts of the case in hand are that plaintiff has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct date of birth of plaintiff is **01.01.1968**, while defendants have wrongly entered the same as 05.12.1958 in their record, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

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2. Defendants were summoned, they appeared through their representative and filed written statement whereby they objected the suit on factual and legal grounds.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiff has got a cause of action? OPP
2. Whether the correct date of birth of plaintiff is **01.01.1968** while same has been incorrectly entered in the record of defendants as 05.12.1958? OPP
3. Whether the plaintiff is entitled to the decree as prayed for?
4. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:

The plaintiff alleged in his plaint that correct date of birth of plaintiff is **01.01.1968**, while defendants have wrongly entered the same as 05.12.1958 in their record which is wrong, ineffective upon the rights of plaintiff and liable to be corrected.

The plaintiff produced witnesses in whom Mr. Ziarat Shah S/O Maseen Shah, the plaintiff himself, appeared as PW-01. He stated that his correct date of birth is 01.01.1968 while defendants have wrongly entered as 05.12.1958. He further stated that plaintiff's father date of birth is 1950 and according to which there is unnatural gap of 08 years between plaintiff and his father. He produced his CNIC, his father CNIC and

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FRC which are Ex. PW-1/1 to Ex. PW-1/3 respectively. He lastly requested for decree of the suit. During cross examination nothing tangible has been extracted out of him.

Khial Bat Khan S/O Maseen Shah, brother of plaintiff appeared and deposed as PW-02. He supported the stance of the plaintiff as narrated in the plaint. His CNIC is Ex. 2/1. The witness has been cross examined but nothing tangible has been extracted out of him.

Thereafter, counsel for the plaintiff closed his evidence.

In order to counter the claim of the plaintiff, defendants produced only one witness, the representative of the defendants, who appeared as DW-01. He produced Family Tree of plaintiff which is Ex. DW-1/1 and according to that the date of birth of plaintiff is 05.12.1958 and plaintiff's father date of birth is 1950. During cross examination he stated that according to SOP of NADRA there must be a difference of 17 to 18 years between a father and son.

In light of above discussion as plaintiff succeeded to prove his stance by producing documentary, cogent, convincing and reliable evidence and nothing in rebuttal has been brought on record by the opposite party. Furthermore, as per NADRA record there exist an

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unnatural gap of 08 years between the age of plaintiff and his father, which is impossible and against the order of nature. Accordingly, the issue in hand is hereby decided in positive in favor of plaintiff.

Issue No. 01 & 03:

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 02 the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby **decreed** as prayed for. No order as to costs. This decree shall not effect the rights of other(s) or service record if any

File be consigned to the District Record Room, Orakzai after its completion and compilation

Announced
02.06.2023

[Signature]
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Civil Judge/JM-II
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CERTIFICATE

Certified that this judgment consists of four (04) pages, each has been checked, corrected where necessary and signed by me

[Signature]
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