

**IN THE COURT OF REHMAT ULLAH WAZIR,**  
**CIVIL JUDGE-I ORAKZAI AT BABER MELA**

Civil Suit No. 30/1 of 2019  
Date of Institution: 30/05/2019  
Date of Decision: 18/12/2019

**Riaz Ullah S/O Muhammad Ayub R/O Qom Malla Khel, Tappa Aziz  
Khel, Star Kallay, Tehsil Upper District Orakzai.** (Plaintiff)

VERSUS

1. **Director General NADRA, KPK, Peshawar.**
2. **Chairman NADRA, District Orakzai.**
3. **Assistant Director, NADRA, District Orakzai.**  
Through Assistant Director NADRA, Orakzai..... (Defendants)

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

**JUDGEMENT:**

1. Plaintiff Riaz Ullah has brought the instant suit for declaration-cum-permanent injunction against defendants Director General NADRA, KPK, Peshawar, Chairman NADRA District Orakzai through Assistant Director, Bahadur Banda, District Orakzai seeking therein that correct date of birth of the plaintiff is **08-08-1999**, whereas, defendants have wrongly entered the same as **05-01-1994** in the CNIC No. **14101-3542168-7** instead of **08-08-1999**, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit;
2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.
3. Divergent pleadings of the parties were reduced into the following issues;

**Issues:**

1. Whether the plaintiff has got any cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether suit of the plaintiff within time?
4. Whether the correct date of birth of the plaintiff is **08-08-1999** as per his School record, while the same has been wrongly entered in his CNIC as **05-01-1994**?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

**Issue No. 02:**

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

**Issue No. 03:**

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date

while the instant suit has been filed on **30-05-2019**. Thus, the same is well within time. The issue is decided in positive.

**Issue No. 04:**

The plaintiff alleged in his plaint that his correct date of birth is **08-08-1999**, whereas, defendants have wrongly entered the same as **05-01-1994** instead of **08-08-1999**, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit;

The plaintiff produced witnesses in whom the plaintiff himself appeared as PW-1, who produced his CNIC which is Ex. PW-1/1 and that according to this the date of birth is **05-01-1994**. Further he produced Matric DMC and Migration Certificate which are Ex. PW-1/2 and PW-1/3 respectively and according to this record the correct date of birth is **08-08-1999**. Further, he produced the Mother CNIC which is Ex. PW-1/4 and according to this the date of birth of mother is **01-01-1980** and there are 14 years difference between the mother and son is not possible which which is wrong, against law & facts and liable to be corrected. Further, Waqar Younas S/O Asker Ali, the cousin of the plaintiff appeared is PW-2, who produced his own CNIC which is Ex. PW-2/1, and according to this the correct date of birth is **08-08-1999**. Further, Ibrahim Khan S/O Badshah Khan, the cousin of the plaintiff appeared as PW-3, who produced his own CNIC which is Ex. PW-3/1 and further narrated the same story in the plaint. All of the witnesses have been cross

examined but nothing tangible has been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the defendants produced only Mr. Syed Farhat Abbas, the representative of the defendants as DW-1, who produced the Manual NIC Form and Family tree of the plaintiff which are Ex. DW-1/1 and Ex. DW-1/2 respectively. and that according to this the date of birth of the plaintiff is **05-01-1994** but admitted is his cross examination that it is correct that date of birth of the plaintiff's mother is **01-01-1980**.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the defendants have issued the CNIC to the plaintiff which is bearing date of birth as **05-01-1994** while his School Record which is available on case file, bearing his date of birth as **08-08-1999**, which is more authentic. Further, as per the date of birth of the mother of the plaintiff which is 01-01-1980, it is not naturally possible for a lady to have a son in the age of almost 14 years, which is the case of the plaintiff. Thus, there is also an un-natural difference of age between the plaintiff and his mother. Thus, in the light of aforesaid findings the issue is decided in positive.

**Issue No. 01 &05:**

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

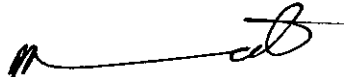
**RELIEF:**

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with no order as to costs.

Defendants are directed to issue CNIC to the plaintiff as per his correct date of birth i.e. **08-08-1999**.


File be consigned to the Record Room after its completion and compilation.

**Announced**  
18/12/2019

  
(Rehmat Ullah Wazir)  
Civil Judge-I,  
Orakzai at Baber Mela.

**CERTIFICATE**

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

  
(Rehmat Ullah Wazir)  
Civil Judge-I,  
Orakzai at Baber Mela.