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IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....17/1 of 2023.

Date of Institution.....11.04.2023.

Date of Decision.....18.04.2023.

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1. *Kamil Khan S/O Ghulam Rasheed*
2. *Mst. Khushal Bibi W/O Kamil Khan both R/O Qoam Feroz Khel, Tappa Qasim Khel, Tehsil Lower, District Orakzai.....(Plaintiffs)*

Versus

1. Chairman NADRA, Islamabad.
 2. Director General NADRA, Khyber Pakhtunkhwa, Peshawar.
 3. Assistant Director NADRA, Orakzai.
- (Defendants)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION


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JUDGEMENT

18.04.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Kamil Khan and Mst. Khushal Bibi against defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiffs have filed the instant suit for declaration cum-permanent injunction to the effect that, true and correct date of birth of plaintiff No. 1 is 01.01.1966 and that of plaintiff No. 2 is 01.01.1966 however, defendants have incorrectly entered the same as 1970 and 01.01.1975 respectively which entries are


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wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 14 and 09 years between plaintiffs and their elder son namely Fareed Ullah whose date of birth is 01.01.1984. It is further averred that there is unnatural age difference of about 12 years between plaintiff No. 2 and her 2nd son namely Imtiaz Ullah whose date of birth is 01.01.1987. That defendants were asked time and again to rectify dates of birth of plaintiffs but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiffs is within time?
3. Whether correct date of birth of plaintiff No. 1 is 01.01.1966 instead of 1970 and that of plaintiff No. 2 is 01.01.1966 instead of 01.01.1975? OPP
4. Whether plaintiffs are entitled to the decree as prayed for? OPP
5. Relief.


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Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsels for the parties were heard and record of the case file was gone through with their valuable assistance.


Plaintiffs produced two witnesses in support of their claim while defendants produced one witness in defense.

Kamil Khan (plaintiff No.1) who is also special attorney of plaintiff No. 2 appeared himself as PW-01. He reiterated the averments of plaint. Copy of his CNIC is Ex. PW-1/1, copy of CNIC of plaintiff No. 2 is Ex.PW-1/2. Copy of CNIC of his sons namely Fareed Ullah and Imtiaz Ullah are Ex.PW-1/3 and Ex.PW-1/4 respectively. Special power of attorney is Ex.PW-1/5.

Muhammad Saleh brother of plaintiff No.1 appeared and deposed as PW-02. He supported the plea of plaintiffs. Copy of his CNIC is Ex. PW-2/1,

Thereafter, evidence of plaintiffs was closed.

Shafeeq (Representative of NADRA, Orakzai) appeared as DW-01. He produced Family Tree of plaintiffs which is Ex. DW-1/1. He stated that plaintiffs have been issued CNICs as per information provided by them. He lastly requested for dismissal of suit of plaintiffs. Thereafter, evidence of defendants was closed.


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The above discussion boils down to my following issue-wise findings.

ISSUE NO.2

Plaintiff No. 1 and plaintiff No. 2 have been issued CNICs on 09.06.2021 and 28.06.2021 with expiry dates as 09.06.2031 and 28.06.2031. Suit in hand was filed on 11.04.2023. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issue No. 2 decided in positive.

ISSUE NO.3

Claim and contention of plaintiffs is that true and correct date of birth of plaintiff No. 1 is 01.01.1966 and that of plaintiff No. 2 is 01.01.1966 however, defendants have incorrectly entered the same as 1970 and 01.01.1975 respectively which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 14 and 09 years between plaintiffs and their elder son namely Fareed Ullah whose date of birth is 01.01.1984. It is further averred that there is unnatural age difference of about 12 years between plaintiff No. 2 and her 2nd son namely Imtiaz Ullah whose date of birth is 01.01.1987.


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There is no documentary proof which could establish that correct dates of birth of both the plaintiffs is 01.01.1966, however, there is unnatural age difference of about 14 and 09 years between plaintiff No. 1 and his elder son named above which is evident from Ex.PW-1/3 and Ex.PW-1/4. Similarly, there is unnatural age difference of about 12 years between plaintiff No. 2 and her 2nd son namely Imtiaz Ullah which is evident from Ex.PW-1/4.

DW-01, admitted unnatural age difference between plaintiffs with their sons namely Fareed Ullah and Imtiaz Ullah. Plaintiffs are not government servants. The rectification/modification sought by plaintiffs will not affect rights of others. DW-01, in his cross examination categorically admitted that there must be at least 17-years age difference between parents and their children. If dates of birth of plaintiffs are not modified, it will result into inconvenience to plaintiffs and their family members. Oral evidence produced by plaintiffs is also supportive to the averments of plaint.

Keeping in view the above discussion, documentary as well as oral evidence available on file and admission of DW-01, issue No.3 is decided in favor of plaintiffs and against the defendants.

ISSUES NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiffs have got cause of action and are entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiffs.


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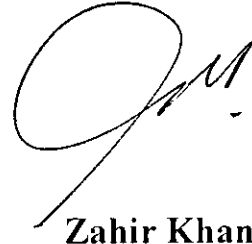
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RELIEF:

Crux of my issue wise discussion is that suit of the plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any and their service record if any.

File be consigned to record room after its necessary completion and compilation.

ANNOUNCED
18.04.2023



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CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
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