

C39

**IN THE COURT OF FARMAN ULLAH,**  
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 275/1 of 2020  
Date of Institution: 25/02/2020  
Date of Decision: 23/11/2020

**Khalid Khan s/o Muhabbat Khan**

Section Mamo Zai, Sub Section Ado Khel, PO Ghiljo, Tehsil Upper & District Orakzai..... (Plaintiff)

VERSUS

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

(Defendants)

**SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION**

**JUDGEMENT:**

Brief facts of case in hand are that the plaintiff, **Khalid Khan s/o Muhabbat Khan**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct date of birth is **12.05.1999** while correct father name is "**Muhabbat Khan**" and correct mother name is "**Deen Bibi**" while defendants have wrongly mentioned his date of birth as 01.01.1990, father name as "**Mir Khanan**" and his mother's name as "**Bibia Jan**" in their record, which are incorrect and liable to be corrected. Hence, the present suit.

FARMAN ULLAH  
Senior Civil Judge  
Orakzai at Baber Mela

23.11.2020

40

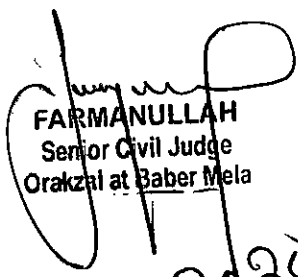
Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, wherein they contested the suit of plaintiff on various grounds.

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

**Issues:**

1. Whether plaintiff has got cause of action?
2. Whether the correct names of the parents of the plaintiff are “**Muhabbat Khan**” and “**Deen Bibi**” while defendants have wrongly mentioned the same in the CNIC of the plaintiff?
3. Whether the correct date of birth of the plaintiff is **12.05.1999** while defendants have wrongly mentioned the same as **01.01.1990** in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.

6. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced his witnesses as PW-1 to PW-4.
7. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the record of plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/3.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:

  
FARMANULLAH  
Senior Civil Judge  
Orakzai at Baber Mela  
23.11.2020

41

**Issue No.02:**

Plaintiff contended in his plaint that, his correct parents' names are "**Muhabbat Khan**" and "**Deen Bibi**" but inadvertently the same were recorded as **Mir Khan** and **Bibi Jan** in record of defendants. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of the plaint in his examination in chief. He also produced his CNIC as Ex.PW-1/1, his parents CNICs as Ex.PW-1/2 and Ex.PW-1/3 and his brother's CNIC as Ex.PW-1/4, while PW-2, is the statement of Bibi Jana, who stated in her examination in chief that correct names of the parents of the plaintiff are **Muhabbat Khan** and **Deen Bibi**. She also stated that she is not the mother of plaintiff rather his relative and incorporation of her name and her husband as parents of plaintiff is incorrect. PW-3 is the statement of Din Bibi, who stated in her examination in chief that plaintiff is her son. PW-4 is the statement of Fazal-e-Janan, who stated in his examination in chief that he is the paternal grandfather of plaintiff and the correct names of parents of plaintiff are **Muhabbat Khan** and **Deen Bibi**. PW-1 to PW-4 were subjected to cross examination but nothing substantial was brought on record which could have shattered their testimony rather they

FARMANULLAH  
Senior Civil Judge  
Qakza at Baber Mela

23.11.2020

42

remained consistent regarding the facts uttered by them in their examination in chief. So, from the evidence produced by plaintiff, it is evident that correct names of parents of plaintiff are **Muhabbat Khan** and **Deen Bibi**. Hence, issue No.2 is decided in positive.

**Issue No. 03:**

It is the contention of plaintiff that his correct date of birth is 12.05.1999 but defendants have erroneously recorded the same as 01.01.1990 in CNIC of plaintiff and due to which age difference between plaintiff and his father is 15 years while his mother is 08 years which is unnatural.

Plaintiff in support of his contention appeared as PW-1

and repeated the contents of plaint in his examination in chief. PW-3 and PW-4 also stated in their examination in chief that correct date of birth of the plaintiff is 12.05.1999. During cross examination PW-4 stated that plaintiff has also gone abroad in connection with his livelihood.

On other hand, representative for defendants appeared as DW-1. He produced the CNIC processing form of plaintiff as Ex-DW1/1, Family Tree of Mir Khan as Ex-DW1/2 and Family Tree of Muhabbat Khan as Ex-DW1/3.

43

From the analysis of available record, it is an established fact that plaintiff for first time applied for issuance of CNIC in year 2011 and CNIC Ex-PW 1/1 was issued to him on 29.08.2011, wherein, his date of birth was recorded as 01.01.1990. ExDW1/4 depicts that plaintiff for 2<sup>nd</sup> time applied for CNIC in year 2014 with the same detail about his date of birth. Even while applying for 2<sup>nd</sup> time, plaintiff did not object on his date of birth recorded as 01.01.1990. Moreover, if the date of birth of plaintiff was 12.05.1999 as alleged by the plaintiff in the instant suit, then how he applied for issuance of CNIC in year 2011, as If the time period between 12.05.1999 and 29.08.2011 is calculated then it comes about 12 years. It does not appeal to a common sense and a prudent mind that a person can apply for CNIC at the age of 12 years. Even the physical appearance of plaintiff as depicted from his picture on his CNIC Ex-PW1/1 does not suggests that plaintiff in year 2011 was of 12 years rather his picture reflects him as major person. So, all these materials negate the contention of plaintiff regarding his date of birth as 12.05.1999. Though, date of birth of mother of plaintiff as per her CNIC Ex-PW1/3 is 01.01.1982 and the difference between the age of plaintiff and his mother is about 09 years, which is unnatural gap between the age of mother and her son yet the family tree of plaintiff ExDW1/3

FARHANULLAH  
Senior Civil Judge  
Orakzai at Baber Mela

23.11.2020

C94

shows such unnatural gap of mother of plaintiff with her other children also exist as date of birth of one sister of plaintiff namely Roohamza is 01.01.1992 and brother namely Abdul Waris is 01.01.1993. Such unnatural gap of age of mother of plaintiff with her children suggests that her date of birth has been wrongly recorded in NADRA record. So, the unnatural gap between the age of plaintiff and her mother cannot be considered as a ground that defendants have wrongly incorporated the age of plaintiff as 01.01.1990. No other cogent and confidence inspiring evidence is available on file which support the stance of plaintiff regarding his date of birth as 12.05.1999. Hence instant issue is decided in negative.

**Issue No. 01 & 04:**

Instant issues are taken together. For what has been held in issue No.2 and 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree to the extent of correction of his parents' names in NADRA record while to the extent of correction of his date of birth he has neither got cause of action nor entitled to decree. Hence, both the issues are partially decided in positive and partially in negative.

45

**Relief:**

Consequently, suit of the plaintiff partially succeeds and is hereby decreed to the extent of parents' names while dismissed to the extent of his date of birth. Defendants are directed to correct their record by incorporating the parents' names of the plaintiff as "**Muhabbat Khan**" and "**Deen Bibi**" in their record. Parties are left to bear their own costs.

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

**Announced**  
23/11/2020

**FARMANULLAH**  
Senior Civil Judge  
Orakzai at Baber Mela  
(Farman Ullah)  
Senior Civil Judge,  
Orakzai (at Baber Mela).

**CERTIFICATE**

Certified that this judgment of mine consists **07** (Seven) pages, each has been checked, corrected where necessary and signed by me.

**FARMANULLAH**  
Senior Civil Judge  
Orakzai at Baber Mela  
(Farman Ullah)  
Senior Civil Judge,  
Orakzai (at Baber Mela).