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

Suit No.....18/1 of 2023.

Date of Institution.....27.04.2023.

Date of Decision.....06.06.2023.

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1. Hazrat Bilal
2. Sadique Ullah
3. Habib Noor Ss/O Mina Dar all residents of Qaum Mishti,
Tappa Haider Khel, Tehsil Central, District Orakzai.

.....(Plaintiffs)

Versus

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Khyber Pakhtunkhwa, Hayatabad.
3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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JUDGEMENT

06.06.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Hazrat Bilal and two others against the 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 correct father's name of plaintiffs is **Mina Dar Khan** whereas defendants have incorrectly and wrongly entered the same as **Munir**



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Dar Khan. It is further averred that true and correct date of birth of plaintiff No. 1 Hazrat Bilal, as per service record, is 01.01.1986 whereas defendants have incorrectly and wrongly entered the same as 1976 in their record which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That defendants were asked time and again to do the needful 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 wherein, certain legal and factual objections have been taken.

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? OPP
3. Whether correct date of birth of plaintiff No. 1 is 01.01.1986 and defendants have wrongly entered the same as 1976 in their record? OPP
4. Whether correct father's name of plaintiffs is Mina Dar Khan instead of Munir Dar Khan? OPP


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5. Whether plaintiffs are entitled to the decree as prayed for? OPP
6. Relief.

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.

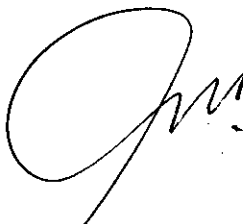
After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

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

Plaintiff No. 1 namely Hazrat Bilal himself appeared and recorded his statement as PW-01. He reiterated the averments of plaint. Copy of his CNIC is Ex. PW-1/1. Copy of Sheet, Roll-Soldiers is Ex. PW-1/2. Copy of CNIC of father of plaintiff is Ex. PW-1/3. Copy of discharge certificate of father of plaintiff is Ex. PW-1/4. Copy of service card of plaintiff is Ex. PW-1/5. Lastly, he requested for decree of suit in his favour against the defendants as prayed for.

Sadique Ullah, plaintiff No. 2 appeared and deposed as PW-02. He stated that his correct father's name is Mina Dar Khan but defendants have incorrectly entered the same as Munir Dar Khan. Copy of his CNIC is Ex. PW-2/1. Copy of his service card is Ex. PW-2/2. He lastly, requested for rectification of his father's name.

Aziz Khan, relative of plaintiffs appeared and deposed as PW-03. He stated that correct father's name of plaintiffs is Mina Dar Khan but


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defendants have incorrectly entered the same as Munir Dar Khan. Copy of his CNIC is Ex. PW-3/1.

Thereafter, evidence of plaintiffs was closed.

Representative of NADRA, Orakzai appeared as DW-01. He produced Family Tree, Beta Family Tree and RTS record which are Ex. DW-1/1 to Ex. DW-1/3. He stated that plaintiffs have been issued CNICs as per information provided by them and that they have got no cause of action to file the instant suit and lastly requested for dismissal of suit.

Thereafter, evidence of defendants was closed.

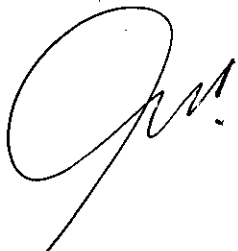
The above discussion boils down to my following issue-wise findings.

ISSUE NO.2

Plaintiff No. 1 and plaintiff No. 2 have been issued CNICs on 29.08.2016 and 09.09.2020 with expiry dates as 29.08.2026 and 09.09.2030. Suit in hand was filed on 27.04.2023. In plethora of judgement of the Apex Superior Courts, it is held that every wrong entry will accrue fresh cause of action. 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.

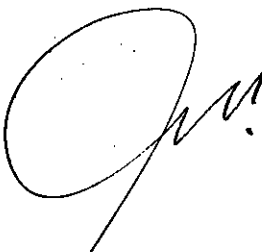
ISSUE NO.3 & 4

Both these issues are interlinked, therefore, taken together for simultaneous discussion.


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Claim and contention of plaintiffs is that their correct father's name is Mina Dar Khan whereas defendants have incorrectly and wrongly entered the same as Munir Dar Khan. It is further averred that true and correct date of birth of plaintiff No. 1, as per service record, is 01.01.1986 whereas defendants have incorrectly and wrongly entered the same as 1976 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. As far as, plea of plaintiffs in respect of their correct father's name is concerned, they produced cogent, convincing and reliable documentary evidence in shape of Ex.PW-3/1 (Copy of CNIC of father of plaintiffs) and Ex.PW-1/4 (Discharge Certificate). Even Ex.DW-1/1, produced by DW-01 supports this plea of plaintiffs. Oral evidence produced by plaintiffs is also supportive to the alleged claim of plaintiffs. As far as, correct date of birth of plaintiff No. 1 as 01.01.1986 instead of 1976 is concerned, plaintiff produced Sheet Roll-Soldiers as Ex. PW-1/2. Original service record was not produced through record keeper. Mere exhibition of a document does not mean that the document exhibited is proved. Service card of plaintiff No. 1 was produced, copy of which is Ex.PW-1/5. Date of birth of plaintiff No. 1, as per Ex.PW-1/5, is recorded as 01.07.1976. Service card (Ex.PW-1/5) does not support the claim of plaintiff No. 1. He failed to produce cogent, convincing and reliable documentary evidence to the effect that his true and correct date of birth is 01.01.1986 and defendants have incorrectly recorded the same as 1976 in their record. Oral evidence produced by plaintiffs is also insufficient to establish this claim of plaintiff No. 1. Even PW-02 and


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PW-03 did not say anything about date of birth of plaintiff No. 1 as 01.01.1986 instead of 1976.

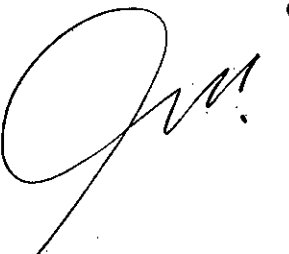
Keeping in view the above discussion, documentary as well as oral evidence available on file and admission of DW-01, it is held that correct father's name of plaintiffs is Mina Dar Khan. Plaintiff No. 1 failed to establish that his true and correct date of birth is 01.01.1986 instead of 1976. Resultantly, issue No. 4 is decided in positive and in favour of plaintiffs while issue No. 3 is decided in negative and against plaintiff No. 1.

ISSUE NO.1 & 5.

In the light of foregoing discussion, plaintiffs have proved their stance through cogent, convincing and reliable documentary and oral evidence to the extent of their correct father's name as Mina Dar Khan while plaintiff No. 1 failed to establish that his true and correct date of birth is 01.01.1986 instead of 1976. Both these issues are decided accordingly.

RELIEF:

CruX of my issue wise discussion is that plaintiffs produced cogent, convincing and reliable documentary and oral evidence, therefore, suit of plaintiffs is hereby decreed in their favour to the extent of relief sought regarding correction of father's name as Mina Dar Khan while plaintiff No. 1 failed to establish that his true and correct date of birth is 01.01.1986 instead of 1976. Defendants are directed to rectify

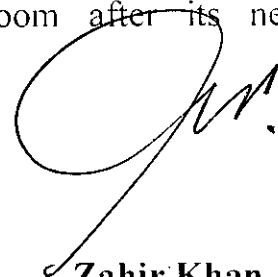

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father's name of plaintiffs as Mina Dar Khan in their record. Suit of plaintiffs disposed of accordingly. No order as to cost:

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

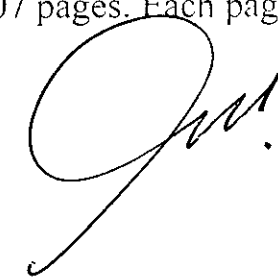
ANNOUNCED
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CERTIFICATE

It is certified that this judgment consists of 07 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
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