

IN THE COURT OF SAMI ULLAH,
CIVIL JUDGE-I, ORAKZAI AT BABER MELA

Civil Suit No. 29/1 of 2023
 Date of Institution: 25/05/2023
 Date of Decision: 26/06/2023

Niaz Muhammad S/O Khan Muhammad
 R/O Qoam Mamozai, Tappa Meer Kalam Khel, Tehsil Upper, 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**

SUMMARY JUDGEMENT:
26.06.2023

1. Brief facts of the case in hand are that the plaintiff, **Niaz Muhammad** has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **1952**, while it has been wrongly mentioned as 1959 by the defendants in their record with respect to the plaintiff. Similarly, the date of birth of Zainab Bibi (Daughter of plaintiff) is 01.01.1969. Thus, there is un-natural gap of 10 years between the age of plaintiff and his Daughter, which is liable to correction. That the defendants

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were repeatedly asked to correct the date of birth of plaintiff but they refused, hence, the instant suit.

2. Defendants were summoned, who appeared through their representative namely Mr. Irfan Hussain, who submitted written statement.

3. During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in the instant case is very petty in nature, which can be decided through summary judgement as per relevant record. To this effect notice was given to the parties that why not the case in hand be decided on the basis of available record without recording lengthy evidence, as the primary aim and objective of Amended Management Rules in CPC is, "*to enable the court to-*

- a. *Deal with the cases justly and fairly;*
- b. *Encourage parties to alternate dispute resolution procedure if it considers appropriate;*
- c. *Save expense and time both of courts and litigants; and*
- d. *Enforce compliance with provisions of this Code."*

4. The plaintiff produced two witnesses and himself appeared as a witness in his favour who recorded the statements and testified that the correct date of birth of the plaintiff is **1952**.

5. Plaintiff himself recorded his statement as PW-1, that his correct date of birth is **1952**. He further stated that there is unnatural gap of 10 years between his age and his daughter age. Copy of his CNIC and Copy of Judgement titled "Fazal Muhammad Vs Nadra" are Ex.PW-1/1 and Ex.PW-1/2.

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6. PW-02 namely Sher Muhammad said in his statement that plaintiff is his uncle and correct date of birth of plaintiff is **1952**. He further stated that there was unnatural gap in age of grandson of plaintiff with his mother namely Zainab Bibi which were corrected by the court order Dated 15.05.2023 in a case titled as "Fazal Muhammad Vs Nadra". The correction made in case title "Fazal Muhammad Vs Nadra" unnatural gap created in the age of plaintiff (Niaz Muhammad) with his daughter. His CNIC is Ex.PW-2/1.
7. PW-03 namely Fazal Muhammad recorded his statement in favour of claim and contention of the plaintiff and nothing incrementing was recording in his cross examination. His CNIC is Ex.PW-3/1.
8. Representative of NADRA appeared as DW-01. He produced family tree, which is Ex. DW-1/1. According the this document the correct date of birth of plaintiff and elder daughter of plaintiff is 1959 and 1977. He admitted the stance of the plaintiff in his cross examination.
9. Learned counsel for plaintiff and representative for defendants heard and record gone through.
10. Record reveals that plaintiff through instant suit is seeking correction of his date of birth to the effect that his correct date of birth is **1952**, while it has been wrongly mentioned as 1959 by the defendants in their record with respect to the plaintiff. Furthermore, there is no counter document available with the

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defendants to rebut the document produced by the plaintiff in support of his stance. Hence, in these circumstances, the exhibited document is admissible and reliance is placed on it and is sufficient to decide the fate of the case and no further evidence is required to be produced by the parties. So, the available record clearly establishes the claim of the plaintiff. Furthermore, there is unnatural gap in age of the plaintiff with her daughter.

11. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A of CPC, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct the date of birth of plaintiff as **1952** in their record.
12. Parties are left to bear their own costs.
13. File be consigned to the record room after its necessary completion and compilation.

Announced
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CERTIFICATE

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

Sami Ullah
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