

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

Civil Suit No.	102/1 of 2020
Date of Institution:	12/09/2020
Date of Decision:	11/02/2021

1. Ishrat Bibi W/O Abid Ullah, R/O Qoum Rabia Khel, PO Samana, Tehsil Ismail zai, District Orakzai.

(Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad, Pakistan.**
2. **Director General NADRA, KPK, Peshawar.**
3. **Assistant Director, NADRA, District Orakzai.**

Through

Assistant Director, NADRA, Orakzai. Defendants

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

JUDGEMENT:

1. Plaintiff Ishrat Bibi W/O Abid Ullah has brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, through Assistant Director, District Orakzai seeking therein that correct date of birth of the plaintiff is 1980 while it has been wrongly entered as 01-01-1956 in her CNIC because the date of birth of her father is 1949 and that the correct name of her husband is Abid Ullah while it has been wrongly entered in his CNIC as Zahid Ullah, which is

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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 cause of action?*
2. *Whether the plaintiff is estopped to sue?*
3. *Whether the suit of the plaintiff is within time?*
4. *Whether the correct husband's name of the plaintiff is Abid Ullah and her correct date of birth is 1980 while the same have been wrongly entered in her CNIC as Zahid Ullah and 01-01-1956 respectively?*
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:

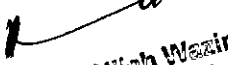
The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

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 12/09/2020. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

4. The plaintiff alleged in her plaint that correct date of birth of the plaintiff is 1980 while it has been wrongly entered as 01-01-1956 in her CNIC because the date of birth of her father is 1949 and that the correct name of her husband is Abid Ullah while it has been wrongly entered in his CNIC as Zahid Ullah, which is wrong and ineffective upon the


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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.

5. The plaintiff produced witnesses in whom the plaintiff herself appeared as PW-1, who produced the affidavit submitted by her husband in the NADRA office, Islamabad, whereby he changed his name from Zahid Ullah to Abid Ullah, which is Ex-PW-1/1, the CNIC retained by her husband which is Ex-PW-1/2, which bears the name of her husband as Abid Ullah, her own CNIC which is Ex-PW-1/3, which still bears the name of her husband as Zahid Ullah and her date of birth 01-01-1956, the manual NIC of her father which is Ex-PW-1/4, which bears his date of birth as 1949, the CNIC of her brother which is Ex-PW-1/5, which bears his date of birth as 01-01-1985, and further fully narrated the same story as in her plaint. Further, Muhammad Anwar, a relative of the plaintiff appeared as PW-02, who fully supported the stance of the plaintiff by narrating the same story as in the plaint.

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Orizal at (Sabag, Bada)

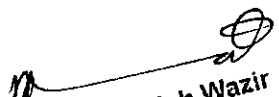
In order to counter the claim of the plaintiff, the defendants produced only one witness, as Mr. Syed Farhat

Abbas, the representative of the defendants appeared as DW-1, who produced CNIC processing detail form of the plaintiff which is Ex-DW-1/1, the form A of the plaintiff which is Ex-DW-1/2, Family tree of the plaintiff which is Ex-DW-1/3. But he admitted in his cross examination that Ex-PW-1/4 is the manual NIC of the father of the plaintiff, wherein the date of birth of the father of the plaintiff is mentioned as 1949 while the date of birth of plaintiff according to her CNIC is 01-01-1956, meaning thereby that there is only difference of 07 years between the date of birth of the plaintiff and her father, which is unnatural. Further admitted that there were two CNICs with the husband of the plaintiff, in which he cancelled the one and retained the other which bears his name as Abid Ullah.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff established her case through oral and documentary evidence. Also, the claim of the plaintiff is admitted by representative of the defendants in his cross examination. Thus, in the light of the aforesaid finding the issue is decided in positive.

Issue No. 01 &05:


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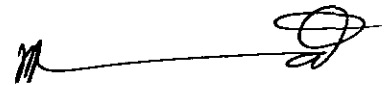
Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for.

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

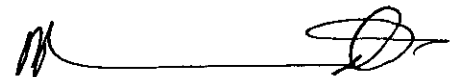
Announced
11/02/2021



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CERTIFICATE

Certified that this judgment of mine consists of six (06) pages, each has been checked, corrected where necessary and signed by me.



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Orakzai at Baber Mela.