IN THE COURT OF SAMI ULLAH,
Civil Judge-I, Orakzai at Baber Mela

Civil Suit No.	26/1 of 2023
Date of Institution:	06/05/2023
Date of Decision:	26/07/2023

Gul Jamal S/O Talib Janan
R/O Qoam Mamozai, Tappa Meer Kalam Khel, PO Ghiljo, 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 & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that correct date of birth of plaintiff is **01.01.1992** but the defendants have wrongly incorporated his date of birth as 01.01.1985 in their record. Similarly, the date of birth of mother of plaintiff is 01.01.1975. Thus, there is unnatural gap of 10 year between the age of plaintiff with his mother, which is wrong and ineffective upon their rights and is liable to correction. That the defendants were asked time and again for correction of date of birth of plaintiff but they refused to do so, hence the present suit;

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2. Defendants were summoned, they appeared before the court through their representatives and contested the suit by filing their written statement, wherein various legal and factual objections were raised.

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

Issues:

1. ***Whether plaintiff has got cause of action?***
2. ***Whether the plaintiff is estopped to sue?***
3. ***Whether suit of the plaintiff is within time?***
4. ***Whether the correct date of the plaintiff is 01.01.1992 and defendants have wrongly entered the same as 01.01.1985 in their record?***
5. ***Whether the plaintiff is entitled to the decree as prayed for.***
6. ***Relief.***

4. Parties were given ample opportunity to produce evidence which they did accordingly.

5. Issue wise findings of this court are as under: -

Issue No. 02:

Whether the plaintiff is estopped to sue?

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6. 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:

Whether suit of the plaintiff is within time?

7. The defendants in their written statement raised the objection that suit of the plaintiff is time barred but this court is of 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 **06.05.2023**. Thus, the same is well within time. The issue is decided in positive.

Issue 04:

Whether the correct date of the plaintiff is 01.01.1992 and defendants have wrongly entered the same as 01.01.1985 in their record?

8. The plaintiff alleged in his plaint that the correct date of birth of plaintiff is **01.01.1992** while the defendants have wrongly entered the same in their record as 01.01.1985 which is wrong, ineffective upon the rights of the plaintiff and liable to correction.

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

01.01.1992.

10. Plaintiff himself recorded his statement as PW-1 and stated that his correct date of birth is **01.01.1992** while the defendants have wrongly incorporated the same as 01.01.1985. He further stated that there is unnatural gap of 10 years between his age and age of his mother which is liable to correction. Copy of CNICs of plaintiff and his mother are Ex.PW-1/1 and Ex.PW-1/2.

11. PW-02 namely Noor Janan said in his statement that plaintiff is his nephew and correct date of birth of plaintiff is **01.01.1992**. He further stated that there is unnatural gap of 10 years between the age of plaintiff with his mother. Copy of his CNIC is Ex.PW-2/1.

12. PW-03 namely Malak Abdul Ghafar recorded his statement that plaintiff belong to his cast and he know the whole family of the plaintiff. He stated that there is unnatural gap of 10 years between the age of plaintiff with his mother, which is liable to correction. Copy of his CNIC is Ex.PW-3/1.

13. In order to counter the claim of the plaintiff, the defendants produced only one witness, Mr. Irfan Hussain, the representative of the defendants appeared as DW-01. He produced Alpha family tree and Beta family tree which are Ex. DW-1/1 and Ex. DW-1/2. According to these documents the date of birth of plaintiff and his mother are 01.01.1985 and 01.01.1975, which established the fact that there is

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unnatural gap in age of the plaintiff with his mother.

14. Arguments heard and record perused.

15. After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by the documents and evidence which they produced. Nothing incriminating was recorded in cross examination of the PWs. Moreover, plaintiff has annexed with his plaint, age assessment certificate, according to which his age may range between 30 to 35 years. Furthermore, record reveals that there is unnatural gap in age of the plaintiff not even with his mother but also with his father according to the record of defendants. After keeping in consideration, the aforementioned points and available evidence, this court is of the view that the record of defendants relating to date of birth of the plaintiff is liable to correction.

16. Thus, in the light of the aforesaid findings, the issue is decided in positive.

Issue No. 01 &05:

Whether plaintiff has got cause of action?

Whether the plaintiff is entitled to the decree as prayed for.

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

RELIEF:

18. As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for, defendants are directed to correct date of birth of plaintiff as **01.01.1992** in their record.

19. Parties are left to bear their own cost.

20. Decree sheet be drawn up accordingly.

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

Announced
26.07.2023

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CERTIFICATE

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

Sami Ullah
Civil Judge-I,
Orakzai at Baber Mela.