

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

Suit No.....33/1 of 2023.

Date of Institution.....10.07.2023.

Date of Decision.....15.08.2023.

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- 1. Mustaqeem Hassan (son),
- 2. Hassan Raza (son)
- 3. Mst. Moshahida daughter of Wahab Khan all residents of Qaum Bar Muhammad Khel, Tappa Khwaidad Khel, village Sharo Dogal, Tehsil Lower, District Orakzai.

.....(*Plaintiffs through father*)

Versus

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

..... (*Defendants*)

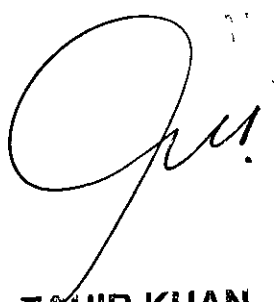
SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT

15.08.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Mustaqeem Hassan 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 dates of birth of plaintiff No. 1, plaintiff No. 2 and plaintiff No.3



ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

15/08/023


as per school record are 22.02.2011, 04.12.2013 and 21.04.2009 respectively whereas defendants have incorrectly and wrongly entered the same as 07.03.2008, 04.12.2009 and 21.04.2005 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.

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 correct dates of birth of plaintiff No. 1, plaintiff No. 2 and plaintiff No.3 are 22.02.2011, 04.12.2013 and 21.04.2009 instead of 07.03.2008, 04.12.2009 and 21.04.2005? OPP
3. Whether plaintiffs are entitled to the decree as prayed for? OPP
4. Relief.



ZAHIR KHAN
Civil Judge/JM
Kalava Orakzai

15/08/023

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 counsels for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiffs produced 04 witnesses in support of their claim while defendants produced 01 witness in defense.

Wahab Khan (father of the plaintiffs) 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 school certificate of Hassan Raza (plaintiff No.2) is Ex.PW-1/2. Copy of school certificate of Mustaqeem Hassan (plaintiff No. 1) is Ex. PW-1/3. Copy of Form-B is Ex. PW-1/4. He requested for decree of suit in favour of plaintiffs against the defendants as prayed for.

Kumail Hassan, relative of plaintiffs appeared and deposed as PW-02. He supported plea of plaintiffs. Copy of his CNIC is Ex. PW-2/1. Mihtab Hassan, relative of plaintiffs appeared and deposed as PW-03. He also supported plea of plaintiffs. Copy of his CNIC is Ex. PW-3/1. He lastly requested of decree of suit in favour of plaintiffs against defendants as prayed for. Saeed Ali official Govt; Girls Middle School Sharo Dogal, Lower Orakzai, appeared and deposed as PW-04. He produced admission and withdrawal register of plaintiff No. 3. Copy of his service card is Ex.PW-4/1. Extract of admission and withdrawal register is Ex.PW-4/2.

Thereafter, evidence of plaintiffs was closed.



ZAHIR KHAN
Civil Judge/JM
Kaiaya Orakzai
15/08/023

Nothing contradictory could be brought on record from the statement of PWs.

Representative of NADRA, Orakzai appeared as DW-01. He produced family tree of plaintiffs which is Ex. DW-1/1. He stated that plaintiffs have been issued Form B as per information provided by father plaintiffs and that they have got no cause of action and lastly requested for dismissal of suit.

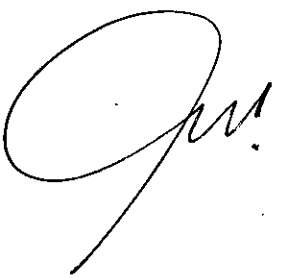
Thereafter, evidence of defendants was closed.

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

ISSUE NO.2

Claim and contention of plaintiffs is that correct dates of birth of plaintiff No. 1, plaintiff No. 2 and plaintiff No.3 as per school record are 22.02.2011, 04.12.2013 and 21.04.2009 respectively whereas defendants have incorrectly and wrongly entered the same as 07.03.2008, 04.12.2009 and 21.04.2005 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified.

Plaintiffs produced cogent, convincing and reliable documentary evidence in support of their claim. Oral evidence is also supportive to the averments of plaint. Official record produced by PW-04 also support claim of plaintiffs.



ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
15/08/023

Keeping in view the above discussion, documentary as well as oral evidence available on file, it is held that correct dates of birth of plaintiff No. 1, plaintiff No. 2 and plaintiff No. 3 are 22.02.2011, 04.12.2013 and 21.04.2009 respectively. Hence, issue decided in favour of plaintiffs and against the defendants.

ISSUES NO.1 & 4.

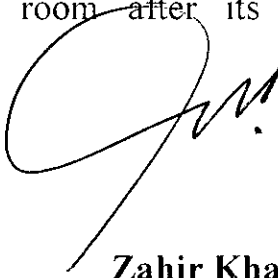
In the light of foregoing discussion, plaintiffs have proved their stance through cogent, convincing and reliable documentary and oral evidence, therefore, they have got cause of action and are entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiffs.

RELIEF:

Crux of my issue wise discussion is that plaintiffs produced cogent, convincing and reliable evidence, therefore, suit of plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.

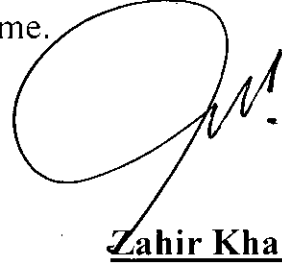
File be consigned to record room after its necessary completion and compilation.

ANNOUNCED
15.08.2023


Zahir Khan
Civil Judge-I, Kalaya, Orakzai

CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
Civil Judge-I, Kalaya, Orakzai