

**IN THE COURT OF SYED ABBAS BUKHARI,**  
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 58/1 of 2023  
Date of Original Institution: 15.08.2023  
Date of Decision: 31.08.2023

1. **Naseeb Ur Rehman S/O Aziz Ur Rehman and**
2. **Mst. Meraj Bibi W/O Naseeb Ur Rehman,** resident of Qoum Feroz Khel, Tappa Qimat Khel, Tehsil Lower, District: Orakzai.

.....(Plaintiffs)

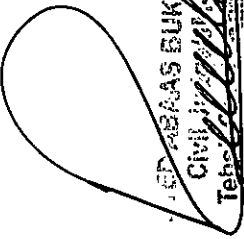
**VERSUS**

**Assistant Director, NADRA District Orakzai.**

.....(Defendant)

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

**JUDGMENT**

  
 SYED ABBAS BUKHARI  
 CIVIL JUDGE-II  
 Tehsil Lower, District: Orakzai  
 31-08-2023

1. Brief facts of the case in hand are that plaintiffs have brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct dates of birth of plaintiff no. 1 and plaintiff no. 2 are **01.06.1986** and **01.01.1987** respectively, while defendants have wrongly entered the same as 01.06.1991 and 01.01.1990 respectively in their record, which are wrong, ineffective upon the right of the plaintiffs and liable to correction. That the defendant was asked time and again to do the aforesaid correction but they refused, hence, the present suit;

2. Defendant was summoned, they appeared through their representative and filed written statement whereby they objected the suit on factual and legal grounds.
3. Divergent pleadings of the parties were reduced into the following issues;

**Issues:**

1. Whether the plaintiffs have got a cause of action? OPP
2. Whether the correct dates of birth of plaintiff no. 1 and plaintiff no. 2 are **01.06.1986** and **01.01.1987** respectively, while same has been incorrectly entered in the record of defendants as 01.06.1991 and 01.01.1990 respectively? OPP
3. Whether the plaintiffs are entitled to the decree as prayed for?
4. Relief?

Issue wise findings of this court are as under: -

**Issue No. 02:**

The plaintiffs alleged in their plaint that correct dates of birth of plaintiff no. 1 and plaintiff no. 2 are **01.06.1986** and **01.01.1987** respectively, while defendants have wrongly entered the same as 01.06.1991 and 01.01.1990 respectively in their record which are wrong, ineffective upon the right of plaintiffs and liable to be corrected.

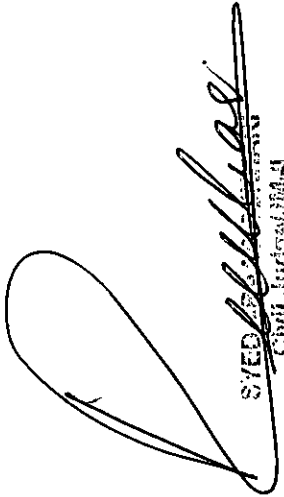
The plaintiff produced witnesses in whom Mr. Naseeb Ur Rehman S/O Aziz Ur Rehman, plaintiff no. 1/attorney for plaintiff no. 2, appeared as PW-01. He produced his power of attorney, his CNIC and CNIC of

plaintiff no. 2 which are Ex. PW-1/1 to Ex. PW-1/3 respectively. He stated that his correct date of birth is 01.06.1986 while defendant entered the same as 01.06.1991, which is incorrect. Similarly, correct date of birth of plaintiff no. 2 is 01.01.1987 while defendant entered the same as 01.01.1990 which is liable to be corrected. He further stated that he has 11 children, wherein only one daughter Shazma Bibi was made Form-B. He further stated that his elder son date of birth is 01.03.2005, according to that there is exist an unnatural gap between plaintiffs and their son. He lastly requested for decree of the suit. The witness has been cross examined. During cross examination he stated that he has studied at 8<sup>th</sup> Class while his wife (plaintiff no. 2) is illiterate. He further stated that he went to Union Council for obtaining birth certificates for his children, but they stated that you have an unnatural gap with son, therefore, they are unable to made birth certificate.

Rustam Khan S/O Qadir Shah, appeared and deposed as PW-02. He stated that he is the co-villager of the plaintiff. He stated that plaintiffs have 11 children in which Muhammad Asif is elder one and his date of birth is 01.03.2005. He produced his CNIC which is Ex. PW-2/1. During cross examination nothing tangible has been extracted out of him.

Abdul Ghafar S/O Khaista Gul, appeared as PW-03. He also supported the stance of plaintiff as narrated in the plaint. The witness has been cross examined but nothing tangible has been extracted out of him. He produced his CNIC which is Ex. PW-3/1.

In order to counter the claim of the plaintiffs, defendant produced only one witness, the representative of the defendant who appeared as DW-01. He produced Family Tree Alpha and Beta of plaintiffs which are Ex. DW-1/1 & Ex. DW-1/2 respectively and according to these exhibits the children of plaintiffs are not registered with NADRA. He further stated that according to statement of PW-01, plaintiff no. 1 is literate and his record is available in Primary School Sungrani. He further stated that the date of birth of plaintiff no. 1 is mentioned in the CNIC is correct according to his School Record. He lastly requested for dismissal of the suit.

  
SYED GHULAM MUSTAFA  
CIVIL ENGINEER  
3/10/2018  
3/10/2018

During cross examination he admitted that there exist an unnatural gap between plaintiffs and their elder son. It is also correct that according to NADRA SOP, if unnatural gap is exist between parents and his siblings, defendants have no objection over the decree of the suit.

In light of above evidence produced by plaintiffs it is necessary to mention here that the unnatural gap between plaintiffs and their children has been admitted by DW-01 in his cross examination and thus this admission by defendant in his evidence strengthen the stance of plaintiffs alleged in the plaint. Furthermore, after this admission on the part of defendant, all other points raised by defendant in written statement or subsequently in evidence are immaterial.

In light of above discussion, plaintiffs succeeded to prove the issue in hand through cogent, reliable and convincing evidence, hence the issue in hand is decided in positively in favor of plaintiffs and against defendant.

**Issue No. 01 & 03:**

Both these issues are interlinked, hence, taken together for discussion.

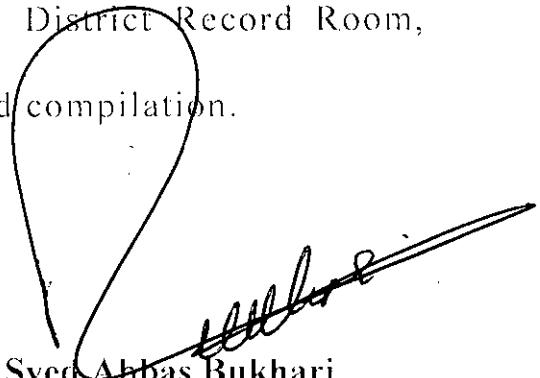
As sequel to my findings on issue No. 02 the plaintiffs have got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

**RELIEF:**

As sequel to my above issue wise findings, the suit of the plaintiffs are hereby **decreed** as prayed for.  
No order as to costs..

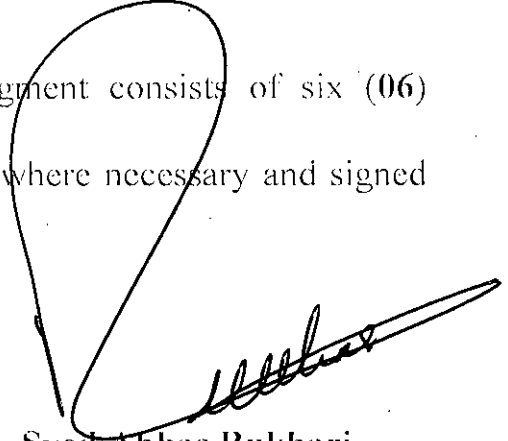
File be consigned to the District Record Room,  
Orakzai after its completion and compilation.

**Announced**  
**31.08.2023**

  
**Syed Abbas Bukhari**  
Civil Judge-II,  
Tehsil Court, Kalaya, Orakzai

**CERTIFICATE**

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

  
**Syed Abbas Bukhari**  
Civil Judge-II,  
Tehsil Court, Kalaya, Orakzai