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IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 307/1 of 2020
Date of Institution: 19/06/2020
Date of Decision: 24/02/2021

Khadija w/o Khayal Bat Khan

Resident of Sra Garhi Section Ali Khel, Sub Section Sher Khel, PO Ghiljo, Tehsil
Upper & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director General, NADRA Hayat Abad Peshawar.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

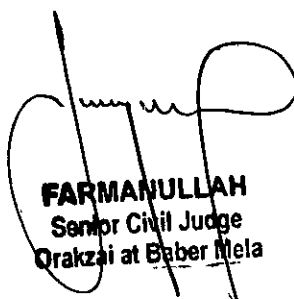
JUDGEMENT:

24.02.2021

Brief facts of case in hand are that the plaintiff, **Khadija w/o Khayal Bat Khan**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that her correct date of birth is **01.01.1986** while defendants have wrongly mentioned the same as **1965** in their record, which is incorrect and liable to be corrected. That defendants were repeatedly asked to correct the date of birth in her CNIC and in their record but they refused.

Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written


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statement, wherein they contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is **01.01.1986** while defendants have wrongly mentioned the same as **1965** in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.

Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced her witnesses as PW-1 to PW-4.

In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the record as Ex. DW-1/1 to Ex. DW-1/3.

After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:

Issue No.2:

Perusal of record depicts that CNIC was issued to plaintiff in year 2016 while plaintiff has challenged the same

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CNIC to the extent of her date of birth in year 2020. Period for declaratory suit under Article, 120 of Limitation Act is 06 years, while the instant suit has been filed within 06 years, hence within time. Issue is decided in positive.

Issue No.03:

Plaintiff contended in her plaint that her correct date of birth is **01.01.1986** but the same was wrongly recorded as **1965** in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of her contention produced Khayal Bat Khan, husband of the plaintiff as PW-1. He stated in his examination in chief that correct date of birth of the plaintiff is **01.01.1986** while it has been recorded as **1965** in her CNIC. That, his marriage with the plaintiff took place in year 2008, and at time of marriage, age of the plaintiff was about 22 years. He further stated that Shamima and Bibi Fatma are sisters of plaintiff, who are older than plaintiff and the date of birth of Shamima is 01.01.1980 while of Fatma is 01.01.1981. PW-2, Khan Bahadur, stated in his examination in chief that, plaintiff is his daughter and correct date of birth of the plaintiff is **01.01.1986** while NADRA has wrongly recorded it as 1965. He also stated that marriage of plaintiff with PW-2 took place in year 2008 and at the time of marriage, plaintiff was of 21/22 years old. PW-3, Rehman Gul, stated in his examination in chief that

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plaintiff is his younger sister and he is 05 years older than plaintiff. That correct date of birth of the plaintiff is 01.01.1986 while marriage of plaintiff took place in year, 2008. PW-4, Hazrat Bilal, who is attorney for the plaintiff repeated the contents of the plaint in his examination in chief. PW-1 to PW-4 were subjected to cross examination but nothing substantial was brought on record which could have shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. PW-1 and PW-4 have categorically stated that the correct date of birth of the plaintiff is **01.01.1986**. Moreover, Ex.PW-3/1 is the CNIC of PW-3 (elder brother of plaintiff) and according to which the date of birth of PW-3 is 08.04.1981 while date of birth of plaintiff recorded in her CNIC is 1965. So, incorporation of date of birth of plaintiff in her CNIC as 1965 has made her older than PW-3 and her two other sisters, which is contrary to the facts and reality. So, the oral and documentary evidence produced by the plaintiff establishes that correct date of birth of the plaintiff is **01.01.1986** while the date of birth mentioned as **1965** in the CNIC of the plaintiff as well as in NADRA record is incorrect and the incorporation of date of birth of the plaintiff as **1965**

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instead of 01.01.0986 in the record of NADRA appears to be a mistake. Hence, the issue No. 3 is decided in positive.

Issue No. 01 & 04:

These issues are taken together. For what has been held in issue No.3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

The issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record by incorporating the date of birth of plaintiff as 01.01.1986 in their record. Parties are left to bear their own costs.

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

Announced
24/02/2021

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(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).

CERTIFICATE

Certified that this judgment of mine consists 05 (five) pages, each has been checked, corrected where necessary and signed by me.

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).