

IN THE COURT OF ZAHIR KHAN

Civil Judge-I, Kalaya, Orakzai

Suit No.....50/1 of 2023.

Date of Institution.....02.10.2023.

Date of Decision.....12.10.2023.

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Sabeel Ullah S/O Amir Jan R/O Qaum Mala Khel, Tappa Qutab Khel,
Tehsil Upper, District Orakzai.

.....(Plaintiff)

Versus

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

..... (Defendants)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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JUDGEMENT

12.10.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Sabeel Ullah against defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that true and correct date of birth of plaintiff is 01.01.1998, however, defendants have incorrectly entered the same as 01.01.1992 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to


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be rectified. It is also averred that due to this wrong entry, there is unnatural age difference of about 12 years between plaintiff and his mother namely Khial Jamala whose date of birth, per CNIC is recorded as 01.01.1980. That defendants were asked time and again to rectify date of birth of plaintiff 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 plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time?
3. Whether correct date of birth of plaintiff is 01.01.1998 and defendants have entered the same as 01.01.1992? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief.

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.


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After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiff produced one witness in support of his claim while defendants produced one witness in defense.

Sabeel Ullah/plaintiff himself appeared and deposed as PW-01. He reiterated the averments of plaint. Copy of his CNIC is Ex. PW-1/1. Copy of CNIC of his mother is Ex. PW-1/2. He lastly requested for decree of suit in his favour.

Thereafter, evidence of plaintiff was closed.

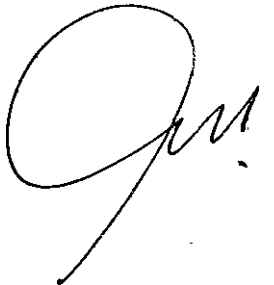
Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced family tree of plaintiff which is Ex. DW-1/1. He stated that plaintiff has been issued CNIC as per information provided by him and that he has got no cause of action and lastly requested for dismissal of suit.

Thereafter, evidence of defendants was closed.

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

ISSUE NO.2

Plaintiff has been issued CNIC on 11.04.2023 with expiry date as 11.04.2033 while suit in hand was filed on 02.10.2023. As period of limitation under Article 120 of Limitation Act is six years,



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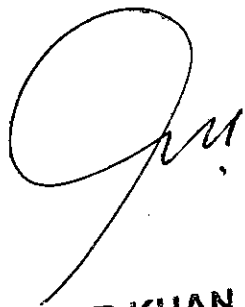
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therefore, suit of plaintiff is held to be within time. Issue No. 2 decided in positive.

ISSUE NO.3

Claim and contention of plaintiff is that his true and correct date of birth is 01.01.1998, however, defendants have incorrectly entered the same as 01.01.1992 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 12 years between plaintiff and his mother namely Khial Jamala whose date of birth is recorded as 01.01.1980 on CNIC.

Burdon of proof was on plaintiff to establish that his true and correct date of birth is 01.01.1998 and defendants have wrongly and incorrectly entered the same as 01.01.1992. Plaintiff has placed reliance on unrealistic age difference of 12 years with his mother namely Khial Jamala. Per Ex.PW-1/1, date of birth of plaintiff is recorded as 01.01.1992 while as per Ex. PW-1/2, date of birth of mother of plaintiff is recorded as 01.01.1980. Admittedly, there is unnatural age difference of about 12 years between plaintiff and his mother but plaintiff failed to produce any documentary proof which could show that his true and correct date of birth is 01.01.1998. No documentary proof in shape of school record, birth registration certificate, Form "B" or age assessment/medical certificate are produced by plaintiff in support of his claim. Oral evidence produced by plaintiff is also insufficient to



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prove his case. None from parents, brothers and sisters deposed as witness in favour of plaintiff. Furthermore, per Ex.DW-1/1, date of birth of father of plaintiff is 1939 while per Ex.PW-1/2, date of birth of mother of plaintiff is 1980. There is age difference of about 41 years between parents of plaintiff which suggests that date of birth of mother of plaintiff may be incorrectly recorded but she is not party to the suit. Plaintiff received CNIC from defendants without any objection on his date of birth.

As far as unnatural age difference between plaintiff and his mother is concerned, mother of plaintiff may approach the authorities concerned or court for modification of her date of birth in order to avoid this unnatural age difference.

Keeping in view the above discussion, documentary as well as oral evidence available on file, issue No. 3 is decided in negative and against the plaintiff.

ISSUE NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence; therefore, he has got no cause of action and he is not entitled to the decree, as prayed for. Both these issues are decided in negative and against the plaintiff.


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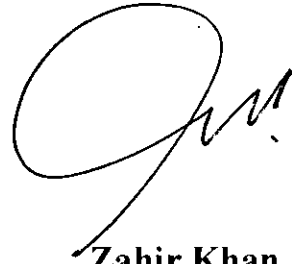
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RELIEF.

Crux of my issue wise discussion is that as plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence, therefore, suit of the plaintiff is hereby dismissed. No order as to cost.

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

ANNOUNCED
12.10.2023



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CERTIFICATE

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



Zahir Khan
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