

In the name of almighty Allah who has unlimited jurisdiction over and beyond the universe.

BEFORE THE COURT OF
ADDITIONAL DISTRICT JUDGE, ORAKZAI

Civil Appeal No. CA-25/13 of 2023

Date of institution: 18.09.2023

Date of decision: 30.09.2023

Syed Shahab Ul Hassan son of Syed Raza Hussain, resident of Qaum Bar Muhammad Khel, Tappa Baba Nawasi, Village Trangi, Tehsil Lower, District Orakzai. **(Appellant)**

...Versus...

1. The Chairman, NADRA, Islamabad.
2. Director General NADRA, KPK, Peshawar.
3. Assistant Director, NADRA, District Orakzai

..... **(Respondents)**

Appeal against Judgement, Decree and Order dated 16.08.2023 in Civil Suit No. 34/1 of 2023.

JUDGMENT

Instant Civil Appeal has been preferred by the appellant against the Judgment & Order dated 16.08.2023, passed by learned Civil Judge-I, Kalaya, Orakzai in Civil Suit bearing No.34/1 of 2023; whereby, the suit of plaintiff (appellant herein) with the title of Syed Shahab ul Hassan Vs NADRA etc. was dismissed.

2. The brief facts of the case are such that plaintiff Syed Shahab ul Hassam has instituted suit for declaration and perpetual as well as mandatory injunction against the defendants to the effect that his correct

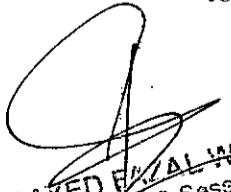
SAYED FAZAL WADOOD
Addl. District & Sessions Judge
Orakzai at Hangu

date of birth is 01.01.1976; whereas, defendants (respondents herein) have wrongly entered the same as 1964 in his Computerized National Identity Card. Plaintiff and his real sister Syeda Bibi Sheherbanu Jan are twins whose date of birth has rightly been recorded as 01.01.1976 and that of Plaintiff is required to be corrected from 1964 to 1976. This recorded date of birth of the plaintiff has created unnatural gap of 06 years period in birth with his father which is not sustainable. The suit was dismissed by the learned Trial Judge vide Judgement dated 16.08.2023. Feeling aggrieved, the appellant/plaintiff has presented instant civil appeal, which is under consideration.

3. The respondents/defendants on appearance objected the suit on various grounds of law and facts. It was specifically pleaded that plaintiff has his date of birth recorded as 1964 followed by issuance of passport reflecting the same date of birth. The learned trial court framed the following issues from divergent pleadings of the parties.

- i. *Whether plaintiff has got cause of action?*
- ii. *Whether suit of the plaintiff is within time?*
- iii. *Whether correct date of birth of the plaintiff is 01.01.1976 and defendants have entered the same as 1964?*
- iv. *Whether the plaintiff is entitled to the decree as prayed for?*
- v. *Relief*

4. After framing of issues, the parties were given full opportunity to produce their respective pro & contra evidence in support of their



SAYED ENZAL WADOOD
 Addl District & Sessions Judge
 Orakzai District

claim. Accordingly, plaintiff himself appeared and recorded his statement as PW-1. He produced copy of his CNIC as Ex. PW 1/1, copies of CNICs of his father, mother and his sister as Ex. PW 1/2 to 1/4 respectively. On turn, the defendants have relied upon the sole statement of legal representative of NADRA, Irfan Hussain as DW-1. He produced Family Tree of plaintiff as Ex. DW 1/1. Parties had closed their evidence and after hearing the arguments, the learned Trial Court has dismissed the suit of the plaintiff vide impugned Judgment & decree dated 16.08.2023. Feeling aggrieved, the appellant has preferred instant appeal, which was contested by the defendants/respondents.

5. Mr. Abid Ali Advocate while representing appellant argued that the impugned Judgement is result of misreading and non-reading of record available on file which is passed in disregard of law and facts of the case. Acceptance of the appeal followed by grant of decree has been prayed for.

6. Irfan Hussain being representative of NADRA is of the stance that the dismissal of suit was result of proper application of law and accurate appreciation of evidence. He concluded with the prayer of dismissal of appeal.

7. The matter agitated in appeal is being determined on the basis of memorandum of appeal, the arguments and record in the following terms; while, refusing declaration of the date of birth as 01.01.1976 was


SAYED FAZAL VADOOD
 Addl: District & Sessions Judge
 Orakzai at Hangu

(31)

10. Defendants produced family tree of plaintiff as Ex.DW-1/1. Representative of NADRA is the sole witness of the defendants recorded as DW-1. DW has categorically admitted the fact that if the proposed and agitated date of birth of the plaintiff has not been allowed, the defect in shape of unnatural gap of 06 years age difference with the mother and 09 years age difference with the father cannot be remedied.

11. For what has been discussed above, the appeal in hand is accepted; the impugned Judgment, Order and Decree dated 16.08.2023 is set aside; consequently, suit of the appellant (plaintiff) stands decreed as prayed for. Cost shall follow the events.

12. Requisitioned record be returned back with the copy of this Judgment; whereas, File of this Court be consigned to District Record Room, Orakzai after completion and compilation within the span allowed for.

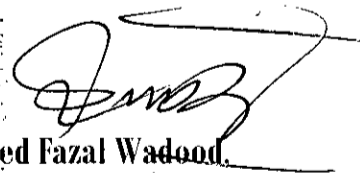
Announced in the open Court
30.09.2023



Sayed Fazal Wadood,
ADJ, Orakzai at Baber Mela

CERTIFICATE.

Certified that this Judgment consists of five (05) pages; each of which has been signed by the undersigned after making necessary corrections therein and read over.



Sayed Fazal Wadood,
ADJ, Orakzai at Baber Mela