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IN THE COURT OF ZAHIR KHAN
CIVIL JUDGE-I, TEHSIL KALAYA, ORAKZAI

Suit No..... 43/1 of 2023.

Date of Institution.....04.09.2023.

Date of Decision.....18.09.2023.

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1. Akhtar Muhammad S/O Shah Jehan Khan
2. Mst. Maryam Bibi W/O Shah Jehan Khan both R/O Qaum Bezot,
Tappa Bathani, Feroz Khel, Tehsil Lower, District Orakzai.

.....(*Plaintiffs*)

VERSUS

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

.....(*Defendants*)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION
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JUDGEMENT

18.09.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Akhtar Muhammad and one other against 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 date of birth of plaintiff No. 1, as per school record/DMC is 15.09.1996 and correct date of birth of plaintiff

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No. 2 is 01.01.1978 whereas defendants have incorrectly and wrongly entered the same as 15.03.1992 and 01.01.1985 respectively. It is further averred that due to this wrong entry, there is unnatural age difference of about 07 years between plaintiff No. 1 and his mother namely Mst. Maryam Bibi (plaintiff No. 2) 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 rectify dates of birth of plaintiffs 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.

ISSUES

1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiffs is within time? OPP
3. Whether correct date of birth of plaintiff No. 1 and plaintiff No.2 are 15.09.1996 and 01.01.1978 instead of 15.03.1992 and 01.01.1985? OPP
4. Whether plaintiffs are entitled to the decree as prayed for? OPP
5. Relief?


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

During course of recording evidence, plaintiffs produced 03 witnesses.

Akhtar Muhammad, plaintiff No.1/special attorney of plaintiff No. 2, appeared and deposed as PW-01. He reiterated the averments of plaint and produced matric DMC as Ex.PW-1/1, copy of his CNIC as Ex.PW-1/2, copy of his mother CNIC as Ex.PW-1/3, special attorney as Ex.PW-1/4. He lastly requested for decree of suit against defendants.

Afsar Khel appeared and deposed as PW-02. He supported the plea of plaintiffs. Copy of his CNIC is Ex.PW-2/1.

Taj Muhammad appeared and deposed as PW-03. He is uncle of plaintiff No. 1. He also supported the plea of plaintiffs. Copy of his CNIC is Ex.PW-3/1.

Thereafter, evidence of plaintiffs was closed. Nothing contradictory could be brought on record from PWs.

Irfan Hussain, representative of NADRA, Orakzai appeared as DW-01. He produced family trees of plaintiffs which are Ex. DW-1/1 and Ex. DW-1/2. He stated that plaintiffs have been



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issued CNICs as per information provided by them and that they have got no cause of action and lastly requested for dismissal of suit. Thereafter, evidence of defendants was closed.

My issue wise findings are as under: -

ISSUE NO.2:

Plaintiffs have been issued CNICs on **23.02.2011** and **22.04.2018** with expiry dates as 31.01.2023 and 22.04.2028 while suit in hand was filed on **04.09.2023**. In plethora of judgments of the Apex Superior Courts, it is held that every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issue No. 2 decided in positive.

ISSUE NO.3:

Claim of plaintiffs is that correct date of birth of plaintiff No. 1, as per school record/DMC, is 15.09.1996 and correct date of birth of plaintiff No. 2 is 01.01.1978 whereas defendants have incorrectly and wrongly entered the same as 15.03.1992 and 01.01.1985 respectively. It is further averred that due to this wrong entry, there is unnatural age difference of about 07 years between plaintiff No. 1 and his mother namely Mst. Maryam Bibi (plaintiff No. 2) which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified.



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Plaintiffs produced cogent, convincing and reliable documentary evidence in shape of Ex.PW-1/1. Secondary School Certificate carries weight as presumption of correctness attached to it. There is unnatural age difference of about 07 years between plaintiff No. 1 (son) and plaintiff No. 2 (mother). The rectification sought by plaintiffs will not affect rights of others. Oral evidence produced by plaintiffs is also supportive to the averments of plaintiffs.

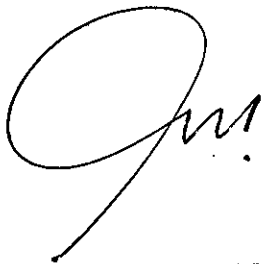
Keeping in view the above discussion and documentary as well as oral evidence available on file, it is held that correct date of birth of plaintiff No. 1 is 15.09.1996 which is correctly recorded in his school record and correct date of birth of plaintiff No. 2 is 01.01.1978. Date of birth of plaintiff No.1 to be rectified/modified from 15.03.1992 to 15.09.1996 and date of birth of plaintiff No.2 be rectified/modified from 01.01.1985 to 01.01.1978. Issue No. 3 decided accordingly.

ISSUE NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiffs have got cause of action and they are entitled to the decree, as prayed for. Both these issues are decided accordingly.

RELIEF.

Crux of my issue wise discussion is that suit of plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to costs. This decree shall not affect the rights of others interested, if any or service record of plaintiffs, if any.




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

ANNOUNCED
18.09.2023



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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.



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