

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

Suit No..... 36/1 of 2023.

Date of Institution.....24.07.2023.

Date of Decision.....20.09.2023.

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1. Rustam Khan Son
 2. Mst. Rabida Bibi D/O Izat Khan both R/O Qaum Utman Khel,
Tappa Fateh Khan Khel, Tehsil Lower, District Orakzai.
-(Plaintiffs)

VERSUS

Assistant Director NADRA, District Orakzai.

..... (Defendant)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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JUDGEMENT

20.09.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Rustam Khan etc against defendant Assistant Director NADRA, District Orakzai for declaration and permanent injunction.

Brief facts as per amended plaint are that plaintiffs have filed the instant suit for declaration cum-permanent injunction to the effect that plaintiffs are twins by birth and their correct date of birth is 09.04.2000 whereas defendant has incorrectly and wrongly entered the date of birth of plaintiff No. 1 as 01.01.1994 and date of birth of plaintiff No. 2 as 01.07.2000. It is further



ZAHIR KHAN
Civil Judge JM
Kalaya Orakzai

20/09/2023

averred that due to this wrong entry, there is unnatural age difference of about 16 years between plaintiff No. 1 and his father namely Izat Khan whose date of birth is 01.01.1978 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, defendant was summoned, who marked his 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 plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time? OPP
3. Whether correct date of birth of plaintiff is 09.04.2000 instead of 01.01.1994? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?



ZAHIR KHAN
Civil Judge (M)
Kalaya Orakza

20/09/23

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, plaintiff produced his partial evidence and case was fixed for

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remaining evidence of plaintiff when counsel for plaintiff submitted application for amended plaint which was allowed being not objected by representative of defendant. Amended plaint and amended written statement were submitted. The following amended issues were framed.

AMENDED 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 is 09.04.2000 instead of 01.01.1994 and 01.07.2000 respectively?
OPP
4. Whether plaintiffs are entitled to the decree as prayed for? OPP
5. Relief?

Amended lists of witnesses were submitted. Evidence of the parties was recorded as PW-01 to PW-02 and DW-01.

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 02 witnesses.

Izat Khan, father of plaintiffs appeared and deposed as PW-01. He reiterated the averments of amended plaint. Copy of his



ZAHIR KHAN
Civil Judge, II
Kalaya Orakza

20/09/23

CNIC as Ex.PW-1/1. He lastly requested for decree of suit against defendant.

Rustam Ali plaintiff No. 1/ special attorney for plaintiff No. 2 appeared and deposed as PW-02. He also reiterated the averments of amended plaint. Special power of attorney was exhibited as Ex.PW-2/1, copy of CNIC as Ex.PW-2/2, copy of his sister's CNIC as Ex.PW-2/3, school certificate as Ex.PW-2/4 and copy of admission and withdrawal register as Ex.PW-2/5.

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 tree of plaintiffs which is Ex. DW-1/1. He stated that plaintiffs have been 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 defendant was closed.

My issue wise findings are as under: -

AMENDED ISSUE NO.2:

Plaintiffs have been issued CNICs on **23.05.2012** and **18.05.2022** with expiry dates as 23.05.2022 and 18.05.2032 while suit in hand was filed on **24.07.2023**. 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



ZAHIR KHAN
Civil Judge, JM
Kalaya Orakza

20/09/23

120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issue No. 2 decided in positive.

AMENDED ISSUE NO.3:

Claim of plaintiffs is that they are twins by birth and their correct date of birth is 09.04.2000 whereas defendants have incorrectly and wrongly entered date of birth of plaintiff No. 1 as 01.01.1994 and date of birth of plaintiff No. 2 as 01.07.2000. It is further averred that due to this wrong entry, there is unnatural age difference of about 16 years between plaintiff No. 1 and his father namely Izat Khan whose date of birth is 01.01.1978 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified.

Plaintiffs produced cogent, convincing and reliable documentary evidence in shape of Ex.PW-2/4 and Ex.PW-2/5. School Certificate carries weight as presumption of correctness attached to it. There is unnatural age difference of about 16 years between plaintiff No. 1 (son) and father whose date of birth per CNIC is 01.01.1978. The rectification sought by plaintiffs will not affect rights of others. Oral evidence produced by plaintiffs is also supportive to the averments of plaintiff.

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 09.04.2000 which is correctly recorded in his school record and correct date of birth of plaintiff No. 2 is



ZAHIR KHAN
Civil Judge (JM)
Malaya Orakza

20/09/23

also 09.04.2000 being twin by birth. Dates of birth of plaintiff No. 1 and plaintiff No. 2 to be rectified/modified from 01.01.1994 and 01.07.2000 to 09.04.2000. Issue No. 3 decided accordingly.

AMENDED 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.

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

ANNOUNCED
20.09.2023



Zahir Khan

Civil Judge-I, Kalaya, Orakzai

CERTIFICATE

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



Zahir Khan

Civil Judge-I, Kalaya, Orakzai