

IN THE COURT OF REHMAT ULLAH WAZIR,
CIVIL JUDGE-I CAMP COURT KALAYA, ORAKZAI

Civil Suit No.	21/1 of 2021
Date of Institution:	29/01/2020
Date of Decision:	25/06/2021

Noorab Khan S/O Atta Khan, R/O Qoum Bezot, Tapa Qamber Khel, Bezot, PO Jalaka Mela, Tehsil Lower, District Orakzai.

(Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad, Pakistan.**
2. **Director General NADRA, KPK, Peshawar.**
3. **Assistant Director, NADRA, District Orakzai..... Defendants**

**SUIT FOR DECLARATION -CUM- PERPETUAL AND
MANDATORY INJUNCTION**

JUDGEMENT:

1. Plaintiff Noorab Khan S/o Atta Khan has brought the instant suit for declaration-cum-perpetual and mandatory injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, seeking therein that correct date of birth of the plaintiff is **01/01/1984** while it has been wrongly entered as 01/1/1991 in his CNIC, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit;

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2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiff has got cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether the suit of the plaintiff is within time?
4. Whether the correct date of birth of plaintiff is 01/01/1984 while it has been wrongly entered as 01/01/1991 in his CNIC by the defendants?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 02:

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the

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aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 29/01/2021. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

4. The plaintiff alleged in his plaint that his correct date of birth is 01/01/1984 while it has been wrongly entered as 01/01/1991 in his CNIC, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit.
5. The plaintiff produced witnesses in whom the plaintiff himself appeared as PW-1, who produced his CNIC, which is Ex-PW-1/1. Further he produced DMCs of both of his sons which are exhibited as Ex-PW-1/2 & Ex-PW-1/3 respectively, and according to that, his elder son namely Jawad Ahmad has the date of birth as 01/03/2002 and the difference between dates of birth of the plaintiff and his elder son is 11 years, where with its younger son is 13 years, which are unnatural and unlawful. Further, Muhammad Khan, an uncle of the plaintiff appeared as PW-02, who produced his own CNIC, which is Ex-PW-2/1

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and further fully supported the stance of the plaintiff by narrating the same story as in the plaint. Further Samand Khan, the uncle of the plaintiff appeared as PW-03, who produced his own CNIC which is Ex-PW-3/1 and further fully supported the stance of the plaintiff by narrating the same story as in the plaint. All the witnesses of the plaintiff have been cross examined but nothing tangible have been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the defendants produced only one witness, the representative of the defendants appeared as DW-1, who produced CNIC processing form of the plaintiff which is Ex-DW-1/1, the FCR of the plaintiff which is Ex-DW-1/2, Family tree of the plaintiff which is Ex-DW-1/3. But he admitted in his cross examination that as per the NADRA SOPs, it is mandatory to have a difference of 17 years with ones father and further that the plaintiff is an illiterate.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that there is an unnatural gap of 11 years between the plaintiff and the his elder son as per the record of the defendants which is naturally not possible and the same fact is established by the plaintiff through oral and documentary evidence. Also, the claim of the plaintiff is admitted by representative of the defendants in his cross

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examination that as per the NADRA SOPs there must be a gap of 17 years between the father and his kids. Thus, in the light of the aforesaid finding the issue is decided in positive.

Issue No. 01 &05:

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for.

File be consigned to the Record Room after its completion and compilation.

Announced
25/06/2021



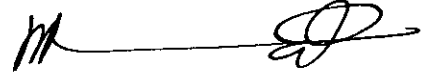
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CERTIFICATE

Certified that this judgment of mine consists of six (06) pages, each has been checked, corrected where necessary and signed by me.



(Rehmat Ullah Wazir)
Civil Judge-I,
Camp Court Kalaya, Orakzai.

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