

IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

(WP)

Civil Suit No. 05/1 of 2021
Date of Institution: 13/01/2021
Date of Decision: 12/07/2021

Mst Mastora Jan W/o Dawat Shah

Qoam Dara Dar Mamo Zai, Tapa Khadin Nawasi Karbogha, PO Shahu Khel, Tehsil
Ismail Zai & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Registrar, General NADRA Islamabad.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

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Brief facts of case in hand are that the plaintiff **Mst Mastora Jan W/o Dawat Shah**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that her correct date of birth is **1965** while correct name of her husband is "**Dawat Shah**" but defendants have wrongly mentioned her date of birth as **01.01.1978** and name of her husband as "**Ilyas Khan**"

in their record. That date of birth of the plaintiff as per her CNIC is 01.01.1978 while date of the elder son of the plaintiff as per his CNIC is 10.03.1983. So, the difference between the age of plaintiff and her elder son is 05 years, which is unnatural and contrary to the facts. That defendants were repeatedly asked to


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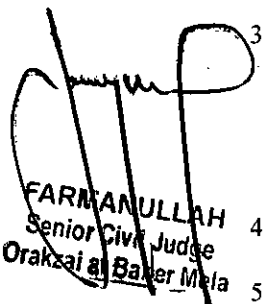
correct her date of birth and name of her husband but they refused. Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, wherein they contested the suit of plaintiff on various grounds.

Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether plaintiff has got cause of action?
2. Whether the correct date of birth of the plaintiff is **1965** while her date of birth has been wrongly entered as 01.01.1978 in her CNIC by the defendants?
3. Whether the correct name of husband of the plaintiff is **Dawat Shah** while it has been wrongly entered as Ilyas Khan in her CNIC by the defendants?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.
6. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced her witnesses as PW-1 to PW-3.
7. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC processing form, death certificate of her husband namely Ilyas Khan, Family tree and Form "A" of plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/4 respectively.


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8. After conclusion of the evidence arguments pro and contra heard.
Case file is gone through.

9. My issues wise findings are as under:

Issue No.02 & 03:

Issue No. 02 and 03 are taken together for discussion. Plaintiff contended in her plaint that, her correct date of birth is 1965 and correct name of her husband is "**Dawat Shah**" but inadvertently the same were recorded as **01.01.1978** and **Ilyas Khan** in record of defendants. Hence, the record is liable to be corrected.

Plaintiff in support of her contention has appeared as PW-3 and she repeated the contents of the plaint in her examination in chief. She also produced her CNIC as Ex.PW-3/1, CNIC of her elder son namely Zabit Khan as Ex.PW-3/2 and CNIC of her husband as Ex.PW-3/3. PW-2, is the statement of Zafar Khan, who stated in his examination in chief that plaintiff is his cousin and the correct name of the husband of the plaintiff is **Dawat Shah** while her correct date of birth is **1965**. He exhibited his CNIC as Ex.PW-2/1. PW-3 is the statement of Khan Gul, who stated in his examination in chief that plaintiff is his 2nd cousin and the correct name of the husband of the plaintiff is **Dawat Shah** while her correct date of birth is **1965**. He produced his CNIC and exhibited the same as Ex.PW-1/1. PW-1 to PW-3 were subjected to cross examination but nothing substantial was

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brought on record which could have shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. Their testimony is also corroborated by the CNIC of the husband of plaintiff produced by PW-3 Ex.PW-3/3, wherein, the name of the husband of plaintiff has been recorded as **Dawat Shah**, PW-03 also produced the CNIC of her elder son as Ex.PW-3/2. The perusal of CNIC of plaintiff Ex.PW-3/1 shows her date of birth as 01-01-1978 and similarly the date of birth of the elder son of plaintiff as per his CNIC Ex.PW-3/2 is 10.03.1983, which shows that the age gap between the plaintiff and her elder son are 05 years. The said difference in age of son and mother on the face of it appears to be unnatural and contrary to the facts. Similarly, from the statement of plaintiff it is evident that her correct date of birth is 1965 and correct name of her husband is **Dawat Shah** which further support the claim of plaintiff. So, the oral and documentary evidence produced by the plaintiff establishes that the correct date of birth of the plaintiff is **1965** and the correct name of the husband of the plaintiff is **Dawat Shah**. The incorporation of date of birth of the plaintiff as **01.01.1978** and the name of her husband as **Ilyas Khan** in the record of NADRA appears to be a mistake. Hence, the issue No. 02 and 03 are decided in positive.

Issue No. 01 & 04:

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These issues are taken together. For what has been held in issue No. 02 & 03, this court is of the opinion that plaintiff has got cause of action and she is also entitled to the decree as prayed for.

The issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record by incorporating the date of birth of the plaintiff as 1965 and name of the husband of the plaintiff as "Dawat Shah" in their record. Parties are left to bear their own costs.

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

Announced
12/07/2021

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).

CERTIFICATE

Certified that this judgment of mine consists 05 (five) pages, each has been checked, corrected where necessary and signed by me

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).