(36)

IN THE COURT OF SYED ABBAS BUKHARI,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No.	59/1 of 2023
Date of Original Institution:	29.08.2023
Date of Decision:	26.09.2023

Mst. Mst. Ameera W/O Shafiq Khan, resident of Qoum Sheikhan, Tappa Umarzai, District: Orakzai.

.....**(Plaintiff)**

VERSUS

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

.....**(Defendants)**

SUIT FOR DECLARATION -CUM- PERPETUAL AND MANDATORY INJUNCTION

SYED ABBAS BUKHARI
Civil Judge-II
Tehsil Courts Kalaya
26-09-2023

JUDGMENT

1. Brief facts of the case in hand are that attorney Ameer Khan for plaintiff has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct date of birth of plaintiff is **01.01.1989**, while defendants have wrongly entered the same as 01.01.1980 in their record, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

2. Defendants were summoned, they appeared through their representative and filed written statement whereby they objected the suit on factual and legal grounds.

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

Issues:

1. Whether the plaintiffs have got a cause of action? OPP
2. Whether the correct date of birth of plaintiff **01.01.1989** while it has been incorrectly entered as 01.01.1980 in her CNIC by defendants? OPP
3. Whether the plaintiff is entitled to the decree as prayed for?
4. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:

The plaintiff alleged in her plaint that correct date of birth of plaintiff is **01.01.1989**, while defendants have wrongly entered the same as 01.01.1980 in their record which is wrong, ineffective upon the rights of plaintiff and liable to be corrected.

The plaintiff produced witnesses in whom Mr. Zeenat Ullah S/O Ayub Khan, the sister in law of plaintiff, appeared as PW-01. He stated that plaintiff have three children and three brothers and three sisters. He further stated that plaintiff is elder amongst all brothers and sisters. He further stated that defendants incorrectly entered the date of birth of plaintiff as

01.01.1980, due to which there exist unnatural gaps of with her parents. He produced his CNIC which is Ex. PW-1/1. The witness has been cross examined but nothing tangible has been extracted out of him.

Mr. Ameer Khan S/O Muhammad Khan, the attorney/father of plaintiff, appeared as PW-02. He produced his special power of attorney which is Ex. PW-2/1. He stated that his correct date of birth is 01.01.1989 while defendants have wrongly entered as 01.01.1980 in her CNIC. He further stated that plaintiff has unnatural gaps of 10 & 08 years with parents respectively. He produced his CNIC, CNIC of plaintiff, CNIC of plaintiff's mother and CNIC of husband of plaintiff late Shafiq Khan are Ex. PW-1/2 to Ex. PW-1/5 respectively. During cross examination he stated that plaintiff's husband has been died and his death certificate is Ex. PW-1/6.

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In order to counter the claim of the plaintiff, defendants produced only one witness, the representative of the defendants who appeared as DW-01. He produced Family Trees of plaintiff which are Ex. DW-1/1 & Ex. DW-1/2 and according to that the correct date of birth of plaintiff is 01.01.1980. He further stated that date of birth of her father namely Ameer Khan is 01.01.1972. During cross examination he admitted that

there exist an unnatural gap between plaintiff and her parents. He lastly stated that according to NADRA SOP it is mandatory to correct unnatural gaps in date of births.

In light of above discussion as plaintiff succeeded to prove her stance by producing cogent, convincing and reliable evidence and nothing in rebuttal has been brought on record by the opposite party. Furthermore it is also pertinent to mention here that there exist unnatural gap of 10 & 08 years between ages of plaintiff and her parents. The age difference between the age of plaintiff and her parents is against the order of nature and impossible, accordingly, the issue in hand is hereby decided in positive.

SYED ABAAS BUKHARI
Civil Judge/JM-II
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Issue No. 01 & 03:

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 02 the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, 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. No order as to costs.

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

Announced
26.09.2023

Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai

CERTIFICATE

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

Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai