

(18)

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

Civil Suit No. 74/1 of 2023
Date of Original Institution: 26.09.2023
Date of Decision: 11.10.2023

Aziz Ur Rehman S/O Sameel Khan, resident of Qoum Mishti, Tappa Darvi Khel, Shalzara, Tehsil Central, District: Orakzai.

.....(Plaintiff)

VERSUS

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

.....(Defendants)

SUIT FOR DECLARATION -CUM- PERPETUAL AND MANDATORY INJUNCTION

JUDGMENT

1. Brief facts of the case in hand are that 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 **01.01.1985** and correct father name is **Sameel Khan**, while defendants have incorrectly entered the same as 01.01.1988 and Ismail Khan respectively in their record, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and

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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 plaintiff has got a cause of action? OPP
2. Whether the correct date of birth of plaintiff is **01.01.1985** and correct father name is **Sameel Khan** while it has been incorrectly entered as 01.01.1988 and Ismail Khan respectively in the 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 his plaint that correct date of birth of plaintiff is **01.01.1985** and correct father name is **Sameel Khan** while defendants have incorrectly entered the same as 01.01.1988 and Ismail Khan respectively in their record which is wrong, ineffective upon the rights of plaintiff and liable to be corrected.

The plaintiff produced witnesses in whom Aziz Ur Rehman S/O Sameel Khan, the plaintiff himself,

appeared and deposed as PW-01. He stated that his correct date of birth is 01.01.1985 and correct father name is Sameel Khan while defendants have incorrectly entered the same as 01.01.1988 and Ismail Khan in his CNIC. He further stated that date of birth of his son namely Muhammad Asif as per his SSC DMC is 25.02.2003 and according to that there exist an unnatural gap of 15 years with his son. He further stated that his mother's name is Gul Pera Jan and her husband name correctly mentioned as Sameel Khan in her CNIC. He produced his CNIC, father CNIC and his son SSC DMC which are Ex. PW-1/1 to Ex. PW-1/3 respectively. During cross examination he stated that his father name is Sameel Khan, mother name is Gul Pera Jan and his son name is Muhammad Asif. He further stated in his cross examination that there exist an unnatural gap of 15 years with his son. He further stated that his parent has been died.

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 Tehsil Court, Kalaya

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 Processing Form of plaintiff which is Ex. DW-1/1 and according to that plaintiff's date of birth is 01.01.1988, father's name is Ismail Khan and mother's name is Gul Pera Jan. During cross

examination he stated that it is correct that according to NADRA record the mother's name of plaintiff is Gul Pera Jan. He admitted that in the CNIC of Gul Pera Jan (mother of plaintiff) the husband name is correctly mentioned as Sameel Khan. He further admitted that according to Ex. PW-1/3 there exist an unnatural gap of 15 years with his son.

In light of above discussion as plaintiff succeeded to prove his stance by producing documentary, 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 between ages of plaintiff and his son. The age difference between the age of plaintiff and his son is against the order of nature and impossible, accordingly, the issue in hand is hereby decided in positive.

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.

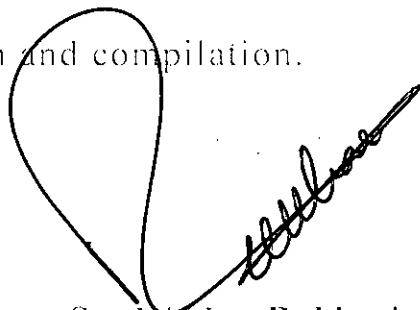
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Civil Judge/JM-II
Tehsil Courts Malaya

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.

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

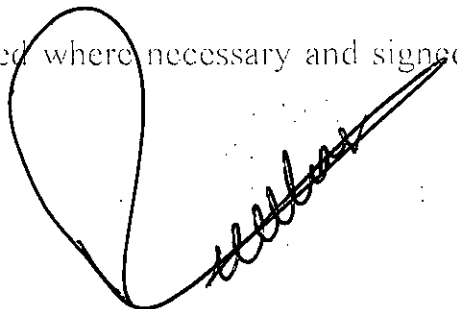
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Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai
Civil Judge/JM-II
Tehsil Courts Kalaya

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
Civil Judge/JM-II
Tehsil Courts Kalaya