

IN THE COURT OF ZAHIR KHAN

Civil Judge-I, Kalaya, Orakzai

Suit No.....53/1 of 2023.

Date of Institution.....04.10.2023.

Date of Decision.....23.10.2023.

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Mst. Sanam Bibi W/O Khan Faraz R/O Qaum Feroz Khel, Tappa Qasim Khel, Chappri, PO Feroz Khel, Tehsil Lower, District Orakzai.

.....(Plaintiff)

Versus

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Khyber Pakhtunkhwa.
3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT

23.10.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Mst. Sanam Bibi against defendant Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that her true and correct date of birth is 01.01.1987, however, defendants have incorrectly entered the same as 01.01.1993 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about

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12 years between plaintiff and her elder son namely Kashif Ullah whose date of birth, as per school leaving certificate, is 02.01.2005. That defendants were asked time and again to rectify date of birth of plaintiff but in vain hence, the present suit.

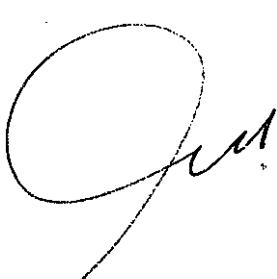
After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time?
3. Whether correct date of birth of plaintiff is 01.01.1987 and defendants have entered the same as 01.01.1993? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief.

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.


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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.

Plaintiff produced two witnesses in support of her claim while defendants produced one witness in defense.

Khan Faraz, husband/special attorney of plaintiff appeared and deposed as PW-01. He reiterated the averments of plaintiff. Copy of his CNIC is Ex.PW-1/1, special power of attorney is Ex.PW-1/2 and school leaving certificate of his son is Ex.PW-1/3. He lastly requested for decree of suit in favour of plaintiff.

Mehmood Khan, relative of plaintiff appeared and deposed as PW-02. He also supported plea of plaintiff. Copy of his CNIC is Ex.PW-2/1.

Thereafter, evidence of plaintiff was closed.


Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He stated that plaintiff has been issued CNIC as per information provided by her and that she has got no cause of action. He produced authority letter which is Ex. DW-1/1.

Thereafter, evidence of defendants was closed.

The above discussion boils down to my following issue-wise findings.

ISSUE NO.2

Plaintiff has been issued CNIC on 05.01.2015 with expiry date of 05.01.2025 while suit in hand was filed on 04.10.2023. In



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

ISSUE NO.3

Claim and contention of plaintiff is that her true and correct date of birth is 01.01.1987, however, defendants have incorrectly entered the same as 01.01.1993 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 12 years between plaintiff and her son namely Kashif Ullah whose date of birth, as per school leaving certificate is recorded as 02.01.2005. Plaintiff produced reliable documentary evidence in support of her claim and contention. As per Ex. PW-1/3, date of birth of plaintiff's son is recorded as 02.01.2005 resulting into unnatural age difference of 12 years between plaintiff and her son. Plaintiff is not a government servant. The rectification/modification sought by plaintiff will not affect rights of others. If date of birth of plaintiff is not modified, it will result into inconvenience to plaintiff and her family members.



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Keeping in view the above discussion, documentary as well as oral evidence available on file. Issue No. 3 decided in favor of plaintiff against the defendants.

ISSUE NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiff.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiff is hereby decreed in her favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.

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

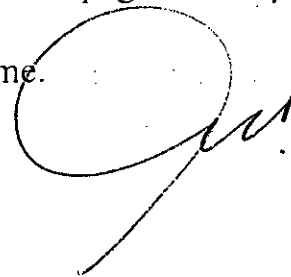
ANNOUNCED
23.10.2023



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CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
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