

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

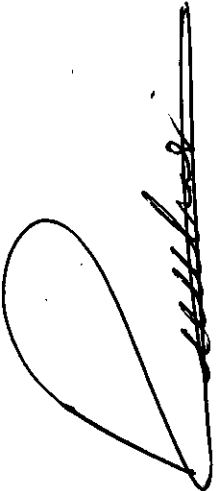
Civil Suit No. 65/1 of 2023
Date of Original Institution: 16.09.2023
Date of Decision: 13.10.2023

1. **Fazal Manan S/O Ajab Khan and**
 2. **Mst. Aqal Meena widow of Ajab Khan,** both residents of Qoum Utman Khel, Tappa Bazran Khel, Mallayano Kallay Tehsil Lower, District: Orakzai.
-(Plaintiffs)

VERSUS

1. **Chairman NADRA Islamabad.**
 2. **Director General NADRA, Khyber Pakhtunkhwa, Peshawar.**
 3. **Assistant Director, NADRA District Orakzai.**
-(Defendants)

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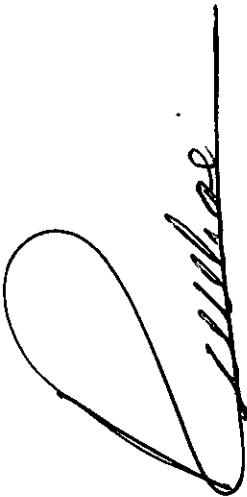
SUIT FOR DECLARATION -CUM- PERPETUAL AND MANDATORY INJUNCTION

JUDGMENT

1. Brief facts of the case in hand are that plaintiffs have 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 no. 1 is **01.01.1975** and his correct mother name is **Aqal Meena** while correct husband name of plaintiff no. 2 is **Ajab Khan** while defendants have wrongly entered the date of birth of plaintiff no. 1 is 01.01.1961 and his mother name is Akalmeena and husband of plaintiff no. 2 is Ghani

Khan in their record, which are wrong, ineffective upon the right of the plaintiffs and liable to correction. That the defendant was asked time and again to do the aforesaid correction but they refused, hence, the present suit;

2. Defendant was 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;



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Issues:

- Whether the plaintiffs have got a cause of action? OPP
- Whether the correct date of birth of plaintiff no. 1 is **01.01.1975**, correct mother name is **Aqalmeena** and correct husband name of plaintiff no. 2 is **Ajab Khan**? OPP
- 3. Whether the plaintiffs are entitled to the decree as prayed for?
- 4. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:

The plaintiffs alleged in their plaint that correct date of birth of plaintiff no. 1 is **01.01.1975** and his correct mother name is **Aqalmeena** while correct husband name of plaintiff no. 2 is **Ajab Khan**, while defendants have wrongly entered the date of birth of plaintiff no. 1 is 01.01.1961 and his mother name is

Aqalmeena and husband of plaintiff no. 2 is Ghani Khan in their record, which are wrong, ineffective upon the right of the plaintiffs and is liable to correction.

The plaintiff produced witnesses in whom Fazal Manan S/O Ajab Khan, plaintiff no. 1/attorney for plaintiff no. 2, appeared as PW-01. He produced his power of attorney which is Ex. PW-1/1. He stated that his correct date of birth is 01.01.1975 and defendants have incorrectly entered the same as 01.01.1961.

Similarly plaintiff no. 2 correct husband name is Ajab Khan while defendants have incorrectly entered as Ghani Khan. The one Ghani Khan is in fact is father-in-law of plaintiff no. 2. He further allege that there exist nine years unnatural gap between plaintiff no. 1 and plaintiff no. 2. He produced his CNIC and CNIC of plaintiff no. 2 which are Ex. PW-1/2 & Ex. PW-1/3 respectively. He lastly requested for decree of the suit. The witness has been cross examined. During cross examination he stated that he has three brothers and four sisters. The one Aqalmeena is his real mother and Ghani Khan is his grandfather. He further narrated that there exist a gap of nine years between his age and age of his mother.

Shah Afzal Khan S/O Muhammad Azeem, appeared and deposed as PW-02. He supported the

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claim of the plaintiffs as narrated in the plaint. He produced his CNIC which is Ex. PW-2/1. During cross examination he stated that Ghani Khan is father-in-law of plaintiff no. 2 and her husband name is Ajab Khan. Ghani Khan and Ajab Khan have been died.

Gul Nawaz Khan S/O Niaz Badshah, appeared and deposed as PW-03. He also supported the stance of plaintiffs as narrated in the plaint. His CNIC is Ex. PW-3/1. During cross examination nothing contradictory has been extracted out of him.

In order to counter the claim of the plaintiffs, defendant produced only one witness, the representative of the defendants who appeared as DW-01. He produced processing form of plaintiff no. 1 which is Ex. DW-1/1, according to which plaintiff no. 1 has made his CNIC on 23.11.2017 and his date of birth is 01.01.1961. He further stated in his chief examination that father's name and mother's name of plaintiff no. 1 are Ajab Khan and Akalmeena and further deposed that the processing form was also verified by Tehsildar and the then Assistant Political Agent, Orakzai. He lastly requested for dismissal of the suit. During cross examination he stated that it is correct that mother's name in the CNIC of plaintiff no. 1 is mentioned as Akalmeena. It is further correct that father's name of

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plaintiff no. 1 is Ajab Khan. It is correct that according to statement of PW-01, there exist an natural gap between plaintiffs. He further stated that I have not brought the processing form of plaintiff no. 2.

In light of above evidence produced by plaintiffs it is necessary to mention here that the unnatural gap between plaintiff no. 1 and his mother (plaintiff no. 2) has been admitted by DW-01 in his cross examination and thus this admission by defendant in his evidence strengthen the stance of plaintiffs alleged in the plaint.

Furthermore, after this admission on the part of defendants, all other points raised by defendants in written statement or subsequently in evidence are immaterial.

In light of above discussion, plaintiffs succeeded to prove the issue in hand through cogent, reliable and convincing evidence, hence the issue in hand is decided in positively in favor of plaintiffs and against defendant.

Issue No. 01 & 03:

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

As sequel to my findings on issue No. 02 the plaintiffs have got a cause of action and therefore

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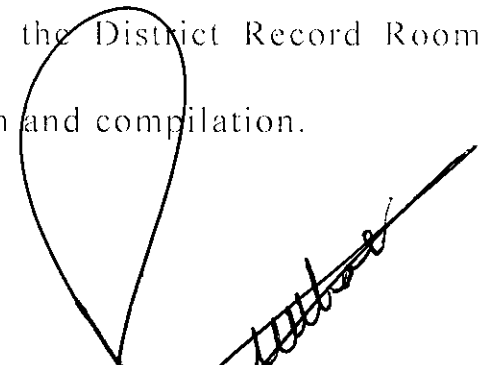
entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiffs are hereby **decreed** as prayed for. No order as to costs.

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

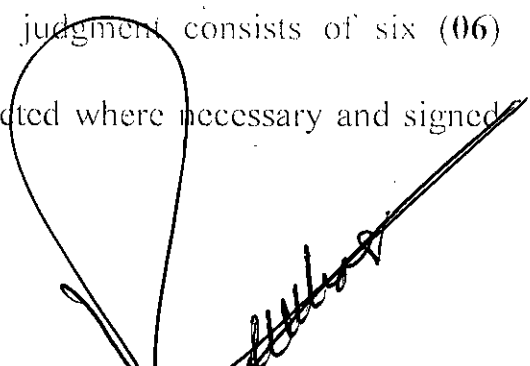
Announced
13.10.2023



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CERTIFICATE

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



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