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

Civil Suit No.	78/1 of 2023
Date of Original Institution:	12.10.2023
Date of Decision:	08.11.2023

1. **Muhammad Sajid S/O Azam Khan and**
2. **Mst. Khialmeena W/O Muhammad Sajid,** both residents of Qoum Bar Muhammad Khel, Tappa Abdul Aziz Khel, Darma Tehsil Lower, District: Orakzai.

.....**(Plaintiffs)**

VERSUS

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

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

SUIT FOR DECLARATION -CUM- PERPETUAL AND MANDATORY INJUNCTION

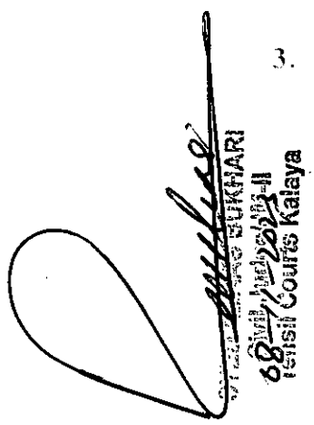
JUDGMENT

1. Brief facts of the case in hand are that plaintiffs have brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct dates of birth of plaintiff no. 1 and plaintiff no. 02 are **01.01.1972** and the correct name of plaintiff no. 01 is **Muhammad Sajid,** while defendants have wrongly entered the dates of birth of plaintiff no. 1 and plaintiff no. 02 in their official record as 01.01.1976 and 01.01.1983 respectively while the name of plaintiff no.

01 has been incorrectly entered as Kasteer Khan in FRC, which are wrong, ineffective upon the right of the plaintiffs 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. 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;



Issues:

1. Whether the plaintiffs have got a cause of action? OPP
2. Whether the correct dates of birth of plaintiff no. 01 and plaintiff no. 02 are **01.01.1972** and the correct name of plaintiff no. 01 is **Muhammad Sajid** which needs correction in FRC record? 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 dates of birth of plaintiff no. 1 and plaintiff no. 02 are **01.01.1972** and the correct name of plaintiff no. 01 is **Muhammad Sajid,** while defendants have wrongly

entered the dates of birth of plaintiff no. 1 and plaintiff no. 02 are 01.01.1976 and 01.01.1983 respectively in their record and further had incorrectly entered the name of plaintiff no. 01 as Kasteer Khan in FRC, which are wrong, ineffective upon the right of the plaintiffs and is liable to correction.

The plaintiff produced witnesses in whom Muhammad Sajid S/O Azam Khan, plaintiff no. 1 himself, appeared as PW-01. He stated that his correct date of birth is 1972 and correct date of birth of his wife (plaintiff no. 02) is 1972, which incorrectly entered as 01.01.1976 in his CNIC by defendants. His CNIC is Ex. PW-1/1. He further stated that he has changed his name as Muhammad Sajid from Kasteer Khan and his old CNIC is Ex. PW-1/2. He stated that date of birth of plaintiff no. 02 in her CNIC is 01.01.1983 and her husband name is Kasteer Khan which needs corrections. CNIC of plaintiff no. 02 is Ex. PW-1/3. He further stated that date of birth of his son namely Mutahir is 01.01.1990, according to which there exist an unnatural gap of 14 & 07 years respectively between the ages of plaintiff no. 01 and plaintiff no. 02 with their son. He lastly requested for decree of the suit. During cross examination he stated that Kasteer Khan is mentioned in the CNICs of his sons.

Khail Zaman S/O Serbaz Ali, appeared and deposed as PW-02. He supported the stance of the plaintiffs as narrated in the plaint. He produced his CNIC which is Ex. PW-2/1. During cross examination he stated that father name of plaintiff no. 02 is Muhammad Hussain and further stated that elder son of the plaintiffs is Mutahir Ali. Plaintiffs are his relative.

In order to counter the claim of the plaintiffs, defendant produced only one witness, the representative of the defendants namely Irfan Hussain who appeared as DW-01. He produced family trees of plaintiffs which are Ex. DW-1/1 to Ex. DW1/4, according to which the dates of birth of plaintiff no. 1 and plaintiff no. 02 are 01.01.1976 & 01.01.1983 respectively. He further stated that date of birth of elder son of plaintiffs is 01.01.1990. He lastly requested for dismissal of the suit. During cross examination he stated that it is correct that in the column of spouse in family tree, name of plaintiff no.02 is entered as wife of Kasteer Khan. It is also correct that name of plaintiff no. 02 is mentioned as mother of Mutahir Khan while old name of plaintiff no.1 is mentioned as his father name. He lastly stated that if courts decreed they have no objection over the suit.

SYED ABAAS [illegible]
Civil Judge
Tehsil Courts Abbottabad

In light of above evidence produced by plaintiffs it is necessary to mention here that the unnatural gap between plaintiffs and their son has been admitted by DW-01 in his cross examination and thus this admission by defendants in his evidence strengthen the stance of plaintiffs alleged in the plaint. Furthermore, after this admission on the part of defendants, all other facts and 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 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, subject to submission of court fees of Rs-500/- within

30 days of instant decree otherwise this decree shall have got no effect or legal force and defendants are hereby directed to enter the correct dates of birth of plaintiffs no.1 and no.02 in their official record as 01.01.1972 and further enter the correct name of plaintiff in FRC as Sajid Khan and thereafter issue fresh CNICs and FRC to the plaintiffs. No order as to costs.

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

Announced
08.11.2023

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

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