

IN THE COURT OF SAMI ULLAH,

Civil Judge-I, Orakzai at Baber Mela

Civil Suit No.	57/1 of 2023
Date of Institution:	24/10/2023
Date of Decision:	23/12/2023

Muhammad Iqbal S/O Shehbaz Khan

R/O Qoam Mamozai, Tappa Meer Kalam Khel, PO Ghiljo, Tehsil Upper, District Orakzai.

.....(Plaintiff)

VERSUS

1. Chairman Nadra, Islamabad
2. Deputy Chairman Nadra, Peshawar
3. Assistant Director Nadra, District Orakzai.

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION**JUDGEMENT:**

1. Plaintiff has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that correct date of birth of plaintiff is 1974 but the defendants have wrongly incorporated his date of birth as 01.01.1985 in their record. Moreover, correct father name of plaintiff is **Shehbaz Khan** but defendants have wrongly incorporated the same as Shabaz Khan in their record with respect to the plaintiff. Furthermore, the date of birth of daughter of plaintiff namely Hazrat Bibi is 02.01.1992. Plaintiff alleged in his plaint that the incorporation of wrong date of birth in his record by defendants, there is unnatural gap in age of 07

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years with his daughter. That the defendants were asked time and again for correction of date of birth and father name of plaintiff but they refused to do so, hence the present suit;

2. Defendants were summoned, they appeared before the court through their representative and contested the suit by filing their written statement, wherein various legal and factual objections were raised.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. *Whether plaintiff has got cause of action?*
2. *Whether the plaintiff is estopped to sue?*
3. *Whether suit of the plaintiff is within time?*
4. *Whether the correct date of birth of the plaintiff is 1974 and his correct father name is Shehbaz Khan and defendants have wrongly entered the date of birth and father name of plaintiff as 01.01.1985 and Shabaz Khan in their record?*
5. *Whether the plaintiff is entitled to the decree as prayed for.*
6. *Relief.*

4. Parties were given ample opportunity to produce evidence which they did accordingly.
5. Issue wise findings of this court are as under: -

Issue No. 02:

Whether the plaintiff is estopped to sue?

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6. The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

Whether suit of the plaintiff is within time?

7. The defendants in their written statement raised the objection that suit of the plaintiff is time barred but this court is of the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 24.10.2023. Thus, the same is well within time. The issue is decided in positive.

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Issue 04:

Whether the correct date of the plaintiff is 1974 and his correct father name is Shehbaz Khan and defendants have wrongly entered the date of birth and father name of plaintiff as 01.01.1985 and Shabaz Khan in their record?

8. The plaintiff alleged in his plaint that his correct date of birth and his correct father name is 1974 and Shehbaz Khan respectively, while the defendants have wrongly entered the date of birth and father name of plaintiff in their record as 01.01.1985 and Shabaz Khan respectively, which are wrong,

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ineffective upon the rights of the plaintiff and liable to correction.

9. The plaintiff produced two witnesses and he himself appeared as a witness in his favour who recorded the statements and testified that the correct date of birth of plaintiff is 1974 and his correct father name is **Shehbaz Khan**.

10. Plaintiff himself recorded his statement as PW-1 and stated that his correct date of birth and his correct father name are 1974 and **Shehbaz Khan** respectively and the same have been correctly mentioned in his old MNIC. He further stated that there is unnatural gap of 07 years between his age and age of his daughter which is liable to correction. Copies of old MNIC and new CNIC of plaintiff are Ex.PW-1/1 and Ex.PW-1/2 respectively. It is pertinent to mention here as per Ex.PW-1/1 date of birth mentioned there is 1974. Nothing incriminating was recorded in his cross examination.

11. PW-02 namely Gul Rehman said in his statement that plaintiff is his brother and correct date of birth of plaintiff is 1974 and correct father name of plaintiff is **Shehbaz Khan**. Moreover, plaintiff is older than him. He further stated that there is unnatural gap of 07 years between the age of plaintiff with his own daughter. Lastly, he prayed for correction of date of birth of plaintiff and his father name respectively. Nothing incriminating was recorded in his cross examination.

12. PW-03 namely Ahmad Shah recorded his statement that plaintiff is his relative and neighbor. He stated that correct

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father name of plaintiff is **Shehbaz Khan** and correct date of birth of plaintiff is 1974. He further stated that there is unnatural gap of 07 years between the age of plaintiff with his daughter, which is liable to correction. Copy of CNIC of daughter of plaintiff and copy of his CNIC are Ex.PW-3/1 and Ex.PW-3/2 respectively.

13. In order to counter the claim of the plaintiff, the defendants produced only one witness, Mr. Irfan Hussain, the representative of the defendants appeared as DW-01. He produced Alpha family tree and Beta family tree which are Ex. DW-1/1 and Ex. DW-1/2 respectively. According to these documents' neither wife name of plaintiff nor names of his any children are mentioned in record. DW-01 admitted in his cross-examination that correct date of birth and correct father name of plaintiff according to his old NMIC are 1974 and Shehbaz Khan respectively. Moreover, father name of plaintiff i.e. Shehbaz Khan is correctly mentioned in CNIC of brother of the plaintiff. He further admitted in his cross examination that date of birth of daughter of plaintiff is 1992 and there is unnatural gap of 07 year between her age and her father i.e. plaintiff.

14. Arguments heard and record perused.

15. After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by the document i.e. old NMIC of plaintiff and evidence which they produced. According to Old NMIC of plaintiff his correct

date of birth is 1974, and according to the statement of PW-02 in which he stated that the plaintiff is his brother and plaintiff is older than him. Moreover, correct father name of plaintiff i.e. Shehbaz Khan has been correctly mentioned in his brother's CNIC and plaintiff's old NMIC. Furthermore, there is unnatural gap in age of 07 years between the plaintiff and his daughter. Nothing incriminating was recorded in cross examination of the PWs. After keeping in consideration, the aforementioned points and available evidence, this court is of the view that the record of defendants relating to date of birth of the plaintiff and his father name are liable to correction.

16. Thus, in the light of the aforesaid findings, the issue is decided in positive.

Issue No. 01 & 05:

Whether plaintiff has got cause of action?

Whether the plaintiff is entitled to the decree as prayed for.

17. Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, plaintiff has got cause of action and is therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

18. As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for, defendants are


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directed to correct date of birth of plaintiff as 1974 and his father name as **Shehbaz Khan** in their record.


19. Parties are left to bear their own cost.
20. Decree sheet be drawn up accordingly.
21. File be consigned to the Record Room after its necessary completion and compilation.

Announced
23.12.2023


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CERTIFICATE

Certified that this judgment consists of seven (07) pages, each has been checked, corrected where necessary and signed by me.


Sami Ullah
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