

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 01/1 of 2024.
Date of Institution: 02.01.2024.
Date of Decision: 19.01.2024.

*Nusrat Bibi W/O Khwaga Mir, R/O Qoum Essa Khel, Tappa
Gohar Nawasi, Tehsil Upper, District Orakzai.*

(Plaintiff)

VERSUS

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

(Defendants)

**SUIT FOR DECLARATION-CUM-PERPETUAL AND
MANDATORY INJUNCTION**

JUDGEMENT:

19.01.2024

1. Plaintiff Nusrat Bibi W/O Khwaga Mir Din has brought the instant suit against defendants Chairman NADRA, Islamabad and 02 others for declaration-cum-perpetual and mandatory injunction to the effect that her correct date of birth is 20.05.1982, but the same has been wrongly entered in her record with the defendants as 22.05.1974. That due to this wrong entry, there is unnatural age difference of about 09 years between plaintiff and her mother namely Noor Sari, whose date of birth is 01.01.1965. He alleged that the defendants were asked time and again for correction of date of birth of the plaintiff, but they refused to do so, hence, the present suit;

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2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their authority letter and written statement.

3. Divergent pleadings of the parties were reduced into the following issues;

Issues:


1. *Whether the plaintiff has got cause of action?*
2. *Whether the suit of the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 20.05.1982 and the defendants have wrongly entered the same as 22.05.1974 which has rendered the unnatural gap of 9 years between the date of birth of the plaintiff and her mother?*
4. *Whether plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

PW-01, special attorney and husband of plaintiff Khwaga Mir repeated the contents of the plaint and produced his special power of attorney as Ex. PW-1/1. He requested for decree of suit as prayed for.

PW-02, is the statement of the Taj Akbar S/O Sultan Akbar. He is brother of the plaintiff. He also affirmed that the correct date of birth of the plaintiff is 20.05.1982.

On the other hand, representative for NADRA, Irfan Hussain recorded his statement as DW-01, wherein he has alleged that the date of birth of the plaintiff according to their record is 22.05.1974. Authority letter is Ex. DW-1/1. He requested for dismissal of the suit.


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After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused:

My Issue-wise findings are as under: -

Issue No. 02:

Plaintiff has been issued CNIC on 13.03.2013 with expiry date of 13.03.2023 while suit in hand was filed on 04.10.2023. As period of limitation under Article 120 of Limitation Act is six years and CNIC of plaintiff has already been expired on 13.03.2023 and the defendants are bent upon not issuing her with new CNIC, therefore, suit of plaintiff is held to be within time. Issued decided in positive.

Issue No. 03:

The plaintiff alleged that her correct date of birth is 20.05.1982, but the same has been wrongly entered in her record with the defendants as 22.05.1974. That due to this wrong entry, there is unnatural age difference of about 09 years between the date of birth of the plaintiff and her mother namely Noor Sari, whose date of birth is 01.01.1965. During the course of evidence, statements of Khwaga Mir (husband) and Taj Akbar (brother) were recorded as PW-01 & PW-02, who stated that the correct date of birth of plaintiff is 20.05.1984 and it has been wrongly mentioned in her record with the defendants as 22.05.1974.

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The evidence produced by the plaintiff supported the stance of the plaintiff relating to unnatural age difference between the plaintiff and her mother. The defendants have not brought any authentic documentary or oral evidence in order to rebut the stance of the plaintiff, except their own record which is impugned before this court through the instant suit. Furthermore, it is admitted by DW-01 during cross examination that such like correction are not in contrast with the SOPs of the defendants. It is also admitted that there is unnatural age gap of 9 years between the plaintiff and her mother. The plaintiff is neither government employee nor such correction will damage the right of any third person and continuing with the wrong entry will result in to hardships and miseries to the plaintiff. Issue is decided in positive.

Issue No. 01 & 04:

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

As sequel to my findings on issue No. 03, the plaintiff has proved through cogent evidence that her correct date of birth is 20.05.1982 instead of 22.05.1974. Issue No. 01 & 04 are decided in positive.

RELIEF:

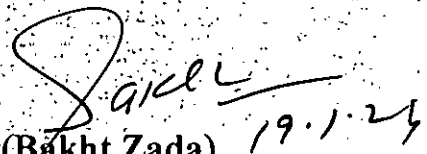
As sequel to my above issue-wise findings, the plaintiff proved her case through cogent evidence, therefore suit of the

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plaintiff is hereby decreed as prayed for with no order as to cost.

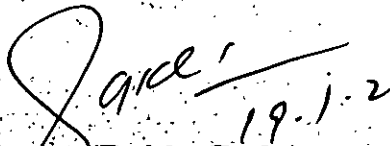
File be consigned to the Record Room after its completion and compilation.

Announced
19.01.2024


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CERTIFICATE

Certified that this judgment of mine consists of five (05) pages; each has been checked, corrected where necessary and signed by me.


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Orakzai at (Baber Mela)