

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

Civil Suit No. 25/1 of 2023
Date of Institution: 11.05.2023
Date of Decision: 30.11.2023

(SP)

1. *Muhammad Khalid,*
 2. *Muhammad Yousaf both sons of Mubarak Khan R/O Qoum Ali Khel, Dabori, District Orakzai.*
- (Plaintiffs)

VERSUS

1. *Chairman NADRA, Islamabad.*
 2. *Director General NADRA, KPK at Hayat Abad Peshawar.*
 3. *Assistant Director NADRA, Orakzai.*
- (Defendants)

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

JUDGEMENT:

30.11.2023

1. Plaintiffs Muhammad Khalid and Muhammad Yousaf sons of Mubarak Khan have brought the instant suit against defendants Chairman NADRA, Islamabad and 02 others, for declaration-cum-perpetual and mandatory injunction to the effect that correct date of birth of plaintiff No. 1 is 06.03.2003 according to his birth certificate issued by Government High School, Shnawori Naryab Hangu, but the same has been wrongly entered in his record with the defendants as 06.03.2008. Similarly, the correct date of birth of plaintiff No. 2 is 10.10.2001 according to his birth certificate issued by Government High School, Shnawori Naryab Hangu, but the same has been wrongly entered in his record with the

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defendants as 01.01.2009. They alleged that the defendants were asked time and again for correction of date of birth of the plaintiffs, but they refused to do so, hence, the present suit;

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

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

Issues:

1. *Whether the plaintiffs have got cause of action?*
2. *Whether the suit of the plaintiffs is within time?*
3. *Whether the correct date of birth of plaintiff No. 1 is 06.03.2003 and correct date of birth of plaintiff No. 2 is 10.10.2001 and the defendants have wrongly entered the same as 06.03.2008 and 01.01.2009 in their Form B respectively?*
4. *Whether plaintiffs are 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: Muhammad Yousaf, plaintiff No. 2 appeared as PW-01 and repeated the contents of his plaint. He is brother of plaintiff No. 1.

He exhibited the following documents.

1. Ex. PW-1/1: Copy of his birth certificate issued by Collegiate Public High School, Ghiljo, District Orakzai.
2. Ex. PW-1/2: Copy of his Birth Registration Certificate.
3. Ex. PW-1/3: Copy of birth certificate of plaintiff No. 1

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issued by Collegiate Public High School, Ghiljo, District Orakzai.

4. Ex. PW-1/2: Copy of Birth Registration Certificate of plaintiff No. 1.

PW-02, is the statement of the Wakeel Janan S/O Laiq Khan. He is the relative of the plaintiffs. He supported the stance of the plaintiffs. Copy of his CNIC is Ex.PW-2/1.

PW-03, is the statement of Khadi Zaman S/O Mir Zaman. He is another relative of the plaintiffs. He also supported the stance of the plaintiffs and requested for decree of suit as prayed for. Copy of his CNIC is Ex.PW-3/1.

APW-01, is the statement of Muhammad Janan S/O Shindi Gul Principal Collegiate Public School, Ghiljo. He produced the admission withdrawal register regarding the entries of date of birth of plaintiffs. As per register, plaintiff No. 1 has been entered at serial No. 282 with his date of birth i.e., 06.03.2003, while plaintiff No. 2 has been entered at serial No. 501 with his date of birth i.e., 10.10.2001. Copies of the admission withdrawal register are Ex. APW-1/1 & Ex. APW-1/2 respectively. The same has been produced from proper custody.

On the other hand, representative for NADRA, Irfan Hussain recorded his statement as DW-01. He produced family tree of plaintiffs which is Ex. DW-1/1 wherein, the date of birth of plaintiff No. 1 is mentioned as 06.03.2008, while date of birth of plaintiff No. 2 is 01.01.2009. He requested for dismissal of the suit.

After closing of evidence of the parties, arguments of the learned

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counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

The plaintiffs have alleged in para. 04 of their plaint that they requested the defendants to make the requisite correction in their registration record including Form "B", but they refused to do so. The defendants in para. 04 of their written statement have evasively denied the claim of the plaintiffs but the perusal of record shows that the defendants are still contesting case with the plaintiffs and are denying their version, therefore, the cause of action still exists and the suit of the plaintiffs is within time. Issue No. 02 is decided in positive.

Issue No. 03:

The plaintiff alleged that the correct date of birth of plaintiff No. 1 is 06.03.2003 and correct date of birth of plaintiff No. 2 is 10.10.2001 and the defendants have wrongly entered the date of birth of plaintiff No. 1 as 06.03.2008 and that of plaintiff No. 2 as 01.01.2009. During the course of evidence, statement of Muhammad Yousaf (brother of plaintiff No. 1, plaintiff No. 2 himself), Wakeel Janan & Khadi Zaman (relatives), recorded as PW-01 to PW-03, who supported the stance of plaintiffs and stated that as per birth certificate issued by Collegiate Public School, the correct date of birth of plaintiff No. 1 is 06.03.2003 and that of plaintiff No. 2 is

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10.10.2001. APW-01 Muhammad Janan, Principal Collegiate Public School, Ghiljo appeared along with record and stated that correct date of birth of plaintiff No. 1 is 06.03.2003 and that correct date of birth of plaintiff No. 2 is 10.10.2001 according to their birth certificates (Ex. PW-1/1 & Ex. PW-1/3) issued by the Collegiate Public School, Ghiljo. He also produced admission and withdrawal register in support of the birth certificates issued by his school. The same have been produced from proper custody and the relevant pages of admission and withdrawal register are Ex. APW-1/1 & Ex. APW-1/2 respectively.

The evidence produced by the plaintiffs particularly the statement of principal Collegiate Public School, Ghiljo as APW-01, who produced the relevant record regarding date of birth of the plaintiffs which is more authentic documentary evidence than the impugned record of the plaintiffs with the defendants. The admission and withdrawal register produced by APW-01 in shape of Ex. APW-1/1 and Ex. APW-1/2 fully supports the version of the plaintiffs and the said record being produced from proper custody has got preference over the NADRA record which has been prepared later then the school record. The requisite correction will not suffer any third person. Furthermore, the plaintiffs have also proved their stance through cogent, oral and documentary evidence, therefore, Issue is decided in positive.

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Issue No. 01 & 04:

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

As sequel to my findings on issue No. 03, the plaintiffs have proved through cogent evidence that correct date of birth of plaintiff No. 1 is 06.03.2003 and that of plaintiff No. 2 as 10.10.2001. Issue No. 01 & 04 are decided in positive.

RELIEF:

As sequel to my above issue-wise findings, the plaintiffs proved their case through cogent evidence, therefore suit of the plaintiffs 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
30.11.2023

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(Bakht Zada)
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Orakzai (at Baber Mela)

CERTIFICATE

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

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Orakzai at (Baber Mela)