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**IN THE COURT OF ABDUL BASIT
ADDITIONAL DISTRICT JUDGE-II, ORAKZAI**

Civil Appeal No. 31/13 of 2023

Date of institution: 11.11.2023

Date of decision: 23.12.2023

Date of consignment:

Sabeelullah son of Ameer Jan, Caste Mullah Khel Tapa Qutub Khel
resident of Tehsil Upper, District Orakzai (appellant/plaintiff)

Versus

Chairman Nadra Islamabad and two others (respondents/defendants)

**APPEAL U/S 96 CPC, 1908 AGAINST JUDGMENT,
DECREE & ORDER OF CIVIL JUDGE-I, KALAYA**

Judgment

Through this judgment I shall decide appeal preferred by appellant against respondents challenging the judgment, decree & order of the Court of learned Civil Judge-I, Kalaya Orakzai dated 12.10.2023, whereby, he has dismissed the Civil Suit No. 50/1 of 2023 of the appellant.

Sabeelullah, the appellant, brought a civil suit against respondents with contention that his mother name is Khiyal Jamala having computerized national identity card no. 21604-7433592-6, according to which her date of birth is 01.01.1980; that he was born from her and his correct date of birth is 01.01.1998, however, it is entered wrong in record with respondents as 01.01.1992 because there appears to be difference of only 12 years in the ages of him and his mother, which is unnatural; that he has contacted respondents for correction of his date of birth but respondents have refused, therefore, he has prayed for decree of declaration that his correct date of birth is 01.01.1998, which is subject of correction; that he has also prayed for decree for permanent and mandatory injunctions as per prayers.

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Respondents were summoned by the learned trial court. Respondents turned up and filed joint written statement, wherein, raised various legal and factual objections, which were reduced into issues as below;

1. Whether the plaintiff has got cause of action? OPP
 2. Whether suit of plaintiff is within time? OPP
 3. Whether correct date of birth of is 01.01.1998 and defendants have entered the same as 01.01.1992? OPP
 4. Whether plaintiff is entitled to the decree as prayed for? OPP
- Relief?

Parties were offered opportunity to produce evidence in support of their pleas. Resultantly, they have recorded the statements of as many witnesses as they wished. On conclusion of evidence, arguments of learned counsel for parties were heard and learned trial court dismissed the suit of appellant on 12.10.2023.

Arguments heard and record perused.

Appellant being aggrieved of the impugned order filed the present appeal to set-aside the judgment, decree and order of the learned trial court on grounds that it is wrong, illegal, baseless, against the law, facts, result of misreading and non-reading of evidence.

On receipt of appeal, respondents were summoned. They have appeared before the court through representative and contested the appeal, refuted the arguments of learned counsel for appellant, prayed for dismissal of appeal and to uphold the order of learned trial court.

Viewing the valuable arguments advanced by learned counsel for parties and record before the court, it is held that according to computerized national identity card of appellant, his date of birth is entered as 01.01.1992, which appellant alleges to be wrong; therefore, onus to be prove the fact

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that his correct date of birth was 01.01.1998 rested on him. The appellant, however, has not produced any documentary evidence or other material to support his stance. Even, he did not produce his father, mother, brother or sister to support his plea. Rather, the copy of computerized national identity card available on file transpires that it was issued to him on 11.04.2023, whereas, beneath the copy of his CNIC, he has submitted copy of his passport, which was issued to him on 21.02.2017, which also bears his CNIC number and reflects that he had applied for issuance of computerized national identity card much before the recent copy of CNIC brought on record, where after, he had applied for the passport and received the same. Beside his sole statement, he did not produce any independent evidence or any written proof establishing the fact that his correct date of birth was 01.01.1998 and respondents have entered it wrong in record with them. This is added that had there been any issue of unnatural gap between the ages of appellant and his mother, respondents must not have issued him the computerized national identity card, however, the appellant has not only been issued the CNIC but he has also obtained the passport; therefore, the contention of appellant of unnatural gap has been proven false.

In view of above facts, it is held that the learned trial court has not committed any illegality or irregularity in passing the impugned order and properly appreciated the evidence on file, which does not warrants any interference of this court, hence, judgment, decree & order dated 12.10.2023 of the learned trial court is upheld and appeal is **dismissed**.

Parties have to bear costs of their proceedings because none of the parties has specifically proved the cost incurred on the case.

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Requisitioned record, if any, returned to headquarter concerned and file of this court consigned to the record room after its completion and compilation.



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CERTIFICATE

Certified that this judgment consists of four (04) pages, those are signed by me after necessary corrections.



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Abdul Basit
Addl. District Judge-II, Orakzai