

IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....64/1 of 2023.

Date of Institution.....01.12.2023.

Date of Decision.....20.12.2023.

=====

Mst. Hakeema Bibi D/O Noora Din R/O Qaum Utman Khel, Tappa
Bazran Khel, PO Feroz Khel, Tehsil Lower, District Orakzai.

.....(*Plaintiff*)

Versus

1. Assistant Director NADRA, District Orakzai.
2. Chairman NADRA, Head Office Islamabad.

..... (*Defendants*)

=====

SUIT FOR DECLARATION & PERMANENT INJUNCTION

=====

JUDGEMENT

20.12.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Mst. Hakeema Bibi against defendants Assistant Director NADRA, District Orakzai and one other for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that, as per school record, true and correct date of birth of plaintiff is 05.03.2005, however, defendants have incorrectly entered the same as 01.01.1991 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. It is further averred that date of birth



ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

20/12/2023

of brother of plaintiff namely Muhammad Ilyas is also recorded as 01.01.1991 despite the fact that they are not twins by birth. That defendants were asked time and again to rectify date of birth of plaintiff but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time?
3. Whether correct date of birth of plaintiff is 05.03.2005 and defendants have incorrectly and wrongly entered the same as 01.01.1991? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakza

20/12/2023

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiff produced two witnesses in support of her claim while defendants produced one witness in defence.

Jameel Shah, brother of plaintiff appeared and recorded his statement as PW-01. Copy of his CNIC is Ex. PW-1/2. He reiterated the averments of plaint. Khwaja Muhammad, cousin of plaintiff appeared and deposed as PW-02. He supported the claim of plaintiff. Copy of his CNIC is Ex. PW-2/1.

Thereafter, evidence of plaintiff was closed.


Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced family tree of plaintiff consisting of 02 pages as Ex. DW-1/1. He stated that plaintiff has been issued CNIC as per information provided by her and that she has got no cause of action and that suit of plaintiff is liable to be dismissed.

Thereafter, evidence of defendants was closed.

The above discussion boils down to my following issue-wise findings.

ISSUE NO.2

Plaintiff has been issued CNIC on 14.12.2009 with expiry date of 30.11.2021 while suit in hand was filed on 01.12.2023. In


ZAHIR KHAN
Civil Judge JM
Kalaya Orakzai

20/12/2023

plethora of judgments of the Apex Superior Courts, it is held that every wrong entry will accrue fresh cause of action. Even otherwise, all Federal and Provincial laws stood extended to the newly merged districts in 2019. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiff is held to be within time. Issue No. 2 decided in positive.

ISSUE NO.3

Claim and contention of plaintiff is that as per school record her true and correct date of birth is 05.03.2005, however, defendants have incorrectly entered the same as 01.01.1991 which entry is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. It is further averred that date of birth of brother of plaintiff namely Muhammad Ilyas is also recorded as 01.01.1991 despite the fact that they are not twins by birth. Plaintiff has placed reliance on School Leaving Certificate, copy of which is placed on file. Burden of proof was on plaintiff to establish that her true and correct date of birth is 05.03.2005 and defendants have incorrectly entered the same as 01.01.1991. Plaintiff failed to produced cogent; convincing and reliable documentary and oral evidence to substantiate her claim. Neither the official of government girls primary school Melo Sar, Lower Orakzai was produced as witness nor school leaving certificate allegedly issued by the said school was exhibited during course of recording evidence. Plaintiff has been issued CNIC in the year 2009, if date of birth of


ZAHIR KHAN
Civil Judge, JM
Kalaya Orakzai

20/12/2023

plaintiff is reckoned as 05.03.2005, then age of plaintiff in the year 2009 would be 04 years only. It does not appeal to prudent mind that plaintiff was 04 years old when she was issued CNIC. The picture on the CNIC does not support the stance of plaintiff. Oral evidence produced by plaintiff is also insufficient to prove the claim of plaintiff as neither plaintiff herself nor her parents appeared before the court to support the stance of plaintiff. The documentary evidence presented by DW-01, specifically Ex.DW-1/1 not only contradicted the plaintiff's claim but also supported the defendant's stance. Plaintiff failed to establish any error or malice on the part of defendants.

Keeping in view the above discussion, documentary as well as oral evidence available on file, issue No. 3 is decided in negative and against the plaintiff.


ISSUE NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiff failed to prove her claim through cogent, convincing and reliable documentary and oral evidence; therefore, she has got no valid cause of action and is not entitled to the decree, as prayed for. Both these issues are decided in negative and against the plaintiff.

RELIEF.

Crux of my issue wise discussion is that as plaintiff failed to prove her claim through cogent, convincing and reliable documentary and oral evidence, therefore, suit of the plaintiff is hereby dismissed.

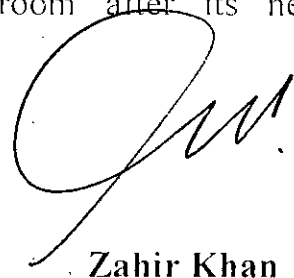
No order as to cost.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
20/12/023

File be consigned to record room after its necessary completion and compilation.

ANNOUNCED

20.12.2023

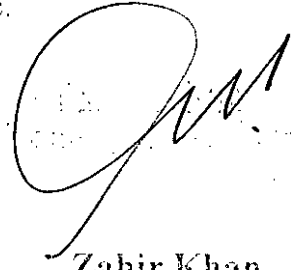


Zahir Khan

Civil Judge-I, Kalaya, Orakzai

CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan

Civil Judge-I, Kalaya, Orakzai