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**IN THE COURT OF ZAHIR KHAN**  
**CIVIL JUDGE-I, TEHSIL KALAYA, ORAKZAI**

Suit No.....49/1 Neem Dar Neem of 2023.

Date of Institution.....25.09.2023.

Date of Decision.....18.12.2023.

=====

Shoaib Ali S/O Muhammad Azeem R/O Qaum Bar Muhammad Khel,  
Tappa Khwaidad Khel, Tehsil Lower, District Orakzai (through father)

.....(Plaintiff)

**Versus**

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Khyber Pakhtunkhwa.
3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

**SUIT FOR DECLARATION & PERMANENT INJUNCTION**

**JUDGEMENT**

**18.12.2023**

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Shoaib Ali through father against defendant Chairman NADRA, Islamabad and two others for declaration and permanent injunction.



Brief facts in the backdrop are that plaintiff has filed the instant

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suit for declaration cum-permanent injunction to the effect that his true and correct date of birth is 01.01.2008, however, defendants have incorrectly entered the same as 12.08.2005 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. It is further averred that due to


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this wrong entry, there is unnatural age difference of about 15 years between plaintiff and his father namely Muhammad Azeem whose date of birth, as per CNIC is 09.09.1990. 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.

When the case was fixed for framing of issues, plaintiff filed application for permission to file amended plaint which was allowed and after submission of amended plaint, defendants opted not to file amended written statement and relied upon the written statement already submitted. 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

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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 01.01.2008 and defendants have wrongly and incorrectly entered the same as 12.08.2005? OPP
  4. Whether plaintiff is entitled to the decree as prayed for? OPP
  5. Relief.

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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 his claim while defendants produced one witness in defense.

Syed Waiz Hussain appeared and deposed as PW-01. He supported the claim of plaintiff. Copy of his CNIC is Ex.PW-1/1. Muhammad Azeem, father of plaintiff appeared and deposed as PW-02. He produced smart card of plaintiff, copy of the same is Ex.PW-2/1, copy of his CNIC is Ex.PW-2/2 and Form "B" is Ex.PW-2/3.

Thereafter, evidence of plaintiff was closed.

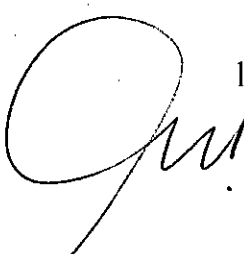
Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He stated that plaintiff has been issued CNIC as per information provided by him and that plaintiff has got no cause of action. He produced family tree as Ex. DW-1/1, data processing forms as Ex.DW-1/2 and Ex.DW-1/3. He lastly requested for dismissal of the suit.

Thereafter, evidence of defendants was closed.

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

**ISSUE NO.2**

Plaintiff has been issued smart card on 20.03.2017 with expiry date of 12.08.2023 while suit in hand was filed on 25.09.2023. In plethora of judgments of the Apex Superior Courts, it is held that every wrong entry will

  
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accrue fresh cause of action. 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 his true and correct date of birth is 01.01.2008, however, defendants have incorrectly entered the same as 12.08.2005 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 15 years between plaintiff and his father Muhammad Azeem whose date of birth, as per CNIC, is 09.09.1990.

Burdon of proof was on plaintiff to establish that his true and correct date of birth is 01.01.2008 and defendants have incorrectly entered the same as 12.08.2005. Admittedly, there is unnatural age difference of about 15 years between plaintiff and his father but plaintiff failed to produce a single documentary proof which could show that his true and correct date of birth is 01.01.2008. No age assessment certificate/medical document, birth registration certificate, school certificate, form "B" etc is produced by plaintiff in support of his stance. The documentary evidence presented by DW-01, specifically Ex.DW-1/1 to Ex.DW-1/3 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. Oral evidence produced by plaintiff is also insufficient to prove claim of plaintiff. Plaintiff received smart card from defendants without any objection on his date of birth.

  
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As far as unnatural age difference between plaintiff and his father is concerned, father of plaintiff may approach the authorities concerned or court for modification of his date of birth in order to avoid this unnatural age difference, if so advised.

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.

**ISSUES NO.1 & 4.**

In the light of foregoing discussion, it is held that plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence; therefore, he has got no cause of action and he 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 his claim through cogent, convincing and reliable documentary and oral evidence, therefore, suit of the plaintiff is hereby dismissed. No order as to cost.

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

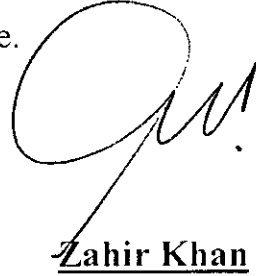
**ANNOUNCED**  
**18.12.2023**



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**CERTIFICATE**

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



**Zahir Khan**

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