

75

**IN THE COURT OF REHMIAT ULLAH WAZIR,**  
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 66/1 of 2021  
Date of Institution: 30/10/2021  
Date of Decision: 19/04/2022

1. Akmal Khan
2. Anees Khan

*Both sons of Raees Khan and R/O Qoam Mani Khel, Tapa Sabzi  
Khel, Tehsil Lower, District Orakzai*

*(Plaintiffs)*

**VERSUS**

1. Chairman, BISE, Kohat.
2. Chairman NADRA, Islamabad, Pakistan.
3. Director General NADRA, KPK, Peshawar.
4. Assistant Director, NADRA, District Orakzai.

*(Defendants)*

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

**JUDGEMENT:**

1. Plaintiffs Akmal Khan and Anees Khan have brought the instant suit for declaration-cum-perpetual and mandatory injunction against the defendants chairman BISE Kohat, Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, through Assistant Director, District Orakzai seeking therein that both the plaintiffs are twins and their correct date of birth is 10.10.2001, whereas, defendants have wrongly entered the date of birth of plaintiff No. 1 as 10.03.2003 and date of birth of plaintiff No. 2 as 25.11.2004 in their record instead of 10.10.2001. That the father of the

plaintiffs died on 10.06.2001 and according to which the dates of birth of the plaintiffs are unnatural and impossible, which are wrong and ineffective upon the rights of the plaintiffs and are liable to correction. 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 namely Syed Farhat Abbas 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 correct date of birth of the plaintiff No. 1 and plaintiff No.2 is "10.10.2001" while defendants have wrongly mentioned the date of birth of the plaintiff No. 1 as 10.03.2003 and the date of plaintiff No. 2 as 25.11.2004 in their record?*
3. *Whether plaintiffs are entitled to the decree as prayed for?*
4. *Relief?*

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

**Issue No. 02:**

4. The plaintiffs alleged in their plaint that both the plaintiffs are twins and their correct date of birth is 10.10.2001,

whereas, defendants have wrongly entered the date of birth of plaintiff No. 1 as 10.03.2003 and date of birth of plaintiff No. 2 as 25.11.2004 in their record instead of 10.10.2001. That the father of the plaintiffs died on 10.06.2001 and according to which the dates of birth of the plaintiffs are unnatural and impossible, which are wrong and ineffective upon the rights of the plaintiffs and are liable to correction. That the defendants were asked time and again for correction of dates of birth of the plaintiffs but they refused to do so, hence the present suit;

Plaintiffs in support of their contention, produced witnesses in whom plaintiff No. 1 appeared as PW-01 and narrated the same story as in the plaint and exhibited his CNIC as Ex.PW-1/1. He further stated that plaintiff No. 2 is his real brother. He produced his power of attorney, death certificate of his father, his matric DMC and matric DMC of his brother and exhibited the same as Ex.PW-1/2, Ex.PW-1/3, Ex.PW-1/4, and Ex.PW-1/5. Further, Tafseer Khan, uncle of the plaintiffs, appeared as PW-02, who also supported the stance of the plaintiffs by narrating the same story as in the plaint and exhibited his CNIC as Ex.PW-2/1. Further, Marifat Khan appeared as PW-03 who stated that the plaintiffs are his cousins and both the plaintiffs are twins and further supported the stance of the plaintiffs. He produced his CNIC as Ex.PW-3/1. Naqeeb Ullah, the record keeper District Education office,

Orakzai, appeared as PW-04 who produced the service record of the father of the plaintiffs, death certificate and page no. 11 of service book of the father of the plaintiffs and exhibited the same as Ex.PW-4/1, Ex.PW-4/2 and Ex.PW-4/3 respectively.

In order to counter the claim of the plaintiffs, the defendants no. 02 to 04 produced witness, Mr. Syed Farhat Abbas, the representative of the defendants no. 02 to 04 appeared as DW-01, who produced Smart Card Processing Form, Approval Certificate of Al-Haider Public School and Family Tree of the plaintiffs which are Ex.DW-1/1, DW-1/2 and Ex,DW-1/3 form "B". But during cross examination, he admitted that the plaintiffs did not bring their parents at the time of registration of CNIC as well as they did not produce complete matric documents.

The legal advisor of the defendant no. 01 stated that he rely on the Matric Certificate No. 47393 and DMC only.

Arguments heard and record perused.

After hearing of arguments and perusal of record, I am of the opinion that the plaintiffs mainly rely on their father's death certificate and service record which are earlier in time and bear the presumption of truth unless rebutted. Thus, the plaintiffs established their claim through cogent and reliable evidence; therefore, the issue is decided in positive.



**Issue No. 01 & 03:**

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

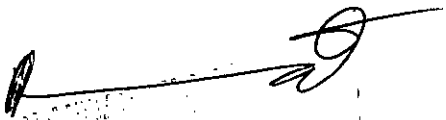
As sequel to my findings on issue No. 2, the plaintiffs have got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

**RELIEF:**

As sequel to my above issue wise findings, the suit of the plaintiffs is hereby decreed as prayed for with no order as to costs.

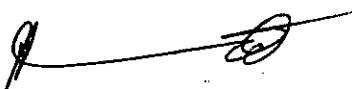
File be consigned to the Record Room after its completion and compilation.

**Announced**  
19/04/2022

  
**(Rehmat Ullah Wazir)**  
Senior Civil Judge,  
Orakzai (at Baber Mela)

**CERTIFICATE**

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

  
**(Rehmat Ullah Wazir)**  
Senior Civil Judge,  
Orakzai (at Baber Mela)