

IN THE COURT OF SAMI ULLAH
CIVIL JUDGE-I, ORAKZAI AT BABER MELA

Civil Suit No.	102/1 of 2021
Date of Institution	24.06.2021
Date of Decision:	27.06.2022

Mst: Bibi Fatmani Jan w/o Syed Nangin Hussain
R/O Shamar Tazi khel, Tehsil Lower, District Orakzai

(Plaintiff)

VERSUS

Assistant Director, NADRA District Orakzai.

(Defendant)

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

SUMMARY JUDGEMENT:
27.06.2022

Brief facts of the case in hand are that the plaintiff, **Mst: Bibi Fatmani Jan wife of Syed Nangin Hussain**, has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendant, seeking declaration therein that the plaintiff's correct date of birth is **1962** but the date of birth of the plaintiff is wrongly mentioned as **1972** in her Nadra Record by the defendant which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That defendant was repeatedly asked to correct the date of birth of plaintiff but they refused, hence, the instant suit.

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2. Defendant on appearance objected the suit on legal ground of limitation and estoppel. It was factually contended that the claim of plaintiff is wrong and requiring confidence inspiring evidence.

3. During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in instant case is very petty in nature, which can be decided through summary judgement as per relevant record. To this effect notice was given to the parties that why not the case in hand be decided on the basis of available record without recording lengthy evidence, as the primary aim and objective of Amended Management Rules in CPC is, *"to enable the court to-*

- a. *Deal with the cases justly and fairly;*
- b. *Encourage parties to alternate dispute resolution procedure if it considers appropriate;*
- c. *Save expense and time both of courts and litigants; and*
- d. *Enforce compliance with provisions of this Code."*

4. Learned counsel for plaintiff and representative for defendant heard and record gone through.

5. Record reveals that plaintiff through instant suit seeking declaration therein that the plaintiff's correct date of birth is **1962**, while the date of birth of the plaintiff is mentioned as 1972 in her Nadra record by the defendant. Plaintiff in support of her contention produced the copy of her age assessment certificate based on physical examination,

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dental status and x-rays of plaintiff from department of Forensic Medicine and Toxicology, Khyber Medical College Peshawar, which suggests that age of the plaintiff is between 56 to 61 years. Furthermore, Sami Ullah junior clerk DHQ hospital, Hangu appeared as court witness (CW-01) who produced the age assessment record of the plaintiff which is exhibited as CW1/1 and consists of eight (8) pages. And in the opinion of the medical board the age of the plaintiff is between 56 to 61 years. Furthermore, it is admitted fact that plaintiff is the real mother of her son namely Syed Liaq Hussain Sherazi; the age difference as per recorded entries is 9 year which is not appealing to prudent mind. The gap between the real mother and the real son so recorded is unnatural gap which is not supported by law and facts and obviously needs interference of the court. This fact alone is sufficient for the grant of entry in Nadra record.

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6. This evidence as well as presumption of natural gap is establishing preponderance of probability in favor of the plaintiff that has stiffed the burden to the opponents (defendant). The defendant is bound by law to prove the specific plea taken in defense; that too, when the burden is shifted to defendant as in civil cases the burden of proof shifts constantly. Further there is no counter document

available with the defendant to rebut the documents produced by the plaintiff in support of her stance, which establishes the date of birth of the plaintiff has wrongly been mentioned in Nadra record. The available record is sufficient to decide the case in hand and no further evidence is required to produced by plaintiff.

7. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A of CPC, suit of the plaintiff succeeds and is hereby **decreed** as prayed for. Defendant is directed to enter the correct the date of birth of the plaintiff as **1962** in their record.
8. Costs shall follow the event.
9. File be consigned to the record room after its necessary completion and compilation.

Announced
27.06.2022

Sami Ullah
(Sami Ullah)
Civil Judge-I,
Orakzai (at Baber Mela)

CERTIFICATE

Certified that this judgment of mine consists of **04** (Four) pages, each has been checked, corrected where necessary and signed by me.

Sami Ullah
(Sami Ullah)
Civil Judge-I,
Orakzai (at Baber Mela)

Sami Ullah
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