

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

Suit No.....14/1
Date of Original Institution.....20.09.2019
Date of Present Institution.....21.06.2021
Date of decision.....24.06.2022
=====

Maqsood Ali S/O Muhammad Nabi R/O Qoum Bar Muhammad
Khel, Tappa Abdul Aziz Khel, Darma, Tehsil Lower, District Orakzai.
..... (Plaintiff)

Versus

1. Chairman NADRA, Islamabad
2. Director General NADRA, KPK, Hayatabad, Peshawar
3. Assistant Director, NADRA, District Orakzai

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION.

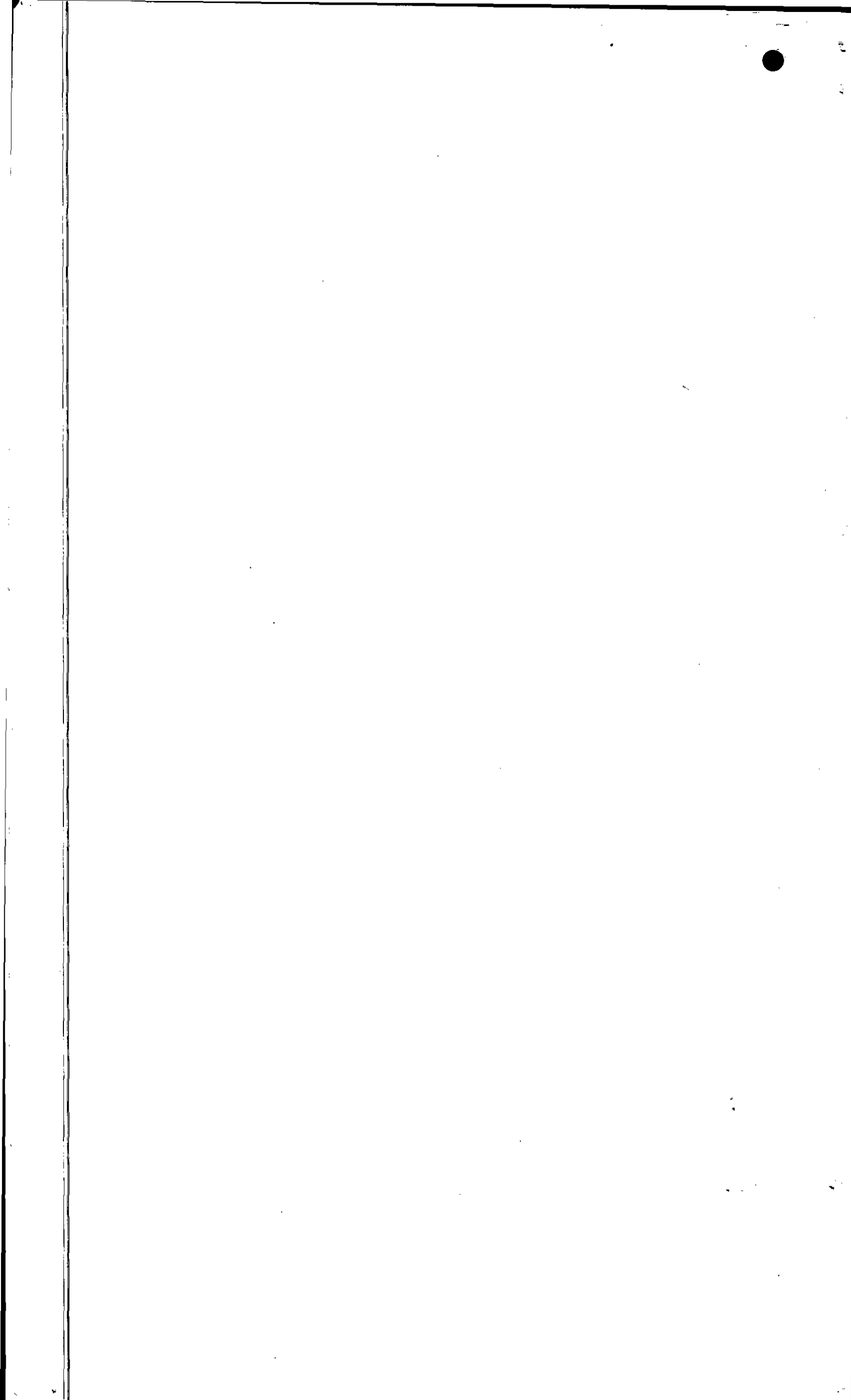
JUDGEMENT
24.06.2022

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

Brief facts of the case are that plaintiff brought the instant suit for declaration cum-permanent injunction to the effect that as per service record, correct date of birth of plaintiff is **03.03.1988**, however; it is wrongly entered in his CNIC issued by the defendants as **03.03.1977** which is wrong, illegal and ineffective upon the rights of plaintiff and

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liable to be rectified. That defendants were asked time and again to rectify date of birth of plaintiff accordingly 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 written statement. In the written statement, the defendants have raised several legal and factual objections.

From divergent pleadings of the parties, the followings issues were framed for adjudication of real controversy between the parties by learned predecessor of the court.

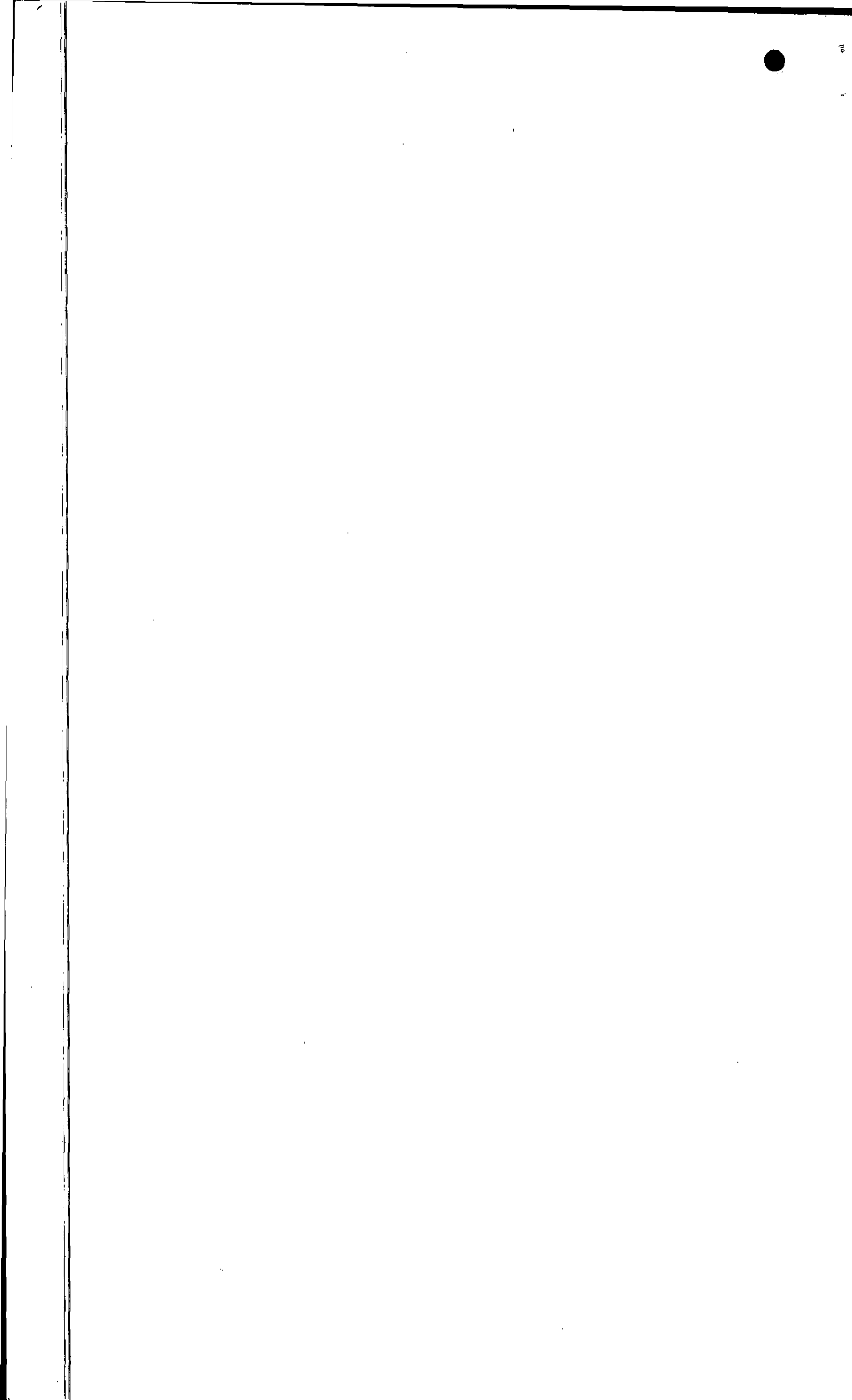
ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time? OPP
3. Whether correct date of birth of plaintiff is 03.03.1988 while it has been wrongly entered in his CNIC as 03.03.1977? 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 evidence.

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During course of recording evidence, plaintiff produced three witnesses in support of his claim while defendants produced one witness in their defense.



Plaintiff himself appeared and deposed as PW-1. He reiterated the averments of plaint. Copy of his CNIC is Ex. PW-1/1. Copy of letter dated August, 2019, issued by Lt. Colonel, Wing Commander, 154 Wing Thall Scouts is Ex-PW-1/2. He produced copy of Sheet Roll as Ex-PW-1/3 and photocopy of his service card as Ex-PW-1/4. He lastly requested for decree of suit against the defendants as prayed for.

Arsala Khan, uncle of plaintiff appeared and deposed as PW-02. Photocopy of his CNIC was exhibited as Ex-PW-2/1. He supported the claim of plaintiff and requested for rectification of date of birth of plaintiff as 03.03.1988.

Ghamina, mother of plaintiff appeared and deposed as PW-03. Photocopy of her CNIC is Ex-PW-3/1. She also supported claim of plaintiff.

Record Keeper/representative of NADRA appeared and deposed as DW-01. He produced CNIC Processing Detail Form as DW-1/1 and Family Tree as Ex. DW-1/2. He stated that plaintiff has been issued CNIC as per information provided by plaintiff and lastly requested for dismissal of suit of plaintiff.



24/06/2022 After 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.
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My issue wise findings are as under: -

ISSUE NO.03.

Claim of plaintiff is that his true and correct date of birth is 03.03.1988 but defendant have incorrectly and wrongly recorded the same




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as 03.03.1977 in his CNIC which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. Burden of proof was on plaintiff to establish that his true and correct date of birth is 03.03.1988 instead of 03.03.1977. Plaintiff has placed reliance on letter/service record exhibited as Ex-PW-1/2 and Ex. PW-1/3. Ex. PW-1/2 is unattested copy of letter No. 949/12/01 dated August, 2019 addressed by Lt. Colonel, Wing Commander, 154 Thall Scouts to the Manager of NADRA office District Orakzai. Ex. PW-1/3 is unattested copy of Sheet Roll.

As per list of witnesses filed by plaintiff, Head Clerk, FC Thall Scouts 154 Wing Alizai, Lower Kurram was included in the list of witnesses but after producing three witnesses, plaintiff closed his evidence and the said official was not produced as witness before the court. Later on, plaintiff filed written application for permission to produce the official concerned along with service record as witness and this application was accepted by the court vide order dated 23.12.2020 but despite repeated opportunities, plaintiff failed to produce the said witness before the court and lastly submitted application to the effect that suit be disposed of on the basis of available record.

 Both the documents i.e., Ex. PW-1/2 and Ex. PW-1/3 were produced by plaintiff himself who deposed as PW-01. The same were not produced through official concerned. Original Sheet Roll and Service

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Book/Service Record was not produced before the court during course of recording evidence. Date of birth of plaintiff is not visible in Ex. PW-1/3

both in figures and in words. Mere exhibition of document does not mean



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that the document is proved. Ex. PW-1/2 and Ex. PW-1/3 cannot safely be relied upon.

As per Ex. DW-1/1, plaintiff has been issued CNIC bearing No. 14301-4339122-7 on the basis of MNIC bearing No. 147-77-096207. Fourth and fifth digit of MNIC suggest year of birth of plaintiff which is 1977. Per MNIC, date of birth of plaintiff is recorded as 03.03.1977.

Furthermore, if date of birth of plaintiff is modified from 03.03.1977 to 03.03.1988, then it will result into unnatural age gap of about two months between plaintiff and his sister namely Khwaga Mina whose date of birth as per NADRA record is 01.01.1988.

There is contradiction in the statements of PWs. PW-01 (plaintiff) stated that he is 3rd amongst the siblings while PW-02 stated that plaintiff is 2nd amongst the siblings. Plaintiff received CNIC from defendants in the year 2007 without any objection on his date of birth. Plaintiff has been issued CNIC on the basis of MNIC wherein, his date of birth is recorded as 03.03.1977.

Plaintiff failed to produce cogent, convincing and reliable documentary evidence in support of his claim, therefore, issue No. 3 is decided in negative and against the plaintiff.

ISSUE NO.2:

Plaintiff has been issued CNIC by defendants on 23.01.2007 with expiry date of 31.12.2017 while suit in hand was filed on 20.09.2019.

24/06/022 Every wrong entry will accrue fresh cause of action. Period of limitation

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for filing declaratory suit under Article 120 of Limitation Act, is six years therefore, suit of plaintiff is within time. Issue decided in affirmative.

ISSUES NO.1 & 4.

In the light of foregoing discussion, plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence; therefore, he has got no 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 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
24.06.2022.



Zahir Khan
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District 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,
District Orakzai