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**IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

Civil Suit No. 27/1 Neem of 2023.
Date of Institution: 20.05.2022.
Date of Restoration: 15.09.2023.
Date of Decision: 29.02.2024.

*Kalsoom Karim D/O Mir Karim Jan, R/O Section Biland Khel, Sub
Section Masti Khel, Tehsil Ismail Zai, District Orakzai.*
(Plaintiff)

VERSUS

1. *The Registrar NADRA, Islamabad.*
2. *The Deputy Registrar General, Peshawar.*
3. *The Assistant Registrar General, Orakzai through Assistant
Director NADRA, Orakzai.*
4. *Head Mistress Govt Girls Primary School, Hashim Abad, Biland
Khel, Orakzai.*
5. *Chairman BISE, Kohat.*
6. *Secretary BISE, Kohat.*

(Defendants)

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

JUDGEMENT:

29.02.2024

1. Plaintiff Mst. Kalsoom Karim D/O Mir Karim Jan has brought the instant suit against defendants Registrar NADRA, Islamabad and 05 others for declaration-cum-perpetual and mandatory injunction to the effect that her correct date of birth is 15.03.1997 instead of 01.01.1988 or 01.04.1988. She also sought declaration for correction of her name as Kalsoom Karim instead of Umm I Kalsoom in her record with the defendants.

She alleged that her correct name is Kalsoom Karim and her correct date of birth is 15.03.1997, but her name and date of birth have been wrongly mentioned in her record with the defendants No. 1 to No.

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3 as Umm I Kalsoom and 01.01.1988 respectively, which are wrong and liable to correction. She further alleged that her correct date of birth as per record of Wafaq Ul Madaris, Multan is 1997 and correct name is Kalsoom Karim and that she is twin sister of Mr. Usama Karim Khan S/O Mir Karim Jan, whose date of birth is 15.03.1997. That she got the knowledge about wrong entries in her record with the defendants when she got Smart CNIC in the year 2020, certificates and Duplicate DMC in the year 2020. That the plaintiff approached the defendants time and again for correction, but they refused to do so, hence, the present suit;

3. Defendants were summoned in whom, defendants No. 01 to 03 appeared through their representative and defendants No. 05 & 06 appeared through their legal advisor who submitted their respective written statements while defendant No. 04 failed to appear before the court hence placed and proceeded ex-parte vide order dated 03.06.2022.

4. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the plaintiff is estopped to sue?*
3. *Whether the suit of the plaintiff is time barred?*
4. *Whether the correct date of birth of plaintiff is 15.03.1997 as per record of Government Girls Primary School Hashim Abad, Biland Khel, Orakzai while it has been wrongly entered as 01.01.1988 in her record with defendant No. 1 to 3 and 01.04.1988 in her record with defendants No. 5 & 6?*
5. *Whether the correct name of plaintiff*
6. *Whether plaintiff is entitled to the decree as prayed for?*
7. *Relief?*

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6. Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

7. **PW-01:** Usama Karim Khan, special attorney of plaintiff deposed as PW-01 and supported the contents of the plaint. He requested for decree of suit as prayed for.

1. Ex. PW-1/1: Copy of his CNIC.
2. Ex. PW-1/2: Copy of CNIC of plaintiff.
3. Ex. PW-1/3: Copy of Madrassa Certificate.
4. Ex. PW-1/4 & Ex. PW-1/5: Copy of DMC and Certificate.
5. Ex. PW-1/6: Copy of application form of plaintiff for admission in School.
6. Ex. PW-1/7: Copy of admission withdrawal.
7. Ex. PW-1/8: Copy of School leaving certificate.
8. Ex. PW-1/9: Copy of register admission and withdrawal.
9. Ex. PW-1/10: Copy of domicile of plaintiff.
10. Ex. PW-1/11: Special power of attorney.

8. **PW-02:** is the statement of the Mir Karim Jan. He is father of the plaintiff. He also supported the stance of the plaintiff.

1. Ex. PW-2/1: Copy of his CNIC.
2. Ex. PW-2/2: Copy of CNIC of Ameer Hamza.

9. Defendants No. 1 to 3, produced and recorded the statement of their representative, Irfan Hussain. His authority letter is Ex. DW-1/1.

He recorded his statement by referring to various documents produced by the PWs. He was cross examined by the counsel for the plaintiff at length.

10. On the other hand, Shaheen Muhammad Advocate, representative of defendants No. 5 & 6 recorded his statement as DW-02. He stated that

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he has already cross examined the witnesses of the plaintiff and he relied upon the documents i.e., DMC, Matric Certificate, CNIC and other School record and closed his evidence.

11. After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02 & 3:

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

12. Defendants No. 1 to 3 in their written statement have alleged that the plaintiff is estopped to sue to file the instant suit. During arguments, he referred to the CNIC of the plaintiff and stated that CNIC was issued to the plaintiff in the year 2006 for the first time and in the said CNIC, her date of birth is mentioned as 01.01.1988, meaning thereby that the said CNIC was issued to the plaintiff in the age of 18 which is correct in accordance with the NADRA law. He further stated that if we presume that correct date of birth of plaintiff is 15.03.1997, then how she applied and got her CNIC in the year 2006 only in the age of 8 years which is not legally possible. Furthermore, the matric certificate issued by the Board of Intermediate and Secondary Education, Kohat Ex. PW-1/4 shows that she has done her matric in the year 2008 and in the said matric certificate, also her date of birth is mentioned as 01.04.1988 which denotes that she has done her matric in the age of 10 years if we consider her alleged date of birth i.e., 15.03.1997 as correct which is not legally possible. Furthermore, she has not agitated her alleged incorrect

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date of birth at the time of filing her admission form for the matric examination, therefore, she is estopped to sue at this stage after lapse of 16 years from her matriculation and her suit is also barred by limitation.

Issue No. 2 & 3 are decided in positive.

Issue No. 04 & 5:

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

13. The plaintiff is seeking the correction of her name and date of birth on the basis of record of the Government Girls Primary School, Hashimabad, Biland Khel, Orakzai wherein, her name is mentioned as Kalsoom Karim and her date of birth is written as 15.03.1997. During the course of evidence, the plaintiff produced her school leaving certificate of GGPS, Hashimabad, Biland Khel which is available on the case file as Ex. PW-1/8. The said certificate has been issued to the plaintiff on 08.04.2007, but at the foot the said certificate has been stamped by the head teacher of the said school and the contents of the stamp are "Head Teacher GGPS, District Orakzai, Biland Khel". DW-01, during his statement has referred to the school leaving certificate Ex. PW-1/8 and stated that at the time of issuance of Ex. PW-1/8, Orakzai Agency was not yet merged into District Orakzai, then how the plaintiff managed to get her school leaving certificate Ex. PW-1/8 stamped with "District Orakzai" instead of Orakzai Agency. This stamp on the school leaving certificate denotes that the plaintiff has managed to get the said certificate and the same is not genuine, furthermore, the record pertaining to the said certificate has not been produced from the proper

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custody, rather the same has been produced by the brother of the plaintiff PW-01 Usama Karim Khan who has not brought any authority letter from the school in respect of production of the said record, therefore, the record produced by PW-01 in shape of Ex. PW-1/7 to Ex. PW-1/9 cannot be taken into consideration for correction of her date of birth and correction of her name, because except Ex. PW-1/7 to Ex. PW-1/9 in all her certificates and records, her name is mentioned as Umm-I-Kalsoom.

Issue No. 4 and 5 is decided in negative.

Issue No. 01 & 06:

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

14. As per detailed discussion above over issues No. 2 to 5, the plaintiff failed to prove her case through cogent evidence, therefore, issues No. 1 & 6 are decided in negative.

RELIEF:

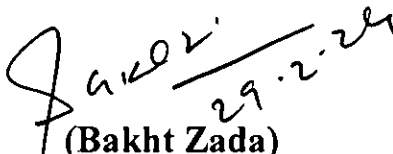
15. As sequel to my above issue-wise findings, the plaintiff failed to prove her case for correction of her date of birth and name through cogent evidence, therefore her suit is hereby dismissed, however, defendant No. 1 to 3 are directed to make correction of date of birth of the plaintiff as per her matric certificate where it is wrongly mentioned as 01.01.1988 instead of 01.04.1988 in order to avoid complications and hurdles in future. No order as to cost.

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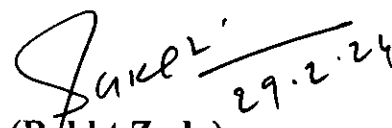
16. File be consigned to the Record Room after its completion and compilation.

Announced
29.02.2024


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CERTIFICATE

Certified that this judgement of mine consists of seven (07) pages, each has been checked, corrected where necessary and signed by me.


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