

**IN THE COURT OF SHABEER AHMAD,**  
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 115/1 of 2022  
Date of Original Institution: 01.08.2022  
Date of Decision: 12.10.2022

**1. Muhammad Gul son of Badshah Khan and**  
**2. Mst: Khybera wife of Badshah Khan,** Both residents of  
Qaum Mishti, Tapa Darwi Khel, Jatta Khel, Tehsil Central, District  
Orakzai.  
.....(Plaintiffs)

**VERSUS**

**1. Chairman, NADRA, Islamabad.**  
**2. Director, General NADRA KPK Peshawar.**  
**3. Assistant Director, NADRA District Orakzai.**  
.....(Defendants)

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

**JUDGMENT**

1. Brief facts of the case in hand are that the plaintiffs have brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct father name of the plaintiff no. 1 is **Badshah Khan** while it has been wrongly entered as Chaman Khan and correct date of birth of plaintiff no. 2 is **01.01.1962** while it has been wrongly as 01.01.1972 in the record of the defendants, which are wrong, ineffective upon the right of the plaintiffs and liable to correction. That the defendants were asked time and

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again to do the aforesaid correction but they refused, hence, the present suit;

2. Defendants were summoned, they appeared through their representative and submitted authority letter and 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 plaintiffs are estopped to sue?
3. Whether the suit of the plaintiffs is within time?
4. Whether the correct father name of the plaintiff no. 1 is **Badshah Khan** and correct date of birth of plaintiff no. 2 is **01.01.1962**, whereas defendants have entered the father name of the plaintiff no. 1 as Chaman Khan and date of birth of plaintiff no. 2 as 01.01.1972 in their CNICs.
5. Whether the plaintiffs are entitled to the decree as prayed for?
6. Relief?

Issue wise findings of this court are as under: -

**Issue No. 02:**

The defendants in their written statement raised the objection that the plaintiffs are estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

**Issue No. 03:**

The defendants in their written statements raised their objection that suit of the plaintiffs is time barred

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but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 01.08.2022. Thus, the same is well within time. The issue is decided in positive.

**Issue No. 03:**

The plaintiffs alleged in their plaint that the correct father name of the plaintiff no. 1 is **Badshah Khan** and correct date of birth of the plaintiff no. 2 is **01.01.1962**, whereas, defendants have wrongly entered the father name of the plaintiff no. 1 as Chaman Khan and date of birth of the plaintiff no. 2 as 01.01.1972, which are wrong, ineffective upon the right of the plaintiffs and liable to correction.

The plaintiffs produced witnesses in whom Muhammad Gul, the plaintiff no. 1, appeared as PW-01, who produced his CNIC and his father CNIC which are exhibited as Ex. PW-1/1 and Ex. PW-1/2 respectively. He further stated that there is an un-natural gap of 08 years between plaintiff no. 2 and her son namely Wahid Gul which is against the SOP of NADRA. During

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cross examination he stated that his father name is **Badshah Khan**. That he made his 1<sup>st</sup> CNIC in 2006 and he inadvertently entered the father name as Chaman Khan which is in fact his uncle.

Said Wazir son of Badshah Khan, the brother of plaintiff no. 1 and son of plaintiff no. 2, appeared as PW-02. He produced his CNIC which is exhibited as Ex. PW-2/1. He stated that plaintiff no. 1 is his brother and plaintiff no. 2 is his mother and further stated that there is difference of 07 years between ages of him and his mother, which is not possible. During cross examination he stated that his father name is **Badshah Khan**. The one Chaman Khan is his uncle. The plaintiff no. 1 is his real brother and he is elder than him. Further, Mr. Sakhi Badshah son of Jan Badshah, appeared as PW-03 who produced his CNIC which is exhibited as Ex. PW-3/1. He stated that correct father name of the plaintiff no. 1 is **Badshah Khan** and mother name Khybera and her correct date of birth is **01.01.1962**. During cross examination nothing tangible has been extracted out of him.

In order to counter the claim of the plaintiffs, the defendants produced only one witness, the representative of the defendants who appeared as DW-1, who produced family tree, Processing Form and RTS

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which are exhibited as Ex. DW-1/2 to Ex. DW-1/3 respectively. But during cross examination, he admitted that according to NADRA SOP there must be a difference of 17 years and above between a mother and child whereas there is a difference of 08 years between the plaintiff no. 1 and plaintiff no. 2 which is un-natural and against the SOP of NADRA. Further stated that according to our SOP, if father of the plaintiff or his two brothers come to NADRA Office, they can correct/change father name of the plaintiff.

Perusal of the record shows that since there is an un-natural gap of 07 years between the plaintiff no. 2 and her son, which is against the SOP of NADRA. The plaintiffs established their claim through cogent and reliable evidence, therefore, the issue is decided in positive.

**Issue No. 01 &02:**

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

As sequel to my findings on issue No. 3, the plaintiffs have got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

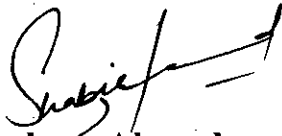
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Oral Evidence (Malaya)

**RELIEF:**

As sequel to my above issue wise findings, the suit of the plaintiffs is hereby decreed as prayed for. Defendants are directed to correct the father name of plaintiff no. 1 as **Badshah Khan** on the condition that father of the plaintiff no. 1 or his two brothers shall go with him to NADRA Office and correct date of birth of plaintiff no. 2 as **01.01.1962**. This decree shall not effect the rights of other persons or service record etc. if any.


File be consigned to the District Record Room, Orakzai after its proper completion and compilation.

**Announced**  
**12.10.2022**

  
**Shabeer Ahmad**  
Civil Judge-II,  
Tehsil Court, Kalaya, Orakzai

**CERTIFICATE**

Certified that this judgment consists of six (06) pages, each has been checked, corrected where necessary and signed by me.

  
**Shabeer Ahmad**  
Civil Judge-II,  
Tehsil Court, Kalaya, Orakzai