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

Civil Suit No. 139/1 of 2022
Date of Original Institution: 11.10.2022
Date of Decision: 10.11.2022

Mst: Roshan Zarin wife of Ubaid Gul , resident of Qaum Mishti, Tapa Haider Khel, Tehsil Central District Orakzai.

.....(Plaintiff)

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 plaintiff has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct date of birth of plaintiff is **01.01.1965**, while it has been wrongly entered as **01.01.1978** in her CNIC by the defendants, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;
2. Defendants were summoned they appeared through their representative and filed written statement

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whereby they objected the suit on factual and legal grounds.

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

Issues:

- 1. Whether the plaintiff has got a cause of action?
- 2. Whether the suit of the plaintiff is within time?
- 3. Whether the correct date of birth of the plaintiff is **01.01.1965** while it has been wrongly entered as 01.01.1978 in her CNIC by defendants?
- 4. Whether the plaintiff is entitled to the decree as prayed for?
- 5. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:

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The defendants in their written statements raised their objection that suit of the plaintiffs is time barred 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 **11.10.2022**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 03:

The plaintiff alleged in her plaint that the correct date of birth of the plaintiff is **01.01.1965**, whereas, defendants have wrongly entered the same as 01.01.1978, which is wrong, ineffective upon the rights of the plaintiff and liable to correction.

The plaintiff produced witnesses in whom Mr. Waqif Khan son of Ubaid Gul, attorney for the plaintiff, appeared as PW-01, his special power of attorney is Ex. PW-1/1, CNIC of the plaintiff is Ex. PW-1/2 and CNIC of his brother namely Rashid Khan and son of the plaintiff is Ex. PW-1/3. He stated that correct date of birth of plaintiff is **01.01.1965** while it has been wrongly entered as 01.01.1978. That there is un-natural gap of 04 years between the plaintiff and her son Rashid Khan which against the SOP of NADRA. During cross examination he stated that the one Rashid Khan is his real brother and he is elder to him. Further Muhammad Yaseen son of Pir Mat Gul, appeared as PW-02; who produced his CNIC which is Ex. PW-2/1. He stated that plaintiff is the wife of his maternal uncle and her correct date of birth is **01.01.1965**. During cross examination he stated that plaintiff is wife of his uncle and Rashid Khan is her real son.

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In order to counter the claim of the plaintiff, the defendants produced only one witness, the representative of the defendants who appeared as DW-1, who produced Family Tree of the plaintiff which is Ex. DW-1/1, the Family Tree of the Rashid Khan which is Ex. DW-1/2, and CNIC processing detail form of the plaintiff which is Ex. DW-1/3. According to their record date of birth of the plaintiff is 01.01.1978 and father name of Rashid Khan is Ubaid Gul. But during cross examination, he admitted that there is un-natural gap of 04 years between the plaintiff and her son. That according to their SOP there must be a gap of 17 years between a mother and son.

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Arguments heard and record perused.

Perusal of record reveals that there is un-natural gap of 04 years between the plaintiff and her son which is against the SOP of NADRA and liable to be corrected. Thus, the plaintiff established her claim through cogent and reliable evidence, therefore, the issue is decided in positive.

Issue No. 01 & 04:

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

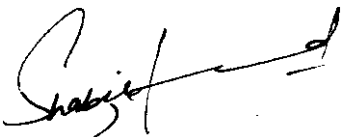
As sequel to my findings on issue No. 3, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for. Defendants are directed to correct the date of birth of the plaintiff as **01.01.1965** in their record and in the CNIC of the plaintiff. This decree shall not effect the rights of other person or service record if any.

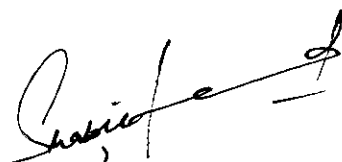
File be consigned to the District Record Room, Orakzai after its proper completion and compilation.

Announced
10.11.2022


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CERTIFICATE

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


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