

IN THE COURT OF ZAHIR KHAN

Civil Judge-I, Kalaya, Orakzai

Suit No.....77/1 of 2022.

Date of Institution.....01.08.2022.

Date of Decision.....07.09.2022.

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- 1. Qudrat Ullah S/O Sameen Akbar,
- 2. Hameeda Bibi W/O Gul Faraz D/O Sameen Akbar both residents of Qoum Ali Khel, Tappa Panjam, Post Office Ghiljo, Village Naka Khel, Tehsil Upper, District Orakzai.

.....(Plaintiffs)

Versus

- 1. Chairman NADRA, Islamabad.
- 2. Director General NADRA, Khyber Pakhtunkhwa, Hayatabad.
- 3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT JUNCTION

JUDGEMENT

07.09.2022

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Qudrat Ullah and Hameeda Bibi against defendants Chairman NADRA, Islamabad etc for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiffs have filed the instant suit for declaration cum-permanent injunction to the effect that, true and correct date of birth of plaintiffs is 05.02.2003 being twins by birth, however, defendants have incorrectly entered the date of birth of


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plaintiff No. 1 as 05.02.1999 and date of birth of plaintiff No. 2 as 11.12.2002 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That defendants were asked time and again to rectify date of birth of plaintiffs 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 authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiffs have got cause of action? OPP
2. Whether correct date of birth of plaintiffs is 05.02.2003 and they are twins by birth? OPP
3. Whether plaintiffs are entitled to the decree as prayed for? OPP
4. Relief.

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.


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After the 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.

Plaintiffs produced three witnesses in support of their claim while defendants produced one witness in defense.

Qudrat Ullah, plaintiff No. 1 himself appeared and recorded his statement as PW-01. He reiterated the averments of plaint. Copy of his CNIC, Matric Certificate, CNIC of plaintiff No. 2 and DMC are Ex PW-1/1 to Ex. PW-1/4.

Khyal Akbar, uncle of plaintiffs appeared and deposed as PW-02. He stated that plaintiffs are twins by birth and their correct date of birth is 05.02.2003. Copy of his CNIC is Ex. PW-2/1.


Muhammad Alam, cousin of plaintiffs appeared and deposed as PW-03. He also stated that plaintiffs are twins by birth and their correct date of birth is 05.02.2003. Copy of his CNIC is Ex. PW-3/1.

Thereafter, evidence of plaintiffs was closed.

Nothing contradictory could be brought on record from the statement of PWs.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He stated that plaintiffs have been issued CNICs as per information provided by plaintiffs and that they have got no cause of action and lastly requested for dismissal of suit.

Thereafter, evidence of defendants was closed.


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The above discussion boils down to my following issue-wise findings.

ISSUES NO.2

Claim and contention of plaintiffs is that, true and correct date of birth of plaintiffs is 05.02.2003 being twins by birth, however, defendants have incorrectly entered the date of birth of plaintiff No. 1 as 05.02.1999 and date of birth of plaintiff No. 2 as 11.12.2002 which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. Plaintiff No. 1 produced reliable documentary evidence in shape of Ex. PW-1/1, Ex. PW-1/2, Ex. PW-1/3 and Ex. PW-1/4 in support of their claim and contention. As per Ex. PW-1/4 (SSC Certificate), date of birth of plaintiff No. 1 is recorded as 05.02.2003. The same carries weight as presumption of correctness is attached to it. Oral evidence produced by plaintiffs is also supportive to the averments of plaintiff.

Keeping in view the above discussion, documentary as well as oral evidence available on file and admission of DW-01, it is held that correct date of birth of plaintiffs is 05.02.2003 being twins by birth. Issue decided in favor of plaintiffs against the defendants.

ISSUES NO.1 & 4.

In the light of foregoing discussion, plaintiffs have proved their stance through cogent, convincing and reliable documentary and oral evidence, therefore, they have got cause of action and is entitled to



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the decree, as prayed for. Both these issues are decided in positive in favor of plaintiffs.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.

File be consigned to record room after its necessary completion and compilation.


ANNOUNCED
07.09.2022



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CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
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