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

Civil Suit No. 07/1 of 2022
Date of Original Institution: 26.02.2022
Date of Transfer in: 24.06.2022
Date of Decision: 22.09.2022

Khayal Akbar son of Gul Akbar, resident of Qaum Mishti,
Tapa Haider Khel, Janako, 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 **Khayal Akbar**, 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 the plaintiff is **01.01.1978**, while defendants have wrongly entered the same as 1972 in CNIC of the plaintiff, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were repeatedly asked to correct the date of birth of plaintiff but they refused, hence, the instant suit.

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2. With due process of law defendants were summoned, they did not appear, therefore, placed and proceeded ex-parte. Ex-parte decree was passed against defendants but later on, representative for defendants appeared and submitted an application for setting-aside ex-parte decree which was accepted. Representative for defendants submitted authority letter and written statement.
3. Divergent pleadings of the parties were reduced into the following issues;

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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 date of birth of the plaintiff is **01.01.1978**, while it has been wrongly entered as 1972 in his CNIC by defendants?
5. Whether the plaintiff is 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 plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

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Issue No. 03:

The defendants in their written statements raised their objection that suit of the plaintiff 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 26.02.2022. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in his plaint that his correct date of birth is 01.01.1978 whereas, defendants have wrongly entered the same as 1972 in his CNIC which is wrong and liable to be corrected.

The plaintiff produced witnesses in whom Mr. Khayal Akbar, the plaintiff himself, appeared as PW-01, who produced his CNIC and his father MNIC which are exhibited as Ex. PW-1/1 and Ex. PW-1/2 respectively. He further stated that there is a gap of 13/14 years between him and his father. During cross examination

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nothing tangible has been extracted out of him during cross examination.

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. But during cross examination, he admitted that according to NADRA SOP there must be a difference of 17 years between a father and his child while 16 years between a mother and her child.

After perusal of record I am of the opinion that the plaintiff has produced reliable evidence and document.

Thus, the plaintiff established his claim, 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. 4, 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

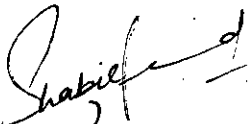
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the plaintiff as **01.01.1978**. This decree shall not effect the rights of others or service record if any.

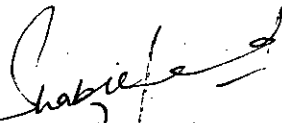
File be consigned to the District Record Room, Orakzai after its necessary completion and compilation.

Announced
22.09.2022


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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.


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Tehsil Court, Kalaya, Orakzai