

IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....90/1 of 2022.

Date of Institution.....10.09.2022.

Date of Decision.....17.10.2022.

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Mst. Ambel Jan W/O Noor Lais Khan, Qaum Bezote, Tappa Yar Kali
Khel, Village Star Bezote, Tehsil Lower, District Orakzai.

.....(Plaintiff)

Versus

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Khyber Pakhtun Khwa, Peshawar.
3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

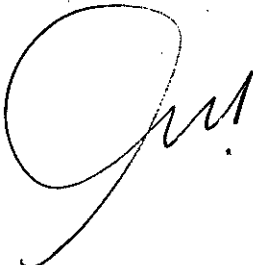
SUIT FOR DECLARATION & PERMANENT JUNCTION

JUDGEMENT

17.10.2022

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Mst. Ambel Jan against defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that, true and correct date of birth of plaintiff is 01.01.1982, however, defendants have incorrectly entered the date of birth of plaintiff as 01.01.1993 which is wrong, illegal and ineffective upon the rights of


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plaintiff and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 14 years between plaintiff and her son namely Muhammad Yaseen. That defendants were asked time and again to rectify date of birth of plaintiff 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 plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time?
3. Whether correct date of birth of plaintiff is 01.01.1982 and defendants have entered the same as 01.01.1993? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. 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.

Plaintiff produced two witnesses in support of her claim while defendants produced one witness in defense.

Tahir Shah, Record Keeper, the Knowledge Academy, Jalaka Mela appeared and recorded his statement as PW-01. He produced admission withdrawal register, copy of which is Ex. PW-1/1. As per which date of birth of son of plaintiff namely Muhammad Yaseen is 08.06.2007.

Noor Lais Khan, husband and special attorney of plaintiff appeared and deposed as PW-02. Copy of his CNIC is Ex. PW-2/1. Copy of CNIC of plaintiff is Ex. PW-2/2. Special power of attorney is Ex. PW-2/3. He supported claim of plaintiff.

Thereafter, evidence of plaintiff was closed.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced family tree and RTS data of plaintiff which are Ex. DW-1/1 and Ex. DW-1/2. He admitted that as per SOPs of NADRA, date of birth of plaintiff can be rectified.

Thereafter, evidence of defendants was closed.

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



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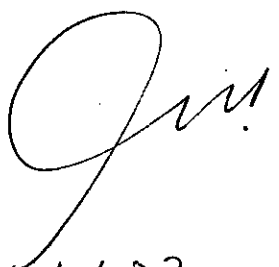
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ISSUES NO.2

Plaintiff has been issued CNIC on 03.10.2011 with expiry date of 03.10.2021 while suit in hand was filed on 10.09.2022. In plethora of judgements of the apex superior courts, it is held that every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of Limitation Act is six years and CNIC of plaintiff has already been expired on 03.10.2021, therefore, suit of plaintiff is held to be within time. Issued decided in positive.

ISSUES NO.3

Claim and contention of plaintiff is that, true and correct date of birth of plaintiff is 01.01.1982, however, defendants have incorrectly entered the same as 01.01.1993 which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 14 years between plaintiff and her son namely Muhammad Yaseen whose date of birth is recorded as 08.06.2007. Plaintiff produced reliable documentary evidence in shape of Ex. PW-1/1 in support of her claim and contention. As per Ex. PW-1/1 (school record), date of birth of plaintiff's son is recorded as 08.06.2007 while as per Ex. PW-2/1, date of birth of plaintiff is recorded as 01.01.1993 resulting into unnatural age difference of 14 years between plaintiff and her son. More so, as per Ex. PW-2/2, date of birth of husband of plaintiff is recorded as 01.01.1982 which also supports plea of plaintiff. Plaintiff is not a


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government servant. The rectification/modification sought by plaintiff will not affect rights of others. DW-01, in his cross examination categorically admitted that there must be at least 17 years age difference between mother and her children. If date of birth of plaintiff is not modified, it will result into inconvenience to plaintiff and her family members. Due to the unnatural age difference between plaintiff and her son, CNIC of plaintiff has not been renewed which has already expired on 03.10.2021. Oral evidence produced by plaintiff 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. Issue decided in favor of plaintiff against the defendants.

ISSUES NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiff.

RELIEF:

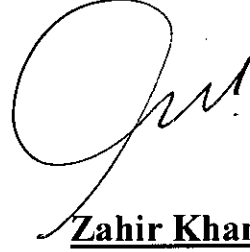
Crux of my issue wise discussion is that suit of the plaintiff is hereby decreed in her favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.


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

ANNOUNCED

17.10.2022



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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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