

In the name of almighty Allah who has got unlimited jurisdiction over and beyond the universe.

BEFORE THE COURT OF
ADDITIONAL DISTRICT JUDGE, ORAKZAI AT BABER MELA

Civil Appeal No. CA-13/13 of 2022

Date of institution: 19.10.2022

Date of decision: 21.11.2022

- 1. Chairman NADRA Islamabad, Pakistan
- 2. Director General NADRA KP, Peshawar
- 3. Assistant Director NADRA, Orakzai

..... (**Appellants/defendants**)

... **Versus** ...

Talha Khan son of Syed Wazir resident of Qaum Stori Khel Tappa Mala Khel,
Tehsil Lower, District Orakzai

..... (**Respondent/Plaintiff**)

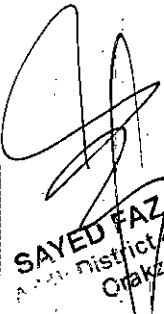
**Appeal against Judgement, Decree and Order dated 14-09-2022, passed in
Civil Suit No. 78/1 of 2022**

JUDGMENT

Instant Civil Appeal has been preferred by the appellants/defendants against the Judgment, Decree & Order dated 14.09.2022, passed by learned Civil Judge-I, Tehsil Courts Kalaya, Orakzai in Civil Suit bearing No.78/1 of 2022; whereby, the suit was decreed.

2. Plaintiff is naming Tila Khan son of Syed Wazir and residing in District Orakzai as local resident with nationality as Pakistani. His actual and real date of birth is 09.08.1964. He was earlier issued computerized national identity card bearing No. 21603-9463608-3 with the incomplete date of birth as 1966. Another computerized national identity card bearing No. 21201-6682314-9 was issued to him during internal displacement. The plaintiff has again sifted to District Orakzai and applied for restoration of earlier CNIC with the correction of date of birth and

consequently prayed cancelation of second CNIC to the defendants (Nadra),


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Orakzai at Hangu

which was turndown and resultantly Civil Suit was instituted for declaration, cancelation and mandatory injunction.

3. Defendants (NADRA) on appearance objected the suit on different grounds of law and facts. It was specifically pleaded that they are maintaining record provided by the applicant and no deletion or addition has been made therein.

4. The divergent pleadings of the parties have been reduced into the following issues.

i): Whether plaintiff has got cause of action? OPP

ii): Whether correct date of birth of plaintiff is 09.08.1964 instead of 1966?

iii): Whether correct father's name of plaintiff is Said Wazir instead of Akhtar Shah?

iv): Whether CNIC of plaintiff bearing No. 21201-6682314-9 is liable to be canceled and plaintiff is entitled to retain CNIC bearing No. 21603-9463608-3?

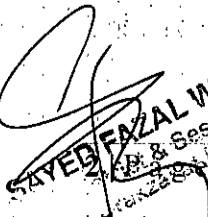
OPP

v): Whether plaintiff is entitled to the decree as prayed for? OPP

vi): Relief.

5. The parties have been provided opportunity of evidence. On conclusion of trial, the suit was decreed by the then learned Trial Judge vide Judgement and Decree dated 14-09-2022. Feeling aggrieved, the appellants/defendants have presented instant civil appeal, which is under consideration.

6. Mr. Irfan Legal Assistant NADRA for appellants is of the stance that the plaintiff has obtained two computerized national identity cards which is illegal; the last one CNIC is blocked in suspicious category and plaintiff did not bother to appear before Nadra Verification Board. The nationality of the plaintiff is doubtful but this aspect of the case has been ignored while working out judgement by learned the Trial Court.


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J.P. & Sessions Judge
Jhelum District, Hangu

7. Learned counsel representing the respondent argued that plaintiff has applied for second CNIC in District Khyber at the time when he was internally displaced person due to Talibanization and Military Operation in the area. The NADRA Authority was legally bound to cancel the first one while issuing the second CNIC and plaintiff cannot be held responsible. He presented minutes of the meeting dated 31-10-2022 where the forum of DLC Orakzai has declared the national status of plaintiff/respondent as clear.

8. The grant of decree to the plaintiff being illegal on the score of his dubious status of nationality is point of determination in instant appeal. The Government of Pakistan has notified proper forum with the name of DLC in each District comprising Deputy Commissioner, District Police Officer, Representative of Inter Services Intelligence (ISI), Representative of Intelligence Bureau and member from NADRA for deciding the matters pertaining to the national status and citizenship of the person falling under suspected category. The DLC of District Orakzai has examined four cases in the meeting held on 31-10-2022; wherein, Tila Khan Son of Akhtar Shah (Respondent/plaintiff) was included as appearing in Serial No. 2. This forum of DLC has remarked as following:

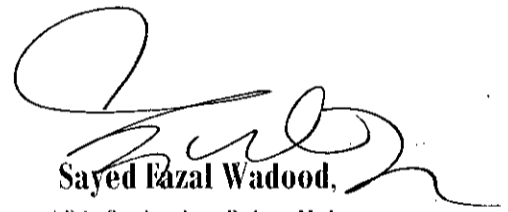
Remarks: Tila Khan attended the meeting and approved dual CNICs issued in his name i.e 21603-9463608-3 (Tila Khan son of Said Wazir) & 21201-6682314-9 (Tilla Khan son of Akhtar Shah) as well as pension book. As per verification of MNIC and service record, the DLC members declared national status of Mr. Tila Khan son of Said Wazir is cleared. Chair directed AD NADRA to process his CNIC case and enable the applicant to obtain National Identity Card.

9. The forum of DLC is specialized forum and is being mandated to deal the subject of verification and the plaintiff was declared clear by assessing his all documents including service record. Therefore, this ground of appeal pertaining to doubt in nationality stands nowhere. The second ground of appeal which is also

point of determination is just raised mechanically for fabricating paper. The NADRA is database of the nation and when the plaintiff applied for second CNIC, it was the duty of NADRA to either cancel the first one or at least refuse to issue second CNIC. The plaintiff cannot be precluded to file suit for cancellation of one CNIC while keeping the other one.

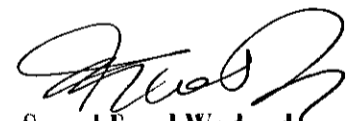
10. For what has been discussed above, it can safely be concluded that the learned Trial Court has properly appreciated the evidence and rightly passed the impugned Judgement and Decree dated 14.09.2022. Consequently, as the Judgement under appeal does not warrant interference; therefore, the appeal in hand stands dismissed. Costs shall follow the events. Requisitioned record be returned back with copy of this Judgement; whereas, file of this Court be consigned to District Record Room, Orakzai as prescribed within span allowed for.

Announced in the open Court
21.11.2022


Sayed Fazal Wadood,
ADJ, Orakzai at Baber Mela

CERTIFICATE.

Certified that this Judgment is consisting upon four (04) pages; each of which has been signed by the undersigned after making necessary corrections therein and read over.


Sayed Fazal Wadood,
ADJ, Orakzai at Baber Mela