

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

Civil Suit No. 65/1 of 2022  
Date of Original Institution: 05.07.2022  
Date of Decision: 05.12.2022

- 1. **Sadeef Ali son of Habib Khan and**
- 2. **Mst: Basqida Jan daughter of Habib Khan,** both residents of Qaum Bar Muhammad Khel, Tapa Khudaid Khel, Bakhwarr, Tehsil Orakzai, District: Orakzai.

.....(Plaintiffs)

**VERSUS**

- 1. **Chairman, NADRA, Islamabad.**
- 2. **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 plaintiffs have brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct dates of birth of plaintiff No. 1 is **01.01.1992**, while it has been wrongly entered as 1982 and that of plaintiff No. 2 is **05.08.1994**, while it has been wrongly mentioned as 1988 in their CNICs by the defendants, which are wrong, ineffective upon the rights of the plaintiffs and liable to correction. That the defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

*Shabeer Ahmad*  
 Shabeer Ahmad  
 CJ-II  
 Kalaya  
 05/12/2022

- 2. Defendants were summoned, they appeared through their representative and filed written statement 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 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 No. 1 is **01.01.1992** and that of plaintiff No. 2 is **05.08.1994** while defendants have wrongly entered the same as 1982 and 1988 respectively in their CNICs?
- 5. Whether the plaintiffs are entitled to the decree as prayed for?
- 6. Relief?

Issue wise findings of this court are as under: -

**Issue No. 02:**

Burden of proof regarding this issue was on defendants. Estoppel needs cogent, convincing and reliable evidence which is lacking on part of defendants, therefore, the issue is decided in negative and against the defendants.

*Shahid Ahmad*  
 05/12/2022  
 (M-11)  
 (Ordnance, Faisalabad)

**Issue No. 03:**

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 05.07.2022. Thus, the same is well within time. The issue is decided in positive.

**Issue No. 04:**

The plaintiffs alleged in their plaint that the correct dates of birth of the plaintiff No. 1 is **01.01.1992** and that of plaintiff No. 2 is **05.08.1994**, while defendants have wrongly entered the same as 1982 and 1988 respectively in their CNICs which are wrong, ineffective upon the right of the plaintiffs and liable to be corrected.

*Shadeef Ali*  
Shadeef Ali  
Civil (FATA)  
05/12/2022  
Cr. (FATA)

The plaintiffs produced witnesses in whom Mr. Sadeef Ali son of Habib Khan, the plaintiff No.1 and attorney for plaintiff No. 2 appeared as PW-01, who produced his CNIC and special power of attorney which are Ex. PW-1/1 and Ex. PW-1/2 respectively. He stated that his correct date of birth is **01.01.1992** while defendants have wrongly entered the same as 1982 in their record and due to which there comes an unnatural gap of 07 years with his mother. He further stated that correct date of birth of plaintiff No. 2 is **05.08.1994** while



defendants have wrongly entered the same as 1988 and due to which there comes an unnatural gap of 13 years between plaintiff No. 2 and her mother. He produced CNIC of plaintiff No. 2 which is Ex. PW-1/3. He lastly requested for the decree of the suit as prayed for. Needless to mention that date of birth of mother of plaintiffs is 1975 according to her service record. Nothing tangible has been extracted out of him during cross examination. Mr. Jamshid Ali son of Awan Ali, the maternal uncle of the plaintiffs, appeared as PW-02, who produced his CNIC which is Ex. PW-2/1 and further fully supported the stance of the plaintiffs as in the plaint. Further Mr. Rahim Ali son of Muhammad Khan, uncle of plaintiffs appeared and deposed as PW-03. He produced his CNIC which is Ex. PW-3/1. He stated that correct date of birth of plaintiff No. 1 is **01.01.1992** and that of plaintiff No. 2 is **05.08.1994**, while defendants have wrongly entered the dates of birth of plaintiffs as 1982 and 1988 respectively and due to which there comes an unnatural gaps of 07 and 13 years with their mother. During cross examination nothing contradictory has been extracted out of him.

*Shahid Ahmad*  
 Shahid Ahmad  
 05/12/2022  
 (Malaysia)

In order to counter the claim of the plaintiffs, the defendants produced only one witness, the representative of the defendants who appeared as DW-1, who produced Family Tree of the plaintiff No. 1

which is Ex. DW-1/1 and CNIC Processing Detail Forms of plaintiffs which are Ex. DW-1/2 to Ex. DW-1/3 respectively. But during cross examination, he admitted that correction of dates of birth will not effect the family tree of the plaintiffs. He further stated that both of plaintiffs are illiterate and have not produced any School Record at the time of making their CNICs. Further stated that they do not have any record of the ages of children of plaintiff No. 2.

Arguments heard and record perused.

Perusal of record reveals that the plaintiffs have sought correction of dates of birth because of unnatural gap between plaintiffs and their mother. Mother of plaintiffs have also sought correction of the date of birth as **01.01.1975** according to her service record vide suit No. 02/1 of 2020 which was decreed in her favor. As there comes an unnatural gap of 07 and 13 years between plaintiffs and their mother and plaintiffs also produced reliable evidence which fully supported the claim of the plaintiffs. Thus, the plaintiffs established their claim through cogent and reliable evidence, therefore, the issue is decided in positive.

Shabir Ahmed  
 Civil Judge (M-II)  
 District Court (Faisalabad)  
 05/12/2022

**Issue No. 01 &02:**

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


As sequel to my findings on issue No. 4, the plaintiffs have 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 plaintiffs is hereby decreed as prayed for. Defendants are directed to correct the date of birth of the plaintiff No. 1 as **01.01.1992** and that of plaintiff No. 2 as **05.08.1994** in their record and in the CNICs of the plaintiffs. This decree shall not effect to rights of other person or service record if any.


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

**Announced**  
**05.12.2022**

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

**CERTIFICATE**

Certified that this judgment consists of six (06) pages, each has been checked, corrected where necessary and signed by me.

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