

IN THE COURT OF ZAHIR KHAN
CIVIL JUDGE-I, TEHSIL KALAYA, ORAKZAI

Suit No.....106/1 of 2022.

Date of Institution.....01.11.2022.

Date of Decision.....01.12.2022.

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1. Dost Ali Khan S/O Malak Hawaldar Khan,
 2. Khybera Bibi W/O Jan Said both R/O Qaum Uthman Khel, Tappa Bazran Khel, Village Tanda, Tehsil Lower, District Orakzai.
-(Plaintiffs)

VERSUS

1. Chairman NADRA, Islamabad.
 2. Director General NADRA, Khyber Pakhtunkhwa, Peshawar.
 3. Assistant Director NADRA, Orakzai.
-(Defendants)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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JUDGEMENT
01.12.2022

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Dost Ali Khan and Khybera Bibi against defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts as per averments of amended plaint are that plaintiffs have filed the instant suit against the defendants for declaration and permanent injunction to the effect that as per school record, true and correct date of birth of plaintiff No. 1 is 01.12.1999, while true and correct date of birth of plaintiff No. 2


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is 02.09.2000 however, defendants have incorrectly entered date of birth of plaintiff No. 1 as 01.10.2005 and plaintiff No. 2 as 02.01.2000 which entries are wrong, illegal, 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.

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit is within time? OPP
3. Whether correct date of birth of plaintiff is 01.12.1999 instead of 01.10.2005? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?


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Later on, counsel for plaintiff filed application for permission to file amended plaint which was accepted being not objected by representative of defendants. Amended plaint was filed. Amended written statement was also filed and the following amended issues were framed.

AMENDED ISSUES:

6. Whether plaintiffs have got cause of action? OPP
7. Whether suit is within time? OPP
8. Whether correct date of birth of plaintiff No. 1 is 01.12.1999 instead of 01.10.2005 and correct date of birth of plaintiff No. 2 is 02.09.2000 instead of 02.01.2000? OPP
9. Whether plaintiffs are entitled to the decree as prayed for? OPP
10. Relief?

Parties opted not to file amended list of witnesses. 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.

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.

During course of recording evidence, plaintiffs produced two witnesses.

Dost Ali Khan, plaintiff No. 1 himself and special attorney of plaintiff No. 2 appeared and deposed as PW-01. Special power


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of attorney is Ex. PW-1/1. Copy of his CNIC is Ex. PW-1/2. He reiterated the averments of plaint. Copy of CNIC of plaintiff No. 2 is Ex. PW-1/3. Extract of admission and withdrawal register is Ex. PW-1/4. He lastly requested for decree of suit in their favour.

Malak Hawaldar Khan, father of plaintiffs appeared and deposed as PW-02. Copy of his CNIC is Ex. PW-2/1. He supported plea of plaintiffs.

Thereafter, evidence of plaintiffs was closed. Nothing contradictory could be brought on record from PWs.

Irfan Hussain, (Representative of NADRA, Orakzai) appeared as DW-01. He produced Family tree, CNIC processing form of plaintiff No. 1 and manual birth certificate which are Ex. DW-1/1 to Ex. DW-1/3. 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.

My issue wise findings are as under: -

ISSUE NO.2:

Plaintiff No. 1 has been issued CNIC on **04.10.2022** while plaintiff No. 2 has been issued CNIC on **29.01.2018** while suit in hand was filed on **01.11.2022**. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issued decided in positive.



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ISSUE NO.3:

Claim of plaintiffs is that as per school record, true and correct date of birth of plaintiff No. 1 is 01.12.1999, while true and correct date of birth of plaintiff No. 2 is 02.09.2000 however, defendants have incorrectly entered date of birth of plaintiff No. 1 as 01.10.2005 and plaintiff No. 2 as 02.01.2000 which entries are wrong, illegal and liable to be rectified. That defendants were asked time and again to rectify date of birth of plaintiff but in vain hence, the present suit.

Plaintiffs produced cogent, convincing and reliable documentary evidence in support of their claim and contention. Oral evidence produced by plaintiffs is also supportive to the averments of plaint. The rectification/modification sought by plaintiffs will not affect rights of others.

More so, DW-01, in his cross examination stated that the date of birth of plaintiffs can be modified/rectified as per NADRA SOPs.

Keeping in view the above discussion and documentary as well as oral evidence available on file, it is held that correct date of birth of plaintiff No. 1 is 01.12.1999 which is correctly recorded in his school record while correct date of birth of plaintiff No. 2 is 02.09.2000. Date of birth of plaintiff No. 1 to be rectified/modified from **01.10.2005** to **01.12.1999** and date of birth of plaintiff No. 2 to be rectified/modified from **02.01.2000** to **02.09.2000**. Issue decided accordingly.


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ISSUES NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiffs have got cause of action and they are entitled to the decree, as prayed for. Both these issues are decided accordingly.

RELIEF.

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

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

ANNOUNCED
01.12.2022



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CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan

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