

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

Civil Suit No. 149/1 of 2022
Date of Original Institution: 01.11.2022
Date of Decision: 21.12.2022

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1. **Muhammad Talha,**
 2. **Hamzallah, both sons of Farooq Shah and**
 3. **Samia Bibi,**
 4. **Kalsoon Bibi, both daughters of Farooq Shah,**
residents of Qaum Bezot, Tapa Bethani, Tehsil Lower, District Orakzai.

.....(Plaintiffs)

VERSUS

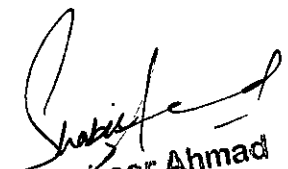
1. **Chairman, NADRA, Islamabad.**
2. **Director General NADRA, KPK, Peshawar.**
3. **Assistant Director, NADRA District Orakzai.**

.....(Defendants)

SUIT FOR DECLARATION -CUM- PERPETUAL AND MANDATORY INJUNCTION

JUDGMENT

1. Brief facts of the case in hand are that the 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 **29.03.2011** and that of plaintiff No. 2 is **01.04.2012**, while it has been wrongly entered as 20.07.2008 and 01.01.2009 respectively in their Form-B by the defendants. That the correct mother name of plaintiffs No. 3 & 4 is **Said Khela** while defendants have wrongly entered the same as Rahat Bibi, which is


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wrong, ineffective upon the rights of the plaintiffs and liable to correction. That the defendants were asked time and again to do the aforesaid corrections but they refused, hence, the present suit;

- 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 a cause of action?
- 2. Whether the suit of plaintiffs is within time?
- 3. Whether the correct dates of birth of the plaintiff No. 1 is **29.03.2011** and that of plaintiff No. 2 is **01.04.2012** while defendants have wrongly entered the same as 20.07.2008 and 01.01.2009 respectively in their Form-B by defendants?
- 4. Whether the correct mother name of plaintiffs No. 3 & 4 is **Said Khela** while defendants have wrongly entered the same as Rahat Bibi in their record?
- 5. Whether the plaintiffs are entitled to the decree as prayed for?
- 6. Relief?

Issue wise findings of this court are as under: -

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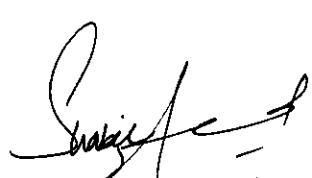
Issue No. 02:

The defendants in their written statements raised their objection that suit of the plaintiffs is time barred but defendants have issued Form-B on 13.11.2019, so the suit is well within time. The issue is decided in positive.

Issue No. 03 & 04:

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

The plaintiffs alleged in their plaint that the correct dates of birth of the plaintiff No. 1 is **29.03.2011** and that of plaintiff No. 2 is **01.04.2012**, while defendants have wrongly entered the same as 20.07.2008 and 01.01.2009 respectively in their Form-B and correct mother name of plaintiffs No. 3 & 4 is **Said Khela** while defendants have wrongly entered the same as Rahat Bibi in their record, which are wrong, ineffective upon the right of the plaintiffs and liable to be corrected.


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The plaintiffs produced witnesses in whom Mr. Farooq Shah son of Ameer Khan, father of plaintiffs appeared as PW-01. He stated that plaintiffs are his real children. He stated that he firstly married Said Khela and from which plaintiffs No. 3 & 4 were born. That correct mother name of plaintiffs No. 3 & 4 is

Said Khela. He further stated that he divorced his 1st wife in 2007 and after that got married to Rahat Bibi and that plaintiffs No. 1 & 2 are his children from Rahat Bibi. He further stated that correct dates of birth of plaintiff No. 1 is 29.03.2011 and that of plaintiff No. 2 is 01.04.2012, which are correctly mentioned in School Admission & Withdrawal Register. He produced his CNIC, Divorce Certificate with Said Khela, CNIC of Mst. Said Khela, CNIC of Mst. Rahat Bibi, Nikah Registration Certificate with Mst. Rahat Bibi and Form-B which are Ex. PW-1/1 to Ex. PW-1/6 respectively. He lastly requested for decree of the suit as prayed for. During cross examination he stated that plaintiffs are his real children. He stated that his 1st wife name is Said Khela, which he divorced in 2007. He further stated that he has second marriage with Rahat Bibi and he has 04 children from the second marriage. He stated that plaintiffs No. 3 & 4 are his children from 1st wife. Mr. Khaista Rehman, Record Keeper of the Knowledge Academy Orakzai, appeared as PW-02. He produced the School Admission & Withdrawal Register of plaintiffs No. 1 & 2 which are Ex. PW-2/1 & Ex. PW-2/2 respectively, according to which correct dates of birth of plaintiffs No. 1 & 2 are

Signature
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mentioned as 29.03.2011 and 01.04.2012 respectively. His CNIC is Ex. PW-2/3. During cross examination he stated that plaintiffs No. 1 & 2 are enrolled on serial No. 2302 and 2378 respectively in their record.

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. He produced Family Tree and Processing Form of plaintiffs which are Ex. DW-1/1 & Ex. DW-1/2. He further stated that in Form-B credentials are entered by parents and in this case parents have also entered these credentials at their own will. He further stated that mother of the plaintiffs No. 3 & 4 namely Mst. Rahat Bibi came to the NADRA office and uploaded her picture and biometric in NADRA Record. He lastly requested for dismissal of the suit. During cross examination he admitted that if suit is decreed in favor of plaintiffs they will have no objection.

Arguments heard and record perused.

Perusal of record reveals that the plaintiffs No. 1 & 2 mainly relies on their School Record, wherein dates of birth are mentioned as 29.03.2011 and 01.04.2012. Ex. PW-1/5 is the *Rukhsati Certificate*

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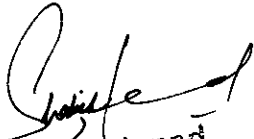
which shows that father of plaintiffs No. 3 & 4 got married to Rahat Bibi on 18.04.2007, therefore, Rahat Bibi cannot be mother of plaintiffs No. 3 & 4. Ex. PW-1/3 is the CNIC of Said Khela in which husband name is mentioned as Farooq Shah which was divorced by Farooq Shah on 13.01.2007, therefore, it is clear that plaintiffs No. 3 & 4 are children of Farooq Shah and Said Khela.

Plaintiffs produced reliable oral and documentary evidence which proved the stance of the plaintiffs. Thus, the plaintiffs established their claim through cogent, reliable, documentary and oral evidence, therefore, the issue is decided in positive.

Issue No. 01 & 05:

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

As sequel to my findings on issue No. 3 & 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.


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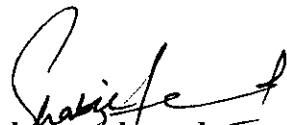
RELIEF:

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 dates of birth of the plaintiff No. 1 as **29.03.2011** and that of

plaintiff No. 2 as 01.04.2012 and correct mother name of plaintiffs No. 3 & 4 as **Said Khela** in their record and in the Form-B of the plaintiffs. This decree shall not effect to rights of other person or service record if any.

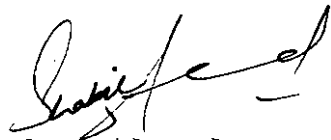
File be consigned to the District Record Room, Orakzai after its completion and compilation.

Announced
21.12.2022


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CERTIFICATE

Certified that this judgment consists of seven (07) pages, each has been checked, corrected where necessary and signed by me.


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