

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

BEFORE THE COURT OF
ADDITIONAL DISTRICT JUDGE, ORAKZAI

Civil Appeal No. CA-18/13 of 2022

Date of institution: 10.11.2022

Date of decision: 21.12.2022

- 1. Chairman NADRA, Islamabad
- 2. DG NADRA, Islamabad
- 3. Director NADRA, District Orakzai

..... (Appellants)

...Versus...

Amina Nawab daughter of Gul Nawab, Hayatabad Peshawar

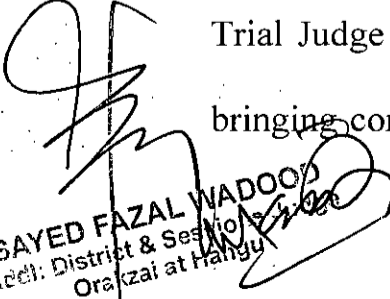
..... (Respondent)

Appeal against Judgement, Decree and Order dated 20.10.2022 in Civil Suit No. 54/1 of 2022.

JUDGMENT

Instant Civil Appeal has been preferred by the appellants against the Judgment/Decree & Order dated 20.10.2022, passed by learned Senior Civil Judge, Orakzai in Civil Suit bearing No.54/1 of 2022; whereby, the suit of plaintiff (respondent herein) with the title of Amina Nawab Vs NADRA etc. was decreed.

2. The brief facts of the case are such that plaintiff has brought suit for declaration-cum-perpetual and mandatory injunction against the defendants to the effect that her correct date of birth is 11.05.1996; whereas, defendants (Appellants herein) have wrongly entered the same as 11.05.1987 in the Computerized National Identity Card. The suit was decreed by the learned Trial Judge vide Judgement and Decree dated 20.10.2022 on the score of bringing consonance with school record of plaintiff. Feeling aggrieved, the


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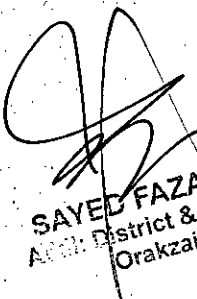
appellants/defendants have presented instant civil appeal, which is under consideration.

3. Mr. Gul Nawab being father of the plaintiff as special attorney accompanied by Mr. Sana Ullah Khan Advocate appeared as respondent in instant appeal. They presented application for withdrawal of the suit with permission to file fresh suit on the score of formal defect.

4. Irfan being representative of NADRA (appellants) is before the Court conceded the issue of formal defect in the suit and stated that he has got no objection on withdrawal of the suit with permission to file fresh one.

5. Perusal of case file reflects that it is the main contention of the appellants/defendants that if the correct date of birth of the plaintiff is presumed as what was decreed, the gap between the real sisters of the plaintiff would be 05 months and 03 days which is unnatural. The attorney for plaintiff along with Mr. Sana Ullah Khan Advocate by sensing the ground sufficient for failure on score of formal defect presented application for grant of permission to file fresh one. This application was wholeheartedly conceded by the appellants giving no objection in writing on such application.

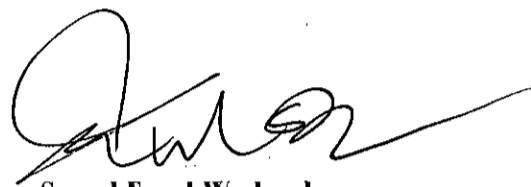
6. Appellate Court as a general rule and ordinarily, has the same powers to exercise and function to perform which are opened to the original Court for whose decision, appeal is being brought before it. It has been settled in a case reported as PLD 1965 Supreme Court Page-634 that appellate Court has power to allow withdrawal of appeal and the suit as well with the permission to file fresh one. On this given criteria the reason mentioned in the petition is assessed which falls within the ambit of formal defect as such, sufficient ground is available to allow application under adjudication.


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7. For what has been discussed above, the appeal in hand is disposed of accordingly; the impugned Judgment, Order and Decree dated 20-10-2022 is set aside; consequently, plaintiff is allowed withdrawal of the suit with permission to file fresh one. Cost shall follow the events.

8. Requisitioned record be returned back with the copy of this Judgement; whereas, File of this Court be consigned to District Record Room, Orakzai after completion and compilation within the span allowed for.

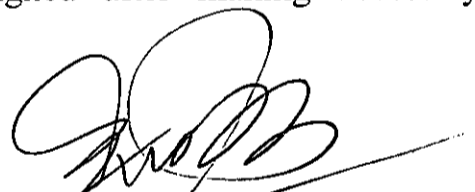
Announced in the open Court
21.12.2022



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CERTIFICATE.

Certified that this Judgment consists of three (03) 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