

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

Civil Suit No. 128/1 of 2022
Date of Original Institution: 12.09.2022
Date of Decision: 06.10.2022

1. **Naseem Ullah son of Said Noor Shah and**
2. **Nabi Ullah son of Saaid Noor Shah, both residents of Qaum Mishti, 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 **Naseem Ullah and Nabi Ullah** 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 **05.07.2003**, according to Matriculation Record and Birth Registration Certificate and that of plaintiff no. 2 is **12.05.2007**, according to Birth Registration Certificate while it has been wrongly mentioned as 14.03.1998 and 12.05.2003 in their CNICs by the defendants, which are wrong, ineffective upon the right of the plaintiffs and liable to correction. That the defendants were asked time and again to do the

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aforesaid correction 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 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 as per his Matric Record is **05.07.2003** and that of plaintiff no. 2 as per his Birth Certificate is **12.05.2007** while defendants have wrongly entered as 14.03.1998 and 12.05.2003 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:

The defendants in their written statement raised the objection that the plaintiffs are estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

The defendants in their written statements raised their objection that suit of the plaintiffs is time barred but I

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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 12.09.2022. 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 **05.07.2003**, according to his Matriculation Record and Birth Registration Certificate and that of plaintiff no. 2 is **12.05.2007**, according to Birth Registration Certificate whereas, defendants have wrongly entered the same as 14.03.1998 and 12.05.2003, which are wrong, ineffective upon the rights of the plaintiffs and liable to correction.

The plaintiffs produced witnesses in whom Mr. Said Noor Shah son of Abdul Badshah, the father of the plaintiffs, appeared as PW-01, who produced his CNIC which is exhibited as Ex. PW-1/1 and further produced copies of the Matric Certificate of plaintiff no. 1, Matric DMC of the plaintiff no. 1, Birth Registration

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Certificate of plaintiff no. 1, Form-B of plaintiffs, CNIC of plaintiff no. 2 and Birth Registration Certificate of plaintiff no. 2, which are exhibited as Ex. PW-1/2 to Ex. PW-1/7 respectively. Further narrated the same story as in the plaint. The witness was cross examined whereby he stated that he went to NADRA Office for Form-B and processing but I am an illiterate person and did not know the much about the process. Mr. Ramazan Khan, the neighbor of the plaintiffs, appeared as PW-02, who produced his CNIC which is exhibited as Ex. PW-2/1 and further fully supported the stance of the plaintiffs as in the plaint. Further Mr. Wazir Khan son of Haider Khan, the villager of the plaintiffs, appeared as PW-03. Who produced his CNIC which is exhibited as Ex. PW-3/1 and further fully supported the stance of the plaintiffs as narrated in the plaint. He lastly prayed for decree the suit. During cross examination nothing tangible extracted out of him.

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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 CNIC processing detail form, Family tree and Form-B of the plaintiffs which are Ex. DW-1/1 to Ex. DW-1/3 respectively. But during cross

examination, he admitted that on matric record NADRA itself can correct age up to 05 years.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff no. 1 mainly relies on his Matriculation Record and Birth Registration Certificate while plaintiff no. 2 relies on his Birth Registration Certificate in which correct dates of birth of the plaintiff no. 1 is mentioned as **05.07.2003** and that of plaintiff no. 2 is mentioned as **12.05.2007**. The aforesaid documents are public documents and presumption of truth is attached to it. Thus, the plaintiffs established their claim through cogent and reliable evidence, therefore, the issue is decided in positive.

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:

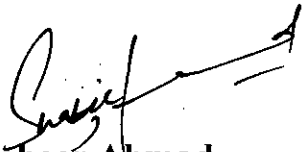
As sequel to my above issue wise findings, the suit of the plaintiffs is hereby decreed as prayed for.

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Defendants are directed to correct the date of birth of the plaintiff no. 1 as **05.07.2003** and that of plaintiff no. 2 as **12.05.2007** 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.

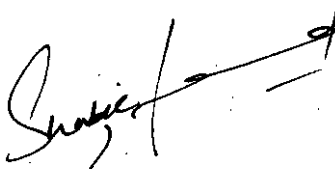
File be consigned to the District Record Room, Orakzai after its completion and compilation.

Announced
06.10.2022


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CERTIFICATE

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


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