

IN THE COURT OF SAMI ULLAH,
Civil Judge-I, Orakzai at Baber Mela

Civil Suit No. 6/1 of 2024
Date of Institution: 30/01/2024
Date of Decision: 22/03/2024

Mani Khela W/O Gul Marjan
R/O Qoam Mamozai, Tappa Abdul Raheem Khel, Tehsil Upper, District Orakzai.

.....(Plaintiff)

VERSUS

- 1. **Chairman Nadra, Islamabad**
- 2. **Director General Nadra, Peshawar**
- 3. **Assistant Director Nadra, District Orakzai.**

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

1. Plaintiff has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that correct date of birth of plaintiff is **01.01.1970** but the defendants have wrongly incorporated her date of birth as 01.01.1991 in their record. Similarly, the date of birth of two sons and one daughter of plaintiff are 01.07.1993, 01.10.1997 and 12.01.1994 respectively. Thus, there is unnatural gap of 02 years 06 months, 06 years 09 months and 03 years between the age of plaintiff with her two sons and one daughter, which is wrong and ineffective upon her rights and is liable to be

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corrected. That the defendants were asked time and again for correction of date of birth of plaintiff but they refused to do so, hence the present suit;

2. Defendants were summoned, they appeared before the court through their representatives and contested the suit by filing their written statement, wherein various legal and factual objections were raised.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. *Whether plaintiff has got cause of action?*
2. *Whether the plaintiff is estopped to sue?*
3. *Whether suit of the plaintiff is within time?*
4. *Whether the suit of plaintiff is bad in its present form?*
5. *Whether the correct date of birth of plaintiff is 01.01.1970 and defendants have wrongly entered the same as 01.01.1991 in their record?*
6. *Whether the plaintiff is entitled to the decree as prayed for.*
7. *Relief.*

4. Parties were given ample opportunity to produce evidence which they did accordingly.
5. Issue wise findings of this court are as under: -

Issue No.02:

Whether the plaintiff is estopped to sue?

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

Issue No. 03:

Whether suit of the plaintiff is within time?

7. The defendants in their written statement raised the objection that suit of the plaintiff is time barred but this court is of 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 **30.01.2024**. Thus, the same is well within time. The issue is decided in positive.

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Issue No. 04:

Whether the suit of plaintiff is bad in its present form?

8. This objection was raised in preliminary objection in written statement however, the issue was neither discussed nor stressed upon, even otherwise, there is nothing on available record which suggest that suit is bad in its present form. Hence, the issue is decided in negative.

Issue 05:

Whether the correct date of birth of plaintiff is 01.01.1970 and

defendants have wrongly entered the same as 01.01.1991 in their record?

9. The plaintiff alleged in her plaint that the correct date of birth of plaintiff is **01.01.1970** while the defendants have wrongly entered the same in their record as 01.01.1991 which is wrong, ineffective upon the rights of the plaintiff and liable to correction.
10. The plaintiff produced two witnesses and she herself appeared as a witness in her favour who recorded the statements and testified that the correct date of birth of the plaintiff is **01.01.1970**.
11. Plaintiff herself recorded her statement as PW-1 and stated that she has 08 children i.e. 04 sons and 04 daughters, in which 03 children have already made their CNICs. She further stated that the date of birth of her two sons namely Fazal Jalal and Abdul Jalal are 01.07.1993, 01.10.1997 and one daughter namely Shehnaz Bibi is 12.01.1994. Thus, there is unnatural gap between her age and age of her three children. She further stated that defendants have wrongly incorporated the same as 01.01.1991 while her correct date of birth is **01.01.1970**. Copy of CNICs of plaintiff and her two children i.e. Shehnaz Bibi and Fazal Jalal are Ex.PW-1/1 to Ex.PW-1/3. Nothing incriminating was recorded in his cross examination.
12. PW-02 Abdul Jalal said in his statement that plaintiff and Gul

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Majran are his parents. He stated that his correct date of birth is 01.10.1997 and defendants have wrongly incorporated his mother's date of birth as 01.01.1991. Thus, there is unnatural gap between the age of plaintiff with him. Copy of his CNIC is Ex.PW-2/1. Nothing incriminating was recorded in his cross examination.

13. PW-03 namely Mobeen Khan recorded his statement that plaintiff is his relative. He stated that plaintiff's husband (Gul Marjan) lives with second wife. Plaintiff has eight children. He further stated that there is unnatural gap in age of plaintiff with her children. Copy of his CNIC is Ex.PW-3/1. Nothing incriminating was recorded in his cross examination.

14. In order to counter the claim of the plaintiff, the defendants produced only one witness, Mr. Irfan Hussain, the representative of the defendants appeared as DW-01. He produced Authority Letter which is Ex. DW-1/1. He stated according to NADRA SOPs the change of date of birth for uneducated citizens is possible on the basis of birth certificate of Union Council. He further stated that according to Nadra SOPs, age difference of 17-18 years is necessary between mother and elder son. He further stated that due to age difference less than 17/18 years, ID card would not be processed for both members. He admitted unnatural gap in age between the plaintiff and her three children.

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15. Arguments heard and record perused.
16. After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by the documents and evidence which they produced. Nothing incriminating was recorded in cross examination of the PWs. After keeping in consideration, the aforementioned points and available evidence, this court is of the view that the record of defendants relating to date of birth of the plaintiff is liable to correction.
17. Thus, in the light of the aforesaid findings, the issue is decided in positive.

Issue No. 01 & 06:

Whether plaintiff has got cause of action?

Whether the plaintiff is entitled to the decree as prayed for.

18. Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No.05 plaintiff has got cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

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RELIEF:

19. As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for, defendants are directed to correct date of birth of plaintiff as **01.01.1970** instead of 01.01.1991 in their record.
20. Parties are left to bear their own cost.

21. Decree sheet be drawn up accordingly.
22. File be consigned to the Record Room after its necessary completion and compilation.

Announced
22.03.2024


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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.


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