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**IN THE COURT OF SAMI ULLAH,
CIVIL JUDGE-I, ORAKZAI AT BABER MELA**

Civil Suit No. 09/1 of 2024
Date of Institution: 12/02/2024
Date of Decision: 18/04/2024

1. Javid Khan S/O Dusta Khan.
2. Hajra Bibi W/O Dusta Khan.
Both residents of Qoam Ali Khel, Tappa Shawas Khel, Tehsil Upper, District Orakzai.
.....(Plaintiffs)

VERSUS

1. Assistant Director Nadra, District Orakzai.
..... (Defendant)

**SUIT FOR DECLARATION CUM PERPETUAL AND
MANDATORY INJUNCTION**

**SUMMARY JUDGEMENT:
18.04.2024**

1. Brief facts of the case in hand are that the plaintiffs have brought the instant suit for declaration cum perpetual and mandatory injunction against the defendant, referred hereinabove, seeking declaration therein that correct date of birth of plaintiff No.02 is **01.01.1973**, while it has been wrongly mentioned as 01.01.1982 by the defendant in their record with respect to the plaintiffs which are wrong and ineffective upon the right of plaintiff No.02. Similarly, the date of birth of plaintiff No.01 is 01.01.1991. Thus, there is un-natural gap of 09 years between the age of plaintiff No.01

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& 02 respectively, which is liable to correction. That the defendant was repeatedly asked to correct the date of birth of plaintiff No.02 but he refused, hence, the instant suit.

2. Defendant was summoned, who appeared through his representative namely Mr. Irfan Hussain, who submitted written statement.

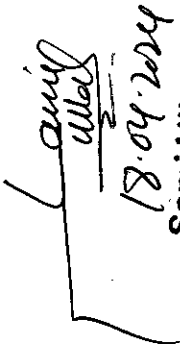
3. During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in the instant case is petty in nature, which can be decided through summary judgement as per relevant record. To this effect notice was given to the parties that why not the case in hand be decided on the basis of available record without recording lengthy evidence, as the primary aim and objective of Amended Management Rules in CPC is, "to enable the court to-

- a. Deal with the cases justly and fairly;
- b. Encourage parties to alternate dispute resolution procedure if it considers appropriate;
- c. Save expense and time both of courts and litigants; and
- d. Enforce compliance with provisions of this Code."

4. Arguments of both the parties on summary notice were heard. After keeping in consideration available record on file and arguments of the learned counsel of plaintiffs and representative of defendant, the court proceeded with summary proceedings in the instant case.

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5. The plaintiffs produced two witnesses and plaintiff No.01 himself appeared as a witness in their favour who recorded the statements and testified that the correct date of birth of the plaintiff No.02 is **01.01.1973**.
6. Plaintiff No.01 who is attorney of plaintiff No.02, recorded his statement as PW-1 and stated that correct date of birth of his mother i.e. plaintiff No.02 is **01.01.1973** while it has been wrongly mentioned as 01.01.1982 by the defendant in their record. He further stated that due to incorporation of wrong date of birth by defendant in the record of plaintiffs, there is un-natural gap of 09 years between the age of plaintiff No.01 & 02. Copy of passport, copy of CNIC of plaintiff No.02 and Special Power of attorney are Ex.PW-1/1 to Ex.PW-1/3 respectively.
7. PW-02 namely Sajid Ullah said in his statement that he knows plaintiffs personally. Furthermore, he testified the claim and contention of plaintiffs. Copy of his CNIC is Ex.PW-2/1.
8. Muhammad Khanan who deposed as PW-03 and recorded his statement that he is younger brother of plaintiff No.01 and plaintiff No.02 is his mother. He stated that due to incorporation of wrong date of birth by defendant in the record of plaintiff No.02, there is un-natural gap of 08/09 years between the age of plaintiff No.01 & his elder sister



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namely Mansoor Bibi. Copies of his CNIC and CNIC of his elder sister are Ex.PW-3/1 and Ex.PW-3/2 respectively.

9. Nothing incriminating was recorded in cross examination of PWs.
10. Representative of NADRA appeared as DW-01. He exhibited authority letter as Ex. DW-1/1. He 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. Furthermore, he stated that according to Nadra SOPs, change of date of birth in CNIC is possible through Union Council Birth Certificate or Medical Age Assessment Certificate. He admitted unnatural gap in age among the plaintiff No.01, 02 and daughter of plaintiff No.02 namely Mansoor Bibi.

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11. Learned counsel for plaintiffs and representative for defendant heard and record gone through.
12. Record reveals that plaintiffs through instant suit is seeking correction of date of birth of plaintiff No.02 to the effect that her correct date of birth is **01.01.1973**, while it has been wrongly mentioned as 01.01.1982 by the defendant in their record with respect to the plaintiffs. Furthermore, there is no counter document available with the defendant to rebut the document produced by the plaintiffs in support of his stance. Hence, in these circumstances, the exhibited documents are

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admissible and reliance is placed on it alongwith evidence of the witnesses and is sufficient to decide the fate of the case and no further evidence is required to be produced by the parties. So, the available record clearly establishes the claim of the plaintiffs. Furthermore, there is unnatural gap in age between the age of plaintiff No.01 & 02.


13. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A of CPC, suit of the plaintiffs succeeds and is hereby decreed as prayed for. Defendants are directed to correct the date of birth of plaintiff No.02 as **01.01.1973** instead of 01.01.1982 in their record.
14. Parties are left to bear their own costs.
15. File be consigned to the record room after its necessary completion and compilation.

Announced
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CERTIFICATE

Certified that this judgment consists of 05 (Five) pages, each has been checked, corrected where necessary and signed by me.


Sami Ullah
Civil Judge/JM-I,
Orakzai (at Baber Mela)