

IN THE COURT OF SYED ABBAS BUKHARI,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 04/1 of 2024
Date of Original Institution: 21.02.2024
Date of Decision: 20.03.2024

Kinan Ali S/O Ashraf Ali, resident of Qom Stori Khel,
Tapa Tazi Khel, Tehsil Lower, District: Orakzai.

.....(Plaintiff)

VERSUS

1. **Chairman NADRA Islamabad.**
Director General NADRA, Khyber Pakhtunkhwa,
Peshawar.
Assistant Director, NADRA District Orakzai

.....(Defendants)

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

JUDGMENT

20.03.2024

1. Brief facts of the case in hand are that plaintiff has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct date of birth of plaintiff is **01.07.1971**, while defendants have incorrectly entered the same as 1965, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants

were asked time and again to do the aforesaid correction but they refused, hence, the present suit;

2. Defendants were summoned, they appeared through their representative namely Irfan Hussain 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 plaintiff has got a cause of action? OPP
2. Whether the correct date of birth of plaintiff is **01.07.1971**, while it has been incorrectly entered as 1965 in the defendants record? OPP
3. Whether the plaintiff is entitled to the decree as prayed for?
4. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:


The plaintiff alleged in his plaint that correct date of birth of is **01.07.1971**, while defendants have incorrectly entered the same as 1965 in their record, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction.

The plaintiff produced witnesses in whom Kinan Ali S/O Ashraf Ali, the plaintiff himself, appeared as PW-01. He stated that he performed his



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duty in police department since 27-28 years. He produced his KP police card which is Ex. PW-1/1. He stated that his correct date of birth is 01.07.1971. He further stated that he has entered into government service 1997 at the age of 25 years, which is clearly mentioned in service book, which is Ex. PW-1/2. He further produced his appointment order which is Ex. PW-1/3. He further produced his medical certificate, wherein the date of plaintiff has been mentioned as 01.07.1971, which is Ex. PW-1/4. Moreover he stated that the District Police Officer Orakzai, give an application to defendant no. 03 for correction of date of birth as mentioned in the service book and medical certificate but they refused the same. Letter is Ex. PW-1/5. He lastly produced his CNIC which is Ex. PW-1/6. During cross examination he stated that it is correct that I have not produced the original service book before the court today. It is further correct that there is no record keeper appeared on behalf of police department. Self-stated that there is no record available of any police officials in Tehsil Kalaya and all the record of police officials are available in Baber Mela, Hangu. It is further correct that the number mentioned in my new CNIC is of the old NIC



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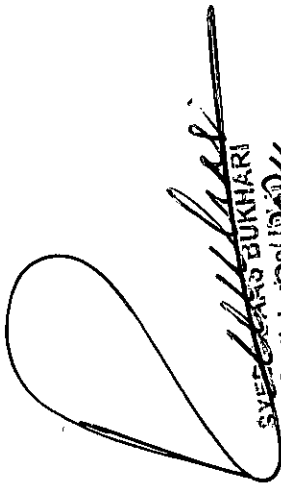
number. He further stated that he is illiterate and do not know about the old NIC.

Farhad Ali S/O Sadiq Ali, appeared and deposed as PW-02. He supported the stance of the plaintiff as narrated in the plaint. He produced his CNIC which is Ex. PW-2/1. The witness has been cross examined but nothing tangible has been extracted out of him during cross examination.

Bahar Ali S/O Malik Marwar Hussain, appeared and deposed as PW-03. He also supported the stance of the plaintiff as narrated in the plaint. His CNIC is Ex. PW-3/1. During cross examination nothing tangible has been extracted out of him.

Thereafter, plaintiff closed his evidence with a note.

In order to counter the claim of the plaintiff, defendants produced only one witness, the representative of the defendants namely Irfan Hussain who appeared as DW-01. He produced family trees of plaintiff which is Ex. DW-1/1 & Ex. DW-1/2. He stated that plaintiff has made his fresh CNIC on the record of old NIC, wherein date of birth of plaintiff as mentioned as 1965. He further stated that neither any record keeper of police department is present before the court for verification of service book nor



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produced any original service book before the court. He lastly requested for dismissal of the suit.

During cross examination representative for NADRA stated that plaintiff is elder amongst their brothers. It is admitted that there exist an unnatural gap of 12 year with his mother. He lastly stated that the mother of plaintiff has been died.

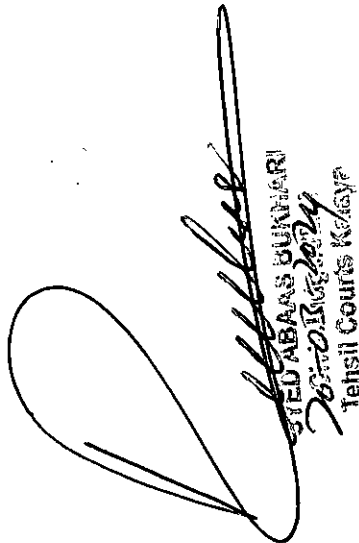
Thereafter, representative for NADRA closed their evidence with a note.

In light of above discussion as plaintiff succeeded to prove his stance by producing cogent, documentary, oral and reliable witnesses, which fully supported the claim of the plaintiff. Thus, the plaintiff established his claim through cogent and reliable evidence, therefore, the issue is decided in positive.

Issue No. 01 & 03:

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

As sequel to my findings on issue No. 02 the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.



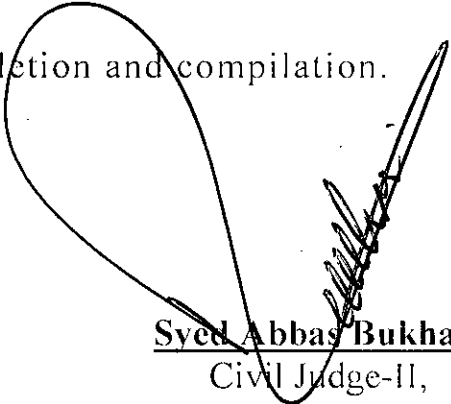
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RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby **decreed** as prayed for, subject to submission of court fee of Rs-500/- within 30 days of instant decree otherwise this decree shall have got no effect or legal force and defendants are hereby directed to enter the correct date of birth of plaintiff as **01.07.1971** in their official record. No order as to costs.

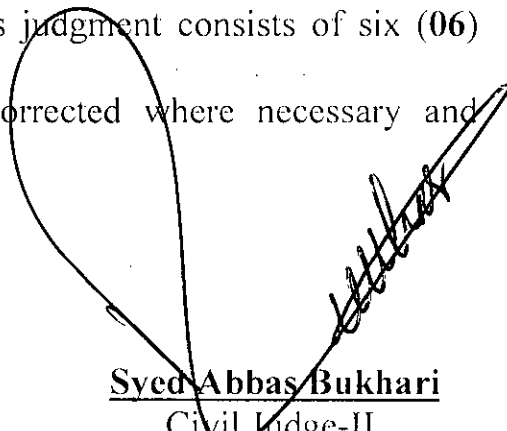
File be consigned to the District Record Room, Orakzai after its completion and compilation.

Announced
20.03.2024


Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai

CERTIFICATE

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


Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai