

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

Civil Suit No. 14/1 of 2024
 Date of Institution: 27/02/2024
 Date of Decision: 19/04/2024

Niaz Bibi W/O Khial Man Shah
 R/O Qoam Ali Khel, Tappa Sher Khel, Tehsil Upper, District Orakzai.
(Plaintiff)

VERSUS

1. Assistant Director Nadra, District Orakzai.
2. Deputy Chairman Nadra, Peshawar.

..... (Defendants)

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

SUMMARY JUDGEMENT:
19.04.2024

1. Brief facts of the case in hand are that the plaintiff, **Niaz Bibi** has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that her correct date of birth is **01.01.1962**, while it has been wrongly mentioned as 01.01.1966 by the defendants in their record with respect to the plaintiff. Similarly, the date of birth of daughter of plaintiff (Irshad Bibi) is 01.01.1980. Thus, there is un-natural gap of 14 years between the age of plaintiff and her daughter, which is liable to correction. That the defendants were

Sami Ullah
19.04.2024

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

repeatedly asked to correct the date of birth of plaintiff but they refused, hence, the instant suit.

2. Defendants were summoned, who appeared through their 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 counsels, the court proceeded with summary proceedings in the instant case.
5. The plaintiff produced three witnesses in her favour who recorded the statements and testified that the correct date of birth of the plaintiff is **01.01.1962**.

Sami Ullah
19.04.2024

Sami Ullah
Civil Judge/JM-I
Orakzai (Babar Mela)

6. Umar Wazir who is attorney of plaintiff and recorded his statement as PW-1 and stated that plaintiff is his mother and her correct date of birth is **01.01.1962** while defendants have wrongly incorporated the same as 01.01.1966. He further stated that Irshad Bibi is his sister and her date of birth is 01.01.1980 and there is unnatural gap of 14 years between the age of plaintiff and daughter of the plaintiff namely Irshad Bibi. His Power of attorney, copy of CNIC of plaintiff and copy of CNIC of Irshad Bibi, are Ex.PW-1/1 to Ex.PW-1/3.

7. PW-02 namely Muhammad Shafique said in his statement that plaintiff is his relative and he supported the claim and contention of the plaintiff. He further stated that there is unnatural gap of 14 years between age of plaintiff and her daughter namely Irshad Bibi. Copy of his CNIC is Ex.PW-2/1.

8. PW-03 namely Muhammad Shoaib recorded in his statement that plaintiff is her aunt. He stated that there is unnatural gap in age of plaintiff with her daughter namely Irshad Bibi. Lastly, he prayed for decree in favour of plaintiff. His CNIC is Ex.PW-3/1. He recorded in his cross examination that all siblings of the plaintiff are dead.

Samj Ullah
Civil Judge/JM-I
Orakzair (Baba Mela)

17.04.2024

Nothing incriminating was recorded in cross examination of PWs.

10. Representative of NADRA appeared as DW-01. He produced family tree, which is Ex. DW-1/1. According to this document, no one are present i.e. sister, brother and children in the family

tree of plaintiff. He further stated that according to Nadra SOP, age difference of 17/18 is necessary between the mother and her elder daughter. He placed his reliance on the said document. He admitted the stance of the plaintiff in his cross examination.

11. Learned counsel for plaintiff and representative for defendants heard and record gone through.

12. Record reveals that plaintiff through instant suit is seeking correction of his date of birth to the effect that his correct date of birth is **01.01.1962**, while it has been wrongly mentioned as 01.01.1966 by the defendants in their record with respect to the plaintiff. Furthermore, there is no counter document available with the defendants to rebut the document produced by the plaintiff in support of his stance. Hence, in these circumstances, the exhibited document is admissible and reliance is placed on it 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 plaintiff. Furthermore, there is unnatural gap in age of the plaintiff with her daughter.

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 plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct the date of birth

Sami Ullah
19.01.2024

Sami Ullah

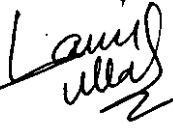
Civil Judge/JM-I

Orakzai at (Babar Mela)

of plaintiff namely Niaz Bibi as 01.01.1962 instead of 01.01.1966 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
19.04.2023


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

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)