

IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....16/1 of 2024.

Date of Institution.....14.05.2024

Date of Decision.....30.05.2024.

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Mst. Niat Ullah Jan W/O Gulfam Ali R/O Qaum Bar Muhammad
Khel, Tappa Khwaidad Khel, Kaly Saidan, PO Kada Bazar Tehsil
Lower, District(Plaintiff)

Versus

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Peshawar.
3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGMENT
30.05.2024

Through this judgement, I am going to dispose of the instant
suit filed by plaintiff namely Mst. Niat Ullah Jan against defendant
Chairman NADRA, Islamabad and two others for declaration and
permanent injunction.

Brief facts as per amended plaint are that plaintiff has filed
the instant suit for declaration cum-permanent injunction to the effect
that her true and correct date of birth is 01.01.1975, however,
defendants have incorrectly entered the same as 01.01.1982. That, due
to this wrong entry, there is unnatural age difference of about 11 years

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between plaintiff and her elder son namely Sajjad Ali whose date of birth, as per CNIC is 01.12.1993. It is further averred that correct father's name of plaintiff is Sarwar Ali and her correct mother's name is Hamsheera Jan whereas defendants have incorrectly and wrongly entered the same as Hujat Ali and Jamala Bibi in their official record which entries are wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That defendants were asked time and again to rectify/modify date of birth of plaintiff and her parentage but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement. From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time?
3. Whether correct date of birth of plaintiff is 01.01.1975 and defendants have incorrectly and wrongly entered the same as 01.01.1982?OPP

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4. Whether correct father's name of plaintiff is Sarwar Ali and her correct mother's name is Hamsheera Jan instead of Hujat Ali and Jamala Bibi? OPP
5. Whether plaintiff is entitled to the decree as prayed for? OPP
6. Relief.

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence. After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiff produced three witnesses in support of her claim while defendants produced one witness in defense.

Sajjad Ali/Special attorney and son of plaintiff appeared and deposed as PW-01. He produced special power of attorney as Ex.PW-1/1, copy of his CNIC is Ex.PW-1/2, copy of CNIC of plaintiff is Ex.PW-1/3 and copy of CNIC of plaintiff's husband is Ex.PW-1/4. Asim Ali/Step brother of plaintiff, appeared and deposed as PW-02. He reiterated the averments of plaint. Copy of his CNIC is Ex.PW-2/1. Hujat Ali/uncle of plaintiff, appeared and deposed as PW-03. Copy of his CNIC is Ex.PW-3/1. All the PWs supported the claim of plaintiff. Nothing contradictory was brought on record from the PWs. Thereafter, evidence of plaintiff was closed.

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Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He stated that plaintiff has been issued CNIC as per information provided by her and that she has got no cause of action. He produced family trees which are Ex. DW-1/1 and Ex. DW-1/2. Thereafter, evidence of defendants was closed.

The above discussion boils down to my following issue-wise findings.

ISSUE NO.2

Plaintiff has been issued CNIC on 06.12.2022 with expiry date as 06.12.2032 while suit in hand was filed on 14.05.2024. In plethora of judgments of the Apex Superior Courts, it is held that every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiff is held to be within time. Issue No. 2 decided in positive.

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ISSUE NO.3 & 4

Both these issues are interlinked, therefore taken together for simultaneous discussion. Claim and contention of plaintiff is that her true and correct date of birth is 01.01.1975, however, defendants have incorrectly entered the same as 01.01.1982. That, due to this wrong entry, there is unnatural age difference of about 11 years between plaintiff and her elder son namely Sajjad Ali whose date of birth, as per CNIC Ex. PW-1/2, is 01.12.1993. It is further averred that correct

father's name of plaintiff is Sarwar Ali and her correct mother's name is Hamsheera Jan whereas defendants have incorrectly and wrongly entered the same as Hujat Ali and Jamala Bibi in their official record. Plaintiff produced cogent, convincing and reliable documentary evidence in support of her claim. Oral evidence is also supportive to the averments of plaintiff. Plaintiff is not a government servant. The rectification/modification sought by plaintiff will not affect rights of others. If date of birth and parentage of plaintiff is not rectified/modified, it will result into inconvenience to plaintiff and her family members.

Keeping in view, the above discussion documentary as well as oral evidence available on file. Issue No. 3 & 4 decided in favor of plaintiff against the defendants.

ISSUE NO.1 & 5.

In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiff.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiff is hereby decreed in her favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any. This decree shall not affect service record of the plaintiff if any.

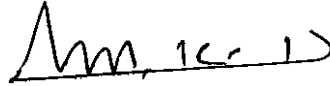
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File be consigned to record room after its necessary completion and compilation.

ANNOUNCED

30.05.2024

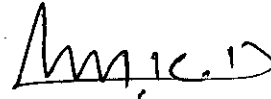


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CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan

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