

39

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 04/1 of 2024
Date of Institution: 12.01.2024
Date of Decision: 24.05.2024

**Aziz Ur Rehman S/O Abdul Aziz, R/O Karhina, Onai, Qoum Ali
Khel, Tappa Jasrat Khel, Tehsil Upper, District Orakzai**

(Plaintiff)

VERSUS

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

(Defendants)

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

JUDGEMENT:

24.05.2024

1. Plaintiff Aziz Ur Rehman s/o Abdul Aziz has brought the instant suit against defendants Deputy Director General NADRA, Islamabad and 02 others for declaration-cum-perpetual and mandatory injunction to the effect that his correct date of birth is 01.01.2004, but the same has been wrongly entered in his record with the defendants as 01.01.1997. He further alleged that correct name of his mother is Mst. Habiba and her correct date of birth is 01.01.1985 as per CNIC No. 004-7546081-0, which amounts to unnatural gap of birth between the plaintiff and his mother namely Habiba. That the mother's name of the plaintiff is wrongly mentioned as Mst.

J. arce
BAKHT ZADA
Senior Civil Judge/JM
Orakzai at Baber Mela

90

Tajmin Bibi in the record of the defendants, who is his step mother and because of the said wrong entry, the defendants have denied the renewal of his CNIC, which resulted into hardships for the plaintiff and needs rectification. He alleged that the defendants were asked time and again for correction of date of birth and mother's name of the plaintiff, but they refused to do so, hence, the present suit;

2. Defendants were summoned, who appeared before the court through their representative and submitted written statement.

3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the correct date of birth of the plaintiff is 01.01.2004 and correct name of his mother is Mst. Habiba while the same have been wrongly entered as 01.01.1997 and Mst. Tajmin Bibi respectively in his record with the defendants?*
3. *Whether plaintiff is entitled to the decree as prayed for?*
4. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

PW-01 is the statement of Ihsan Ullah s/o. Fazal Rahim. He is the

Case
24.5.24
BAKHT ZADA
Senior Civil Judge/JM
Orakzai at Baber Mela

CG

maternal uncle and special attorney for the plaintiff. His Special attorney is Ex.PW-1/1 and Copy of his CNIC is Ex.PW-1/2. He stated that correct date of birth of the plaintiff is 01.01.2004 and correct name of his mother is Mst. Habiba, while the same have been wrongly entered as 01.01.1997 and Tajmin Bibi respectively. That Mst. Tajmin Bibi is the step-mother of the plaintiff. The copy of CNIC of the plaintiff is Ex.PW-1/3 and that of his father is Ex.PW-1/4. Furthermore, father of the plaintiff divorced Mst. Habiba "mother of the plaintiff" who is now married to one Hameed Ullah Khan. Copy of CNIC of the mother of the plaintiff is Ex.PW-1/5 and there is unnatural gap between the dates of birth of the plaintiff and his mother. At the end, he prayed for decree of the suit as prayed for. He was cross-examined by the representative of the defendants.

PW-02 is the statement of Saif Ullah s/o Fazal Rahim. He is also the maternal uncle of the plaintiff and his CNIC is Ex.PW-2/1. He further narrated the same story as deposed by PW-02. He was also cross-examined by the representative of the defendants.

PW-03 is the statement of Mst. Habiba w/o Hameed Ullah Khan. She stated that she is the real mother of the plaintiff and copy of her CNIC is Ex.PW-1/5 and supported the stance of the plaintiff by narrating the same story as in the plaint. She stated that she was married to one Abdul Aziz and during her matrimonial life, the plaintiff was born

Fazal
24.5.24
BAKHT ZADA
Senior Civil Judge
Orakzai at Baber Mela

42

but later on father of the plaintiff divorced her and she is now married to Hameed Ullah Khan. Furthermore, there is unnatural gap of age between her and the plaintiff. She was cross-examined by the representative of the defendants. During her cross-examination, she admitted that she is the real mother of the plaintiff and Mst. Tajmin Bibi is his step-mother.

On the other hand, representative for NADRA, Irfan Hussain recorded his statement as DW-01, wherein he produced the family tree of Mst. Habiba which is Ex.DW-1/1 and according to it the name of the husband of Mst. Habiba is Hameed Ullah Khan and her date of birth is 01.01.1985. That according to SOPs of NADRA, Biometric of mother and a sibling is required and there must be 17/18 years of age difference between the mother and her elder child. That according to SOPs of NADRA, changing of date of birth of illiterate person is possible on the basis of birth certificate issued by Union Council. He was cross-examined by the counsel for the plaintiff. He admitted during his cross-examination that there is only 03 years of age difference between the dates of birth of the plaintiff and his step-mother Tajmin Bibi and the possibility that Mst. Tajmin Bibi is his real mother is ruled out. He also admitted that he has got no objection if the instant suit is decreed in favour of the plaintiff.

After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused.

24.5.24
BAKHT ZADA
Senior Civil Judge/JM
Orakzai at Baber Mela

43

My Issue wise findings are as under: -

Issue No. 02:

The plaintiff alleged that his correct date of birth is 01.01.2004 and correct name of his mother is Mst. Habiba, but the same have been wrongly entered in his record with the defendants as 01.01.1997 and Tajmin Bibi respectively. That correct date of birth of Mst. Habib (real mother of the plaintiff) is 01.01.1985 as per CNIC No. 21604-7546081-0, which amounts to unnatural gap of birth between the plaintiff and his mother. PW-01 and PW-02 who are the maternal uncles of the plaintiff and brothers of Mst. Habiba have affirmed that correct date of birth of the plaintiff is 01.01.2004 instead of 01.01.1997 and correct name of his real mother is Mst. Habiba instead of Tajmin Bibi. PW-03, Mst. Haiba has also affirmed that she is the real mother of the plaintiff and correct date of birth of the plaintiff is 01.01.2004 while it has been wrongly entered as 01.01.1997 in his record with the defendants and there is unnatural gap of her age with his son (plaintiff). Furthermore, she disclosed the fact that Tajmin Bibi is the step-mother of the plaintiff and her name has been wrongly entered in his record with the defendants as his real mother. PW-03 being real mother of the plaintiff is natural witness of the date

Recd
24.5.24
BAKHT ZADA
Senior Civil Judge
Orakzai at Baber Mela

34

of birth of the plaintiff and she admitted herself that she is real mother of the plaintiff. Furthermore, according to the statement of DW-01, the entry of wrong date of birth and mother's name of the plaintiff in his record with the defendants has rendered it impossible to apply for renewal of his CNIC due to unnatural gap and wrong name of mother. He also shows his no objection on correction of date of birth, mother's name of the plaintiff and issuance of decree as prayed for in his favour. 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 proved through cogent evidence that his correct date of birth is 01.01.2004 and correct name of his mother is Mst. Habiba. Issue No. 01 & 03 are decided in positive.

RELIEF:

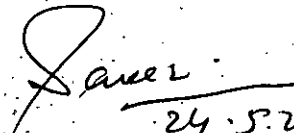
As sequel to my above issue wise findings, the plaintiff proved his case through cogent evidence, therefore suit of the plaintiff is hereby decreed as prayed for with no order as to cost.

24-5-29
BAKHT ZADA
Senior Civil Judge
Orakzai at Baber Mela

(40)

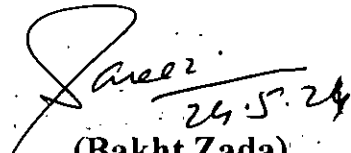
File be consigned to the Record Room after its completion and compilation.

Announced
24.05.2025


(Bakht Zada) 24.5.24
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

Certified that this judgment of mine consists of seven (07) pages, each has been checked, corrected where necessary and signed by me.


(Bakht Zada) 24.5.24
Senior Civil Judge,
Orakzai at (Baber Mela)