

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

Suit No.....09/1 of 2024.

Date of Institution.....03.04.2024.

Date of Decision.....13.05.2024.

- 1. Wajid Ullah S/O Jana Baz
- 2. Zalfa Jan Wd/O Jana Baz both R/O Qaum Feroz Khel, Tappa Ghairat Khel, Tehsil Lower, District(Plaintiffs)


Versus

- 1. Chairman NADRA, Islamabad.
 - 2. Director General NADRA, Khyber Pakhtunkhwa.
 - 3. Assistant Director NADRA, District Orakzai.
- (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGMENT
13.05.2024

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



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Civil Judge, JM
Kalaya Orakzai

Brief facts in the backdrop are that plaintiffs have filed the instant suit for declaration cum-permanent injunction to the effect that as per service record, true and correct date of birth of plaintiff No. 01 is 01.01.1982 and that of plaintiff No. 02 is 01.01.1964, however, defendants have incorrectly entered the same as 01.01.1989 and 01.01.1982 respectively which entries are wrong, illegal and ineffective

upon the rights of plaintiffs and liable to be rectified. That due to this wrong entry, there is also unnatural age difference of about 07 years between plaintiff No. 1 (son) and plaintiff No. 2 (mother). That defendants were asked time and again to rectify date of birth of plaintiffs 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


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1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiffs is within time?
3. Whether correct date of birth of plaintiff No. 1 is 01.01.1982 and that of plaintiff No. 2 is 01.01.1964 and defendants have incorrectly and wrongly entered the same as 01.01.1989 and 01.01.1982 respectively? OPP
4. Whether plaintiffs are entitled to the decree as prayed for? OPP
5. 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.

Plaintiffs produced two witnesses in support of their claim while defendants produced one witness in defense.

Muhammad Israr/relative of plaintiffs appeared and deposed as PW-01. Copy of his CNIC is Ex.PW-1/1. Wajid Ullah/plaintiff No.1 for himself appeared and deposed as PW-02. He produced copy of his CNIC as Ex.PW-2/1, copy of his mother's CNIC as Ex.PW-2/2, copy of sheet roll as Ex.PW-2/3, copy of CNIC of Mst. Saif Ullah Jan (sister of plaintiff No.2) as Ex.PW-2/4 and copy of cancellation certificate of CNIC of his father as Ex.PW-2/5. Lastly, he requested for decree in their favor.



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Thereafter, evidence of plaintiffs was closed.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He stated that plaintiffs have been issued CNICs as per information provided by them and that they have got no cause of action. He produced NADRA record/family tree of plaintiffs (03 pages) which is Ex. DW-1/1.

Thereafter, evidence of defendants was closed.

Atif Ullah/record keeper of DPO office, Orakzai was summoned as CW along with service record of plaintiff. Today, he appeared and deposed as CW-01. He produced original service book/

service record (consisting of 18 pages) which is Ex.CW-1/1. Copy of his CNIC and service card are Ex.CW-1/2 and Ex.CW-1/3 respectively. Per service record, date of plaintiff No. 1 is entered as 1982. Original record returned after examination of witness.

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

ISSUE NO.2

Plaintiffs have been issued CNICs on 03.02.2009 and 05.02.2023 with expiry dates 31.01.2019 and 05.02.2033 while suit in hand was filed on 03.04.2024. 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 plaintiffs is held to be within time.

Issue No. 2 decided in positive.

ISSUE NO.3

Claim and contention of plaintiffs is that true and correct date of birth of plaintiff No. 01 (son), as per service record, is 01.01.1982 and that of plaintiff No. 02 (mother) is 01.01.1964, however, defendants have incorrectly entered the same as 01.01.1989 and 01.01.1982 respectively which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. Plaintiff No. 1 produced documentary evidence in support of his claim in shape of service record Ex.PW-2/3 as per which date of birth of plaintiff No. 1 is recorded as

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01.01.1982. Record produced by CW-01 in shape of Ex.CW-1/1 (consisting of 18 sheets) is also supportive to the claim and contention of plaintiffs. On the other hand, not a single document was produced by DW-01 which could rebut the version of plaintiffs. That due to the alleged wrong entry, there is also unnatural age difference of about 07 years between plaintiff No. 1 and plaintiff No. 2. Per Ex.PW-2/3 (copy of CNIC of sister of plaintiff No. 2), date of birth of sister of plaintiff No. 2 is recorded as 01.01.1965 which supports the plea of plaintiff No. 2. Plaintiff No. 2 is not a government servant. The rectification/modification sought by plaintiffs will not affect rights of others.

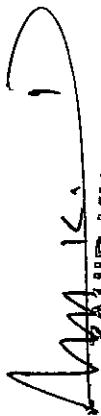
Keeping in view the above discussion, documentary as well as oral evidence available on file. Issue No. 3 decided in favor of plaintiffs against the defendants.

ISSUE NO.1 & 4.

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

RELIEF:

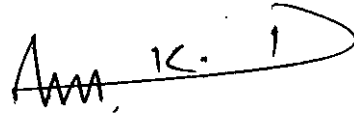
Crux of my issue wise discussion is that suit of the plaintiffs is hereby decreed in their favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any.


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

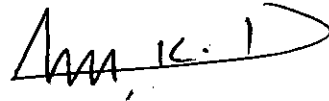
ANNOUNCED
13.05.2024



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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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