

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

Civil Suit No. 42/1 of 2024
Date of Original Institution: 10.08.2024
Date of Decision: 21.08.2024

1. MUHAMMAD TAJ SON OF MEER AHMAD KHAN AND
2. MST. SADO KHELA WIFE OF MUHAMMAD TAJ, BOTH RESIDENTS OF QOM MALA KHEL, TAPPA CHAR KHELA, DISTRICT ORAKZAI.

.....(PLAINTIFFS)

VERSUS

1. CHAIRMAN, NADRA, ISLAMABAD.
2. DIRECTOR GENERAL NADRA, PESHAWAR.
3. ASSISTANT DIRECTOR, NADRA DISTRICT ORAKZAI.

.....(DEFENDANTS)

SUIT FOR DECLARATION -CUM- PERPETUAL AND MANDATORY INJUNCTION

JUDGMENT

21.08.2024

1. Brief facts of the case in hand are that plaintiffs have brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct dates of birth of plaintiffs are **01.01.1967** and **01.01.1968** respectively, while defendants have incorrectly entered the dates of birth of plaintiffs as 1974 and 01.01.1973 in their record, which are wrong, ineffective upon the right of the plaintiffs and

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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, who appeared through their representative namely Syed Irfan Hussain and filed their 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:

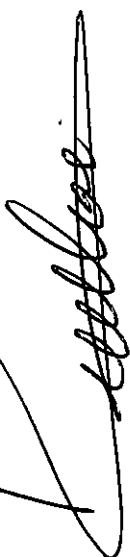
1. Whether the plaintiffs have got a cause of action?
OPP
2. Whether the correct dates of birth of plaintiffs are 01.01.1967 and 01.01.1968 respectively? OPP
3. Whether the plaintiffs are entitled to the decree as prayed for?
4. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:


Whether the correct dates of birth of plaintiffs are 01.01.1967 and 01.01.1968 respectively? OPP

The plaintiffs alleged in their plaint that correct dates of birth of plaintiffs are 01.01.1967 and 01.01.1968 respectively, while defendants have incorrectly entered the dates of birth of plaintiffs as 1974 and 01.01.1973 in their record, which are wrong, ineffective upon the right of the plaintiffs and liable to correction.


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The plaintiffs produced two witnesses in whom the one Abdul Ghafoor son of Muhammad Taj, the son of plaintiffs appeared and deposed as PW-01. He stated that he is working abroad for livelihood. He stated that his date of birth correctly mentioned in his Passport and CNIC. He further stated that there exist unnatural gap of 12 & 13 years with his parents. He produced copies of his passport and CNIC which are Ex. PW-1/1 & Ex. PW-1/2 respectively. He lastly requested for decree of the suit. During cross examination nothing tangible has been extracted out of him.

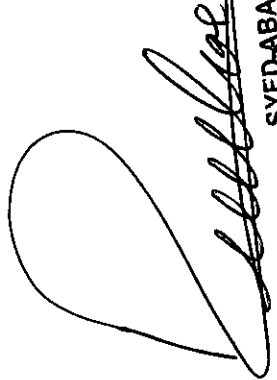

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Muhammad Taj son of Meer Ahmad Khan, plaintiff no. 01 himself and special power of attorney for plaintiff no. 02, appeared and deposed as PW-02. He produced his special power of attorney which is Ex. PW-2/1. He stated that there exist unnatural gap with his sons namely Nasir Muhammad and Abdul Ghafoor. He produced the copies of CNICs of Nasir Muhammad, his wife (plaintiff no. 02) and his CNIC which are Ex. PW-2/2 to Ex. PW-2/4 respectively. He further stated that his correct date of birth is 01.01.1967 while his wife (plaintiff no. 02) correct date of birth is

01.01.1968. He lastly requested for decree of the suit. During cross examination nothing tangible has been extracted out of him. Thereafter, plaintiffs closed their evidence with a note.

In order to counter the claim of the plaintiffs, contesting defendants produced only one witness, the representative of the defendants namely Syed Irfan Hussain, who appeared as DW-01. He produced authority letter, which is Ex. DW-1/1. As per NADRA SOP there must be a difference of 17 to 18 years between the ages of parents and their children. During cross examination he stated that it is correct that there exist unnatural gap of plaintiffs with their sons Nasir Mehmood and Abdul Ghafoor. It is further correct that according to NADRA record Nasir Mehmood and Abdul Ghafoor are real sons of plaintiffs. Thereafter, representative for defendants closed his evidence with a note.

In light of above discussion as plaintiffs succeeded to prove their stance by producing documentary, cogent, convincing and reliable evidence and nothing in rebuttal has been brought on record by the opposite party. Furthermore, it is


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also pertinent to mention here that there exist an unnatural gaps between ages of plaintiffs and their sons. The age difference between the ages of plaintiffs and their sons are against the order of nature and impossible. Hence the issue in hand is hereby decided in positive in favor of plaintiffs and against defendants.

Issue No. 01 & 03:


- Whether the plaintiffs have got a cause of action?
OPP
- Whether the plaintiffs are entitled to the decree as prayed for?

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

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

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiffs is hereby **decreed** as prayed for and defendants are hereby directed to correct date of birth of plaintiff no. 01 as **01.01.1967** and plaintiff no. 02 as **01.01.1968** in their official record. No order as to costs. This


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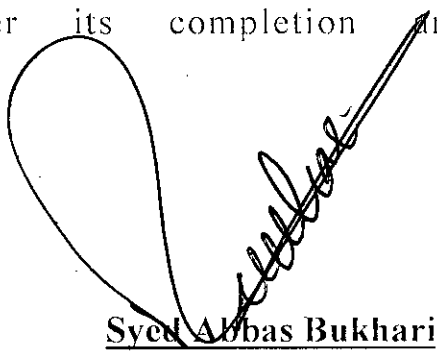
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decree shall not effect the rights of other person(s)
or service record if any.

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

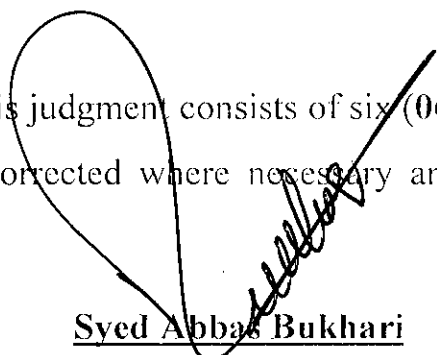
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CERTIFICATE

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