

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

40

Civil Suit No. 19/1 of 2024.
Date of Institution: 17.04.2024.
Date of Decision: 26.07.2024.

1. *Imad Ali S/P Naik Nam Ali,*
2. *Alijba D/O Naik Nam Ali, both residents of Qaum Bar Muhammad Khel, Tappa Khwaidad Khel, Tehsil Lower, District Orakzai.*

(Plaintiff)

VERSUS

1. *Chairman Nadra, Islamabad.*
2. *Director General Nadra, Hayatabad, Peshawar.*
3. *Assistant Director Nadra, Orakzai.*
4. *Chairman Education of Intermediate and Secondary Education Board, Kohat.*
5. *Chairman Federal Board of Intermediate and Secondary Education, Islamabad.*

(Defendants)

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

JUDGEMENT:

26.07.2024

1. Plaintiffs Imad Ali and one other have brought the instant suit against defendants Chairman Nadra, Islamabad and 04 others for declaration-cum-perpetual and mandatory injunction to the effect that correct date of birth of plaintiff No. 1 & 2 is 17.07.2004 being twins by birth, but the defendants have wrongly entered the date of birth of plaintiff No. 1 as 05.05.2008 and that of plaintiff No. 2 as 25.02.2006 in their record which is wrong illegal and ineffective upon the rights of the plaintiffs and needs rectification. That due to these wrong entries there is unnatural age difference of about 04 & 02 years between the births of

BAKHT ZADA
Senior Civil Judg/JM
Orakzai at Baber Mela

Orakzai
26/7/24

41
plaintiff No. 1 & 2 and the date of death of their father who according to his death certificate died on 17.03.2004. It is unnatural to give birth to a child after 02 & 04 years of the death of their father. They alleged that the defendants were asked time and again for correction of date of birth of the plaintiffs, but they refused to do so, hence, the present suit;

2. Defendants were summoned, who appeared before the court through their representatives on behalf of defendants No. 1 to 3 and contested the suit by filing their authority letter and written statement, while the defendant No. 5 was placed and proceeded ex-parte on 16.05.2024. Later on, defendant No. 4 remained absent and is also placed and proceeded ex-parte.

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

Issues:

1. *Whether the plaintiffs have got cause of action?*
2. *Whether the correct date of birth of the plaintiff No. 1 & 2 is 17.07.2004 being twins and the entry of wrong date of births of the plaintiffs in their record with the defendants as 05.05.2008 and 25.02.2006 is wrong and unnatural on the ground that their father had died on 17.03.2004?*
3. *Whether plaintiffs are entitled to the decree as prayed for?*
4. *Relief?*

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

5. **PW-01:** Abas Noora, mother of plaintiffs appeared as PW-01. She

BAKHTSADA
Senior Civil Judge/JJP
Orakzai at Baber Melas

42 supported the stance of the plaintiffs. She produced the death certificate of her husband Naik Nam Ali which is Ex. PW-1/1. Copy of her CNIC is Ex. PW-1/2.

6. PW-02, is the statement of the Naseem Ali, relative of plaintiffs. He also supported the plea of plaintiffs. Copy of his CNIC is Ex. PW-2/1.

7. PW-03, is the statement of plaintiff No. 1, Imad Ali. He repeated the contents of his plaint. Copy of his CNIC is Ex. PW-3/1.

8. PW-04, is the statement of Ibrar Ali, special attorney of plaintiffs. He produced special power of attorney, copy of Form B and copies of DMCs Ex. PW-4/1 to Ex. PW-4/4. Copy of his CNIC is Ex. PW-4/5.

9. On the other hand, Incharge/record keeper appeared and recorded his statement as DW-01. He produced family trees Ex. DW-1/1 & Ex. DW-1/2.

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

My Issue wise findings are as under: -

Issue No. 02:

10. The plaintiff alleged that his correct date of birth of plaintiff No. 1 & 2 is 17.07.2004 being twins by birth, but the defendants have wrongly entered the date of birth of plaintiff No. 1 as 05.05.2008 and that of plaintiff No. 2 as 25.02.2006 in their record with the defendants which is wrong illegal and ineffective upon the rights of the plaintiffs and needs rectification on the ground that the father of the plaintiffs had already

D. Akker
DAKHTI SABA
Senior Civil Judge
Orakzai at Baber, Mela 5

died on 17.03.2004 and giving birth to children after 02 & 04 years after death is unnatural and is liable to correction on the said ground.

43
11. The mother of plaintiffs Mst. Abas Noora being natural witness of the birth of the plaintiffs has got more authenticity attached to her statement than any other witness and even the documentary evidence. She also produced the death certificate of her husband which is Ex. PW-1/1 according to which her husband died on 17.03.2004. The said document is also supported by the certificate issued by Inspector General, Frontier Corps, Major General Muhammad Alam Khattak. The said appreciation certificate also discloses the date of death of the father of plaintiffs as 16/17 March, 2004. Keeping in view the authentic statement of the mother of the plaintiffs being natural witness of the birth of the plaintiffs and the death certificate produced by her coupled with the appreciation certificate issued by his department clearly shows that father of the plaintiffs has died on 17.03.2004 and it is unnatural to give birth to children after two and four years of death of the father, therefore, keeping in view the future complications in the careers of the plaintiffs, I hereby declare that the correct date of birth of the plaintiffs being twins is 17.07.2004, while the same has been wrongly entered in the record with the defendants. Correction be made accordingly in their record with the defendants. Issue is decided in positive.

Issue No. 01 & 03:

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

BAKHT BADA
Senior Civil Judge
Orakzai at Baber Mela

44

13. As sequel to my findings on issue No. 02, the plaintiffs have proved through cogent evidence that the correct date of births of plaintiffs No. 1 & 2 being twins by birth is 17.07.2004 instead of 05.05.2008 and 25.02.2006. Issue No. 01 & 03 are decided in positive.

RELIEF:

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

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

Announced
26.07.2024

Javer
26/7/24
(Bakht Zada)
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

Certified that this judgment of mine consists of five (05) pages, each has been checked, corrected where necessary and signed by me.

Javer
26/7/24
(Bakht Zada)
Senior Civil Judge,
Orakzai at Baber Mela