

IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 237/1 of 2019
 Date of Institution: 21/01/2020
 Date of Decision: 30/01/2020

Hamim Ullah Khan s/o Afzal Khan

Resident of Caste Shekhan Tappa Bazid Khel, PO Mishti Mela, Tehsil central Orakzai & District Orakzai..... (Plaintiff)

VERSUS

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

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

SUMMARY JUDGEMENT:
ORDER XV-A CPC

1. Plaintiff, **Hamim Ullah Khan s/o Afzal Khan**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **01.01.1990**, while it has been wrongly mentioned as **01.01.1993** by the defendants, which is against the facts and circumstances. Hence, the instant suit.
2. Defendants were summoned, who appeared through attorney namely **Syed Farhat Abbas**, who stated at the bar that there is no need of filing of application on behalf of the defendants. He submitted written statement, which is placed on file.


MUHAMMAD AYAZ
 Senior Civil Judge,
 Orakzai at Hangu

During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in the instant case is very petty in nature, which can be decided as per available record and there is no need of pro and contra evidence in the instant case. The primary aim and objective of Amended Management Rules in CPC is, "to enable the court to-

- a. Deal with the cases justly and fairly;
- b. Encourage parties to alternate dispute resolution procedure if it considers appropriate;
- c. Save expense and time both of courts and litigants; and
- d. Enforce compliance with provisions of this Code."


 MUHAMMAD AYAZ
 Senior Civil Judge,
 Orakzai at Hangu

During the scheduling conference, it was noticed by the court that the difference of age between the plaintiff and his younger brother namely Muhammad Rehman is only 04 months, which is not possible and the same is unnatural gape. Even otherwise, the above-mentioned gap between plaintiff and his brother is not appealable to any prudent mind, hence, declared unnatural and against the facts and circumstances of the case. There is no need of evidence in the instant case as the correction can be made on the available record. Even if the evidence is produced by the parties, the factum of unnatural gape between the plaintiff and his brother will not be changed. This unnatural

gape is not sustainable as it is not only against the law of nature but also against the law of the land. If this correction is not made in the CNIC of the plaintiff, at this stage, it would create problems for the plaintiff in future. Even otherwise, it is in the interest of NADRA to maintain correct database of the plaintiff. Interestingly, the representative of the defendants conceded at the bar that decree can be granted without evidence in present case as the gap between the plaintiff and his brother is unnatural and against the law of nature. Hence, plaintiff has got a very good case and is entitled for the decree.

Relief:

Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A of CPC, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as **01.01.1990** forthwith.

- 3. Parties are left to bear their own costs.
- 4. File be consigned to the record room after its necessary completion and compilation.

Announced
30/01/2020


(Muhammad Ayaz Khan)
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

Certified that this judgment of mine consists **04** (four) pages, each has been checked, corrected where necessary and signed by me.



MUHAMMAD AYAZ KHAN
Senior Civil Judge,
Orakzai (at Baber Mela).