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

Civil Suit No. 240/1 of 2019
Date of Institution: 21/01/2020
Date of Decision: 20/02/2020

Abdul Ali s/o Khadim Hussain

Resident of Village Satar Sam, PO Kurez, Tehsil Lower & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, BISE, Kohat.**
2. **Chairman, NADRA, Islamabad.**
3. **Registrar, General NADRA Islamabad.**
4. **District Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

Plaintiff, **Abdul Ali s/o Khadim Hussain**, 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 **15.06.1999**, while it has been wrongly mentioned, as **15.06.1993** in his CNIC and SSC certificate by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

Defendants were summoned, out of which defendant No. 2,3 and 4 appeared through attorney namely Syed Farhat Abbas and submitted written statement which is placed on file, while defendant No.1 proceeded Ex-Parte after due process of law.

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

Issues:

1. Whether plaintiff has got cause of action.
 2. Whether suit of plaintiff is within time.
 3. Whether the correct date of birth of the plaintiff is **15.06.1999** while it has been wrongly entered in his CNIC and SSC certificate as **15.06.1993**.
 4. Plaintiff is entitled to the decree as prayed for.
 5. Relief.
6. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses.
7. PW-1, Abdul Ali, is plaintiff himself, who recorded his statement. He stated that his correct date of birth is **15.06.1999**, while it has been wrongly mentioned in his CNIC and SSC certificate as 15.06.1993 by the defendants. He produced and exhibited the copy of his CNIC as Ex.PW-1/1, copy of his mother's CNIC as Ex.PW-1/2 and copy of SSC certificate of the plaintiff as Ex.PW-1/3. He further stated that he has an unnatural gape with his mother, which is only 15 years. He requested for grant of decree as prayed for. He was cross examined by the attorney of the defendants.
8. PW-2, Khadim Hussain, is father of the plaintiff. He stated that the correct date of birth of the plaintiff is **15.06.1999**. He exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.


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9. PW-3, Japan Ali, is father-in-law of the plaintiff. He supported the contention of the plaintiff and stated that the correct date of birth of the plaintiff is **15.06.1999**. He exhibited copy of his CNIC as Ex. PW-3/1. He is cross examined by the defendants through attorney.

10. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced the registration form of the plaintiff and exhibited the same as Ex. DW-1/1, form-A of the plaintiff as Ex. DW-1/2 and family tree of the plaintiff as Ex. PW-1/3. He is cross examined by the plaintiff.


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After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:


Issue No. 02:

12. The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in affirmative.

Issue No.03:

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Perusal of record and evidence present on file reveals that the plaintiff claims his correct date of birth as **15.06.1999**, on account of unnatural gape with his mother namely Alwari Jan, which is 15 years. Now, if we presume the present date of birth of the plaintiff as correct, which is **15.06.1993**, then, the gape with his mother is 15 years, which is not possible. The same is even against the law of nature. The difference must be more than 18 years, under the normal circumstances. The said difference of age is unnatural and the same is not appealable to any prudent mind. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanoon-e-Shahadat Order, 1984. Even otherwise, it is the fundamental right of the plaintiff to correct his date of birth in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants. Nothing is produced in rebuttal by the defendants.



MANAGER
NADRA
Faisalabad
District Office

Now, the question before the court is, what is the correct date of birth of the plaintiff? The factor of unnatural gap between the

plaintiff and his mother cannot be ignored, which needs to be corrected in order to avoid future complications. If the gape is 17 years, then, the issue of unnatural gape can be resolved. If we consider **01.03.1995** as correct date of birth of the plaintiff, then the gap between the plaintiff with his mother is almost 17 years, which is not unnatural gape. Hence, in circumstances, it is held that the correct date of birth of the plaintiff is **01.03.1995**.

In circumstances, the claim of the plaintiff, as mentioned above, is proved through cogent and reliable evidence. Hence, the issue in hand is decided in affirmative.

Issue No.1&04:

 Both issues are taken together. For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree.

The issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed. Defendants are directed to correct their record and issue CNIC and SSC certificate to the plaintiff with correct date of birth as **01.03.1995**. Parties are left to bear their own costs.

File be consigned to the record room after its completion.

Announced
20/02/2020

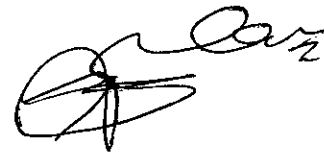


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(Muhammad Ayaz Khan)
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

Certified that this judgment of mine consists 06 (six) pages, each has been checked, corrected where necessary and signed by me.



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