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

Order
09/12/2019

Plaintiff present. Attorney of the defendant present. Vide my detailed separate judgement of today, consists of 05 (five) pages, suit of the plaintiff is hereby decreed as prayed for. No order as to cost.

Case file be consigned to record room.

Announced
09/12/2019


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

(4)

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

Civil Suit No. 172/1 of 2019
Date of Institution: 12/09/2019
Date of Decision: 09/12/2019

Uzma Khatoon d/o Aksar Ali

Resident of Village Laal Mila, PO Kalaya, Tehsil lower 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

JUDGEMENT:


Plaintiff, **Uzma Khatoon d/o Aksar Ali**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that her correct date of birth is **04.02.2001** while it has been wrongly mentioned as **04.02.2008** by the defendants, which is incorrect and against the facts, so, liable to be corrected. Hence, the instant suit.

Defendants were summoned, who appeared through attorney namely **Syed Farhat Abbas** and submitted written statement, which is placed on file.

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

Issues:


1. Whether the plaintiff has got any cause of action?


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2. Whether suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is **04.02.2001**, while the date 04.02.2008 as mentioned in CNIC of the plaintiff is incorrect.
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief.

Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced two (02) witnesses.

1. PW-1, Aksar Ali, is the father/attorney of the plaintiff. He stated that the correct date of birth of the plaintiff is **04.02.2001**, which is correctly entered in her SSC school certificate, while the date of birth in her Form-B has been wrongly mentioned as **04.02.2008** by the defendants. He produced and exhibited the copy of SSC school certificate of the plaintiff as Ex.PW-1/1, copy of Form-B as Ex.PW-1/2, his power of attorney as Ex.PW-1/3 and copy of his own CNIC as Ex.PW-1/4. He requested for decree as prayed for. He is cross examined by the attorney of the defendants.


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2. PW-2, Haisiat Ali, is the relative of the plaintiff, who appeared and recorded his statement. Wherein he supported the contention of the plaintiff and stated that the real date of birth of the plaintiff is **04.02.2001**. He produced and exhibited copy of his

CNIC as Ex.PW-2/1. He is cross examined by the attorney of the defendants.

3. PW-3, Shakeel Hussain, is the relative of the plaintiff, who appeared and recorded his statement. He produced and exhibited copy of his CNIC as Ex.PW-3/1. He stated that the correct date of birth of the plaintiff is **04.02.2001**. He is cross examined by the attorney of the defendants.
4. 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 and exhibited family tree of the plaintiff as EX. DW-1/1. He is cross examined by the plaintiff.

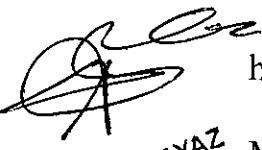
After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:


Issue No. 02:

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 negative.

Issue No.03:


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Qazal, Jhangu

Perusal of record and evidence present on file reveals that correct date of birth of the plaintiff is **04.02.2001**, which is evident from the SSC school certificate of the plaintiff, exhibited as Ex. PW-1/1. It is settled law that whenever there is clash between the CNIC and the school certificate, in respect of date of birth, the school certificate shall prevail. In present case, as per Ex. PW-1/1, the correct date of the birth of the plaintiff is **04.02.2001**. Nothing is produced by the defendants to rebut the said document. 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 Qanun-e-Shahadat. Even otherwise, it is the fundamental right of the plaintiff to correct her date of birth in the CNIC, which cannot be denied to her. 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, hence, the said factum is admissible in evidence, which is relied upon in present circumstances. Further, plaintiff wants to increase her age rather than decrease and this factum cannot be ignored while deciding the fate of the case. The issue in hand is decided in affirmative.


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Issue No. 04:

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 as prayed for.

The issue is decided in affirmative.

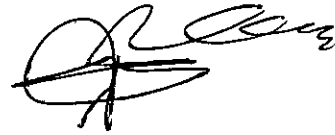
Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct her date of birth as **04.02.2001** forthwith.

Parties are left to bear their own costs.

File be consigned to the record room after its completion.

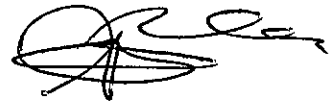
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(Muhammad Ayaz Khan)
Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

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



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