

**IN THE COURT OF REHMIAT ULLAH WAZIR,**  
CIVIL JUDGE-I ORAKZAI AT BABER MELA

Civil Suit No. 09/1 of 2019  
Date of Institution: 28/06/2019  
Date of Decision: 18/02/2020

Muhammad Shoaib S/O Gul Habib R/O Alaf Khel, Tehsil Upper District Orakzai ..... (Plaintiff)

VERSUS

1. Chairman NADRA, Islamabad, Pakistan.
2. Registrar, General NADRA, Islamabad, Pakistan.
3. District Registration Officer, NADRA, District Orakzai.
4. District Immigration and Passport, Orakzai.

(Defendants)

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

**JUDGEMENT:**

1. Plaintiff Muhammad Shoaib has brought the instant suit for declaration-cum-perpetual and mandatory injunction against defendants, Chariman NADRA, Islamabad, Registrar General NADRA, Islamabad, District Officer, NADRA, Orakzai and Passport Office, Orakzai seeking therein that correct date of birth of the plaintiff is **01-01-1974**, as per the date of birth of his Mother namely Mst: Sabr Nisa, whose date of birth is **14-05-1955** according to her CNIC whereas, defendants have un-naturally and wrongly entered the same as **1969** instead of **01-01-1974**, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit;
2. Defendants were summoned, in whom defendant No. 01 to 03 appeared before the court through their representative and

*M*  
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Orakzai at (Babar Mela)

contested the suit by filing their written statement, while the defendant No.4 has been proceeded ex-parte due to its absence on 29/07/2019.

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

**Issues:**

1. Whether the plaintiff has got any cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether suit of the plaintiff is time barred?
4. Whether the correct date of birth of the plaintiff is **01-01-1974** as per his Nikah Nama while his mother's date of birth is 14-05-1955, which made the gap between the plaintiff and his mother as 14 years, which is un-natural and un-lawful?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

**Issue No. 02:**

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

YK  
 Refused Nikah Nama  
 Civil Judge/JM-1  
 Bahar Nela

**Issue No. 03:**

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on **22-05-2019**. Thus, the same is well within time. The issue is decided in positive.

**Issue No. 04:**

The plaintiff alleged in his plaint that his correct date of birth is **01-01-1974**, as per his Nikah Nama and his mother's date of birth whereas, defendants have wrongly entered the same as **1969**, instead of **01-01-1974**, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence the present suit;

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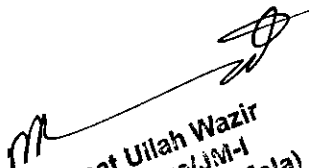
The plaintiff produced witnesses in whom the plaintiff himself appeared as PW-1, who produced his own CNIC and Mother's CNIC which are Ex. PW-1/1 and PW-1/2 respectively and that according to this the date of birth of the plaintiff is **01-01-1974**, while that of his mother is **14-05-1955**, so there is a difference of 14 years between son and his mother, which is very un-natural

and un lawful. Further Hassan Akber, the cousin of the plaintiff appeared as PW-2, who produced his own CNIC which is Ex. PW-2/1, and further support the contention of the plaintiff. Both the witnesses have been crossed examined but nothing solid has been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the contesting defendants produced only one witness, as Mr. Syed Farhat Abbas, the representative of the contesting defendants appeared as DW-1, who produced the "Processing Form", "Family Tree of CNIC (alpha)" and "Family Tree of CNIC (beta)" of the plaintiff which are exhibited as Ex. DW-1/1 to DW-1/3 respectively. But admitted in his cross examination that it is correct that there is an un-natural difference in the dates of birth of the plaintiff and his mother, that is why, his CNIC has been blocked.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the claim of the plaintiff that there is an un-natural difference in the dates of birth of he and his mother is admitted by the contesting defendants in the statement of their representative as DW-1. Further, the plaintiff is a poor and an illiterate person and correction in his date of birth would save him from miseries which one is compelled to face by blocking his CNIC and one also not affect the rights of any person. Thus, the issue is decided in positively.

  
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**Issue No. 01 &05:**

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

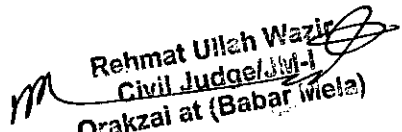
**RELIEF:**

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with no order as to costs.

Defendants are directed to issue CNIC to the plaintiff as per her correct date of birth i.e. **01-01-1974**.

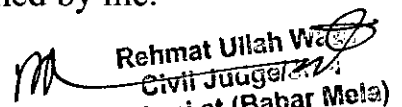
File be consigned to the Record Room after its completion and compilation.

**Announced**  
**18-02-2020**

  
Rehmat Ullah Wazir  
Civil Judge-I  
Orakzai at (Babar Mela)  
**(Rehmat Ullah Wazir)**  
Civil Judge-I,  
Orakzai at Baber Mela.

**CERTIFICATE**

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

  
Rehmat Ullah Wazir  
Civil Judge-I  
Orakzai at (Babar Mela)  
**(Rehmat Ullah Wazir)**  
Civil Judge-I,  
Orakzai at Baber Mela.