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IN THE COURT OF MUHAMMAD JUNAID ALAM,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI


Civil Suit No. 43/1 of 2024
Date of Original Institution: 16.09.2024
Date of Decision: 24.02.2025

1. MUHAMMAD SOHAIL,
2. MUHAMMAD TOFAIL,
3. MUHAMMAD ROHIL AND
4. MUHAMMAD SONAIL, ALL SONS OF
MUHAMMAD JANAN, ALL RESIDENTS OF
QOM UTMAN KHEL, TAPPA SHABI KHEL,
TEHSIL LOWER DISTRICT ORAKZAI.

..... (PLAINTIFFS)

VERSUS

1. CHAIRMAN, NADRA, ISLAMABAD.
2. DIRECTOR GENERAL NADRA, PESHAWAR.
3. ASSISTANT DIRECTOR, NADRA DISTRICT ORAKZAI.
4. UNION COUNCIL TANDA THROUGH SECRETARY.


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.....(DEFENDANTS)

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

JUDGMENT

24.02.2025

1. Brief facts of the case in hand are that plaintiffs have brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that correct dates of birth of plaintiff no. 01 & 2 are **04.12.2006**, plaintiff no. 03 & 04 are **18.10.2009 & 16.03.2016** respectively.

while defendants have incorrectly entered the dates of birth of plaintiffs are 19.03.2005, 04.12.2006, 18.10.2008 & 16.03.2013 respectively in their record, which are wrong, ineffective upon the rights of the plaintiffs and liable to correction.

2. Defendants were asked time and again to do the aforesaid correction but they refused, hence, the present suit;
3. Defendants were summoned, defendant no. 01 to 03 appeared through their representative namely Iftikhar Ahmad while defendant no. 04 absent despite proper service, hence, placed and proceeded ex-parte. Representative for defendants no. 01 to 03 filed their written statement whereby they objected the suit on factual and legal grounds.
4. Divergent pleadings of the parties were reduced into the following issues;

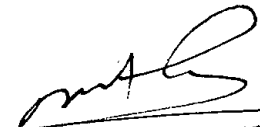
Issues:

1. Whether the plaintiffs have got a cause of action?

OPP

2. Whether the correct dates of birth of plaintiff no. 01 & 02 according to their birth certificates are 04.12.2006, plaintiff no. 03 is 18.10.2009 and plaintiff no. 04 according to school certificate is 16.03.2016? **OPP**

3. Whether the plaintiffs are entitled to the decree as


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prayed for?


4. Relief?

Issue wise findings of this court are as under: -

Issue No. 02:

Whether the correct dates of birth of plaintiff no. 01 & 02 according to their birth certificates are 04.12.2006, plaintiff no. 03 is 18.10.2009 and plaintiff no. 04 according to school certificate is 16.03.2016? OPP

The plaintiffs alleged in their plaint that correct dates of birth of the plaintiff no. 01 & 2 are 04.12.2006, plaintiff no. 03 & 04 are 18.10.2009 & 16.03.2016 respectively while defendants have incorrectly entered the dates of birth of plaintiffs are 19.03.2005, 04.12.2006, 18.10.2008 & 16.03.2013 respectively in their record, which are wrong, ineffective upon the rights of the plaintiffs and liable to correction.



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The plaintiff produced two witnesses in whom the one Muhammad Janan son of Haleem Khan, the attorney for plaintiffs/father of plaintiffs, appeared and deposed as PW-01. He produced his special power of attorney which is Ex. PW-1/1. He stated that plaintiff no. 01 & 02 are twin and their correct dates of birth are 04.12.2006, whereas defendants incorrectly entered the date of birth of plaintiff no.

01 as 19.03.2005 and plaintiff no. 02 as 04.12.2006 in their record. He further stated that correct date of birth of plaintiff no. 03 is 18.10.2009, while defendants have incorrectly entered the same as 18.10.2008 in their record. He further stated that correct date of birth of plaintiff no. 04 is 16.03.2016, while defendants have incorrectly entered as 16.03.2013 in their record. He produced the copy of Form-B of plaintiffs, Birth Certificate and school birth certificate of plaintiff no. 04, birth certificate of plaintiff no. 03, birth certificates of plaintiff no. 01 & 02 and copy of his CNIC which are exhibited as Ex. PW-1/3 to Ex. PW-1/8 respectively. He lastly requested for decree of the suit.


During cross examination nothing tangible has been extracted out of him.

Kashmir Khan son of Abdul Aziz, appeared and deposed as PW-02. He supported the stance of plaintiffs as narrated in the plaint. He lastly requested for decree of the suit. During cross examination he stated that plaintiff no. 01 & 02 are twin. Thereafter, plaintiff closed his evidence with a note.


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In order to counter the claim of the plaintiff, defendants produced only one witness, the representative of the defendants namely Iftikhar, who appeared as DW-01. He produced family tree, which is Ex. DW-1/1 & Ex. DW-1/2. He stated that as per family tree the dates of birth of plaintiffs is correctly mentioned. He further stated that as per NADRA SOP date of birth can be changed on Union Council Birth Certificate. During cross examination he admitted that plaintiffs can be changed dates of birth according to Ex. PW-1/3 to Ex. PW-1/7. It is correct that we correct dates of birth according birth certificate issued by Union Council. Thereafter, representative for defendants closed his evidence with a note.

In light of above discussion as plaintiffs succeeded to prove their stance by producing documentary, cogent, convincing and reliable evidence and nothing in rebuttal has been brought on record by the opposite party. Furthermore, it is also pertinent to mention here that according to Ex. PW-1/6 & Ex. PW-1/7 (birth certificates issued by Union Council of plaintiff no. 01 & 02) the dates of birth clearly mentioned as 04.12.2006. It is also



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worth mentioning here that according to Ex. PW-1/5 (birth certificate issued by union council of plaintiff no. 03) the date of birth has correctly mentioned as 18.10.2009. Hence, in light of above discussion, the issue in hand is hereby decided in positive in favor of plaintiffs and against defendants.

Issue No. 01 & 03:

Whether the plaintiffs have got a cause of action?

OPP


Whether the plaintiffs are entitled to the decree as prayed for?

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

As sequel to my findings on issue no. 02 the plaintiffs have got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

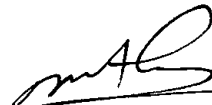
As sequel to my above issue wise findings, the suit of the plaintiff is hereby **decreed** as prayed for. No order as to costs. This decree shall not effect the rights of other person(s) or service record if any.


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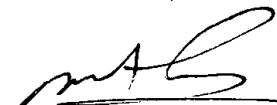
File be consigned to the District Record Room, Orakzai after its completion and compilation.

Announced
24.02.2025


Muhammad Junaid Alam,
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Tehsil Court, Kalaya, Orakzai

CERTIFICATE

Certified that this judgment consists of seven (07) pages, each has been checked, corrected where necessary and signed by me.


Muhammad Junaid Alam,
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai