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**IN THE COURT OF IJAZ MAHSOOD, SENIOR CIVIL JUDGE,
ORAKZAI AT BABER MELA**

Suit No..... 100/1 of 2024

Date of Institution..... 02.10.2024

Date of Decision.....13.03.2025

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1. Hakeem Khan s/o Ali Rab Khan

2. Rameena Jan d/o Ali Rab Khan

3. Speena Jan w/o Ali Rab Khan

*All R/O Qoum Bar Muhammad Khel, Tappa Alat Khel,
Village Khandu Lyara Mela, Tehsil Lower, District
Orakzai.*

.....(Plaintiffs)

Versus

1. Chairman NADRA, Islamabad.

2. Director General NADRA, Hayatabad, Peshawar.

3. Assistant Director NADRA, Orakzai.

4. Chairman BISE Kohat.

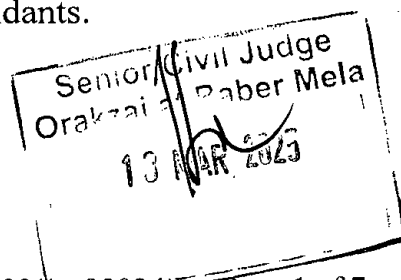
..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGMENT

13.03.2025

This judgment decides instant case filed by Mr.
Hakeem Khan and 02 others for correction of their dates of birth
in their record as maintained by the defendants.



58 59

Pleadings:

The claim as related in the plaint reads that correct dates of birth of the plaintiffs No. 01, 02 and 03 are 21.01.1990, 06.07.1988 and 01.01.1970 respectively while the same have been erroneously recorded as 03.01.1987, 06.07.1984 and 01.01.1978 by defendants. That plaintiff No. 01 and his sister namely Mst. Khizran are twins and correct date of birth of Mst. Khizran is 21.01.1990. That wrong dates of birth of the plaintiffs leaves unnatural age gap between the children and their parent i.e. plaintiff no 03; hence, the suit.

In rebuttal, the representative for defendants No. 01 to 03 and legal advisor for the defendant No. 04 have raised the regular objections to the legal validity of the claim, the standing of the plaintiffs, and factual version of the matter. They concede that all the particulars regarding birth dates were provided by the plaintiffs their-self.

The controversy as related in the pleadings was distilled into the following issues:

Issues:

1. *Whether suit is valid in its legal frame, and the court is competent to hear it?*

2. *Whether correct dates of birth of the plaintiffs No. 01 to 03 are 21.01.1990, 06.07.1988 and 01.01.1970 while the same have*

Senior Civil Judge
District Court
Feroz Mela
13 MAR 2024

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been erroneously recorded as 03.01.1987, 06.07.1984 and 01.01.1978 respectively by defendants?

3. *Relief.*

Thereafter, both sides were invited to produce their evidence to establish the positions they had taken in their pleadings.

Witnesses/Exhibits:

Ali Rab Khan, special attorney of the plaintiffs appeared as PW-01, They have exhibited the following documents;

- i. Special Attorney as Ex.PW-1/1.
- ii. Copy of service card of PW-01 as Ex.PW-1/2
- iii. Copies CNIC, DMC and Certificate of plaintiff No. 01 as Ex.PW-1/3 to Ex.PW-1/5 respectively.
- iv. Copies CNIC, DMC and Certificate of plaintiff No. 02 as Ex.PW-1/6 to Ex.PW-1/8 respectively.
- v. Copy of CNIC of the plaintiff No. 03 as Ex.PW-1/9.
- vi. Copy of CNIC of twin sister of PW-01 as Ex.PW-1/10.
- vii. Copy of CNIC of PW-01 as Ex.PW-1/11.
- viii. Copy of CNIC of PW-02 as Ex.PW-2/1.
- ix. Family Trees consisting of 07 pages as Ex.DW-1/1 to Ex.DW-1/7

Senior Civil Judge
Oral - Father Mela
13 MAR 2023

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Reasons/Reasoning:

Issue wise reasoning of the court followed by a ruling on each issue, and finally on the suit is as follows:

Issue No 01:

This issue questions the legal validity of the frame of the suit, and the competence of the forum to hear it. Plaintiffs have sought correction of their birth dates, which, clearly, is a civil matter, and thus amenable to the jurisdiction of this court under section 09 of the civil procedure code. Other objections such as limitation etc, were not rigorously pressed, and upon examination of the corpus of the case by the court, were found inapplicable. Therefore, the issue is decided for the plaintiffs.

Issue No 02:

This issue houses the heart of the suit: correct birth dates of the plaintiffs. It is claimed that correct dates of birth of the plaintiffs No. 01, 02 and 03 are 21.01.1990, 06.07.1988 and 01.01.1970 while the same have been erroneously recorded as 03.01.1987, 06.07.1984 and 01.01.1978 respectively by defendants. That plaintiff No. 01 and his sister namely Mst. Khizran are twins and correct date of birth of Mst. Khizran is 21.01.1990. That wrong dates of birth of the plaintiffs leaves unnatural age gap between amongst them.

Senior Civil Judge
Ordnance - Baher Mela
15/12/2023

It is pertinent to underscore at the outset that plaintiff no 01 and 02 are literate, and have graduated matriculation as regular students. Their academic profiles as maintained by educational boards and schools record their date of births as impugned herein.

On the other hand, plaintiffs merely claim through self-serving bald assertion that plaintiff no 01 is twin with one of his sisters who is not party in the suit.

It is difficult to accept that plaintiff has been receiving academic testimonials for so long with a wrong entry without objecting to it. Secondly, the age difference between plaintiff and Mst Khizran, whom he claims his twin sister is 03 years, yet it never occurred to them until the issue of unnatural gap with a parent arose.

In these circumstances, the court is not positively convinced through cogent evidence about the claim of the plaintiff of being a twin with twin with his sister, or that his correct date of birth is 1990.

However, on the other hand, if his date of birth, as recorded, is accepted, it leaves him at an unnatural gap with both of his parents. This makes the matter complicated, and make it imperative for the court to afford the plaintiff a solution out of the fix.

Senior Civil Judge
Ordnance Officer Mela
13 MAY 2023

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The matter is further complicated by the fact that father of the plaintiff is a government employee about whom it is claimed that his date of birth as recorded in his CNIC and consequently in his service record is correct.

The court could easily resolve the issue by pushing back the date of birth of the mother who is both illiterate and unemployed, but the date of the father, if modified, will affect his terms of service, which is not permitted by law.

Similarly, if the impugned record is accepted, plaintiffs no 03 would be taken to have given birth to children at the age of 06 and 11, which is biologically impossible, and thus logically absurd.

A claim of unnatural gap that is not rebutted does not call for evidentiary proof, as both sides concede that a human female is incapable of bearing a child at the age of 06.

The court understands that in these circumstances its primary task is not to ascertain the veracity of one claim between two competing ones on the basis of evidence, rather it is to solve the problem of unnatural gap of the children with their parent.

Considering the limitation highlighted above, the age of plaintiffs is declared as claimed. The issue is decided accordingly.

Senior Civil Judge
Orangi
13/08/2024
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It is acknowledged that the decision may not be objectively a sound one, but it seems the best solution in the circumstances of the case. Issue is decided accordingly.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiffs is hereby decreed in their favor against the defendants as prayed for. The correct date of birth of the plaintiff No. 01 is declared as 21.01.1990, plaintiff No. 02 as 06.07.1988 and plaintiff No. 03 as 01.01.1970. Defendants shall bring their records in line with this judgment. Costs shall follow the event. This decree shall not affect the rights of other persons interested, if any.


File be consigned to record room after its necessary completion and compilation.

ANNOUNCED
13.03.2025


(Ijaz Mahsood)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

It is certified that this judgment consists of 07 pages. Each page has been dictated, read, corrected and signed by me.


(Ijaz Mahsood)
Senior Civil Judge,
Orakzai (at Baber Mela)