# IN THE COURT OF ZAHIR KHAN

Civil Judge-I, Kalaya, Orakzai

Suit No.....19/1 of 2023.

Date of Institution.....03.05.2023.

Date of Decision.....08.05.2023.

1. Syed Ali Shah S/O Syed Noor Hassan Jan
2. Mst. Bibi Uzra W/O Syed Ali Shah both R/O Qoam Bar Muhammad Khel, Tappa Baba Nawasi, Tehsil Lower, District Orakzai.....(Plaintiffs)

**Versus**

1. Assistant Director NADRA, Orakzai.

..... ***(Defendant)***

**SUIT FOR DECLARATION & PERMANENT INJUNCTION**

**JUDGEMENT**
08.05.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiffs namely Syed Ali Shah and Mst. Bibi Uzra against defendant, Assistant Director NADRA, Orakzai for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiffs have filed the instant suit for declaration cum-permanent injunction to the effect that true and correct dates of birth of plaintiff No. 1 and plaintiff No. 2 are 01.01.1975 however, defendants have incorrectly entered date of birth of plaintiff No. 1 as 01.01.1979 and that of plaintiff No. 2 as 01.01.1982 which entries are wrong, illegal and ineffective upon the rights of

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plaintiffs and liable to be rectified. It is further averred that due to this wrong entry, there is unnatural age difference of about 14 and 11 years between plaintiffs and their elder son namely Syed Alam Shah whose date of birth is 01.01.1993. That defendant was asked time and again to rectify dates of birth of plaintiffs but in vain hence, the present suit.

After institution of the suit, defendant was summoned, who marked his attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

**ISSUES**

1. Whether plaintiffs have got cause of action? OPP
2. Whether suit of plaintiffs is within time?
3. Whether correct date of birth of plaintiff No. 1 is 01.01.1975 instead of 01.01.1979 and that of plaintiff No. 2 is 01.01.1975 instead of 01.01.1982? OPP
4. Whether plaintiffs are entitled to the decree as prayed for? OPP
5. Relief.

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Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsels for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiffs produced one witness in support of their claim while defendant also produced one witness in defense.

Syed Alam Shah, son and special attorney of plaintiffs, appeared as PW-01. He reiterated the averments of plaint. Copy of CNIC of plaintiff No. 1 is Ex.PW-1/1, copy of CNIC of plaintiff No. 2 is Ex.PW-1/2, copy of his CNIC is Ex.PW-1/3, special power of attorney is Ex.PW-1/4.

Nothing contradictory could be brought on record from PW.

Thereafter, evidence of plaintiffs was closed.

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Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced Family Tree of plaintiffs which is Ex. DW-1/1. He stated that plaintiffs have been issued CNICs as per information provided by them. He lastly requested for dismissal of suit of plaintiffs. Thereafter, evidence of defendant was closed.

The above discussion boils down to my following issue-wise findings.

***ISSUE NO.2***

Plaintiff No. 1 and plaintiff No. 2 have been issued CNICs on 25.12.2019 and 03.08.2022 with expiry dates as 25.12.2029 and 03.08.2032. Suit in hand was filed on 03.05.2023. As period of limitation for filing declaratory suit under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issue No. 2 decided in positive.

***ISSUE NO.3***

Claim and contention of plaintiffs is that true and correct date of birth of plaintiff No. 1 and plaintiff No. 2 is 01.01.1975 however, defendant has incorrectly entered the same as 01.01.1979 and 01.01.1982 respectively which entries are wrong, illegal and ineffective upon the rights of plaintiffs and liable to be rectified. That due to this wrong entry, there is unnatural age difference of about 14 and 11 years between plaintiffs and their elder son namely Syed Alam Shah whose date of birth is 01.01.1993.

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Although, there is no documentary proof which could establish that correct dates of birth of both the plaintiffs are 01.01.1975, however, there is unnatural age difference of about 14 and 11 years between plaintiffs and their elder son named above which is evident from Ex.PW-1/1 and Ex.PW-1/2.

DW-01, admitted unnatural age difference between plaintiffs with their son namely Syed Alam Shah. Plaintiffs are not government servants. The rectification/modification sought by plaintiffs will not

affect rights of others. If dates of birth of plaintiffs are not modified, it will result into inconvenience to plaintiffs and their family members. Oral evidence produced by plaintiffs is also supportive to the averments of plaint.

Keeping in view the above discussion, documentary as well as oral evidence available on file and admission of DW-01, issue No.3 is decided in favor of plaintiffs and against the defendant.

***ISSUE NO.1 & 4.***

In the light of foregoing discussion, it is held that plaintiffs have got cause of action and are entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiffs.

***RELIEF:***

Crux of my issue wise discussion is that suit of the plaintiffs is hereby decreed in their favor against the defendant as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any and their service record, if any.

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

**ANNOUNCED**
08.05.2023

**Zahir Khan**
Civil Judge-I, Kalaya, Orakzai