

**IN THE COURT OF MISS SADIA IBRAHIM, CIVIL JUDGE-  
VII/JM, HARIPUR.**

Suit No.....207/1

Date of Institution..... 10-11-2022

Date of Decision.....10-03-2023

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Counsel for Plaintiff -----Touseef Ahmed & Iram Touseef  
Advocate

Representative for Defendant-----Nadia Jadoon DAD Leagal

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Ali Hassan Khan s/o Zakriya r/o moza Gunjaan Tehsil &  
District Haripur

(Plaintiff)

**VERSUS**

1. NADRA Haripur.

(Defendant)

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**SUIT FOR DECLARATION, DIRECTORY & PERPETUAL  
INJUNCTION**

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**JUDGMENT**

Brief facts of the case are that plaintiff filed the instant suit for declaration, perpetual & directory injunction to the effect that correct date of birth of plaintiff is 23.08.2001, while in the record of defendant it is wrongly entered as 23.08.2004, which is wrong, against the law & facts and liable to be corrected. Plaintiff prayed that defendant may kindly be directed

to issue fresh documents by rectifying their record as 23.08.2001.

Defendant was summoned, Defendant appeared before the court through representative and contested the suit by submitting written statement along with the authority letter.

Divergent pleadings of the parties generated the following issues:

### ISSUES

- i) Whether the plaintiff has got cause of action? OPP
- ii) Whether the correct date of birth of plaintiff is 23.08.2001 and is liable to be corrected? OPP
- iii) Whether plaintiff is entitled to the decree as prayed for in the plaint? OPP
- iv) Relief?

After framing of issues, parties were directed to submit list of witnesses and evidence in support of their contentions. In the light of evidence produced by the parties, the case of the plaintiff is disposed in the light of above framed issues.

### PLAINTIFF'S EVIDENCE

**Phool Bibi wife of Zakriya Khan (real mother of plaintiff) appeared in the witness box as PW-01 and**

recorded her statement in which she stated that she is illiterate lady and plaintiff is also illiterate. She further stated that the real date of birth of plaintiff is 23.08.2001. She produced her CNIC (original seen and return) copy of which is Ex.PW-1/1.

**Ayesha Saddiqa wife of Yasir Mehmood (real sister of plaintiff) appeared in the witness box as PW-02** and recorded her statement in which she stated that correct date of birth of plaintiff is 23.08.2001, she produced her CNIC copy which is Ex.PW-2/1.

**Plaintiff himself appeared and recorded his statement as PW-03**, and recorded his statement in which he stated the he is illiterate and his parent wrongfully entered his date of birth in the record of NADRA as 23.08.2004 instead of 23.08.2001.

Thereafter, counsel for plaintiff closed his evidence.

#### DEFENDANT'S EVIDENCE

By defendant's side, representative of NADRA, namely **Nadia Jadoon DAD Legal appeared as DW-1**, and recorded his statement who produced Scan **Image**

**& Family Tree (consist upon 02 pages) which is Ex.DW-1/1** and stated that plaintiff process for smart CNIC in which he mentioned his name Ali Hassan Khan s/o Zakriya Khan, mother name as Phool Bibi and entered his date of birth as 23.08.2004 on dated 28.08.2022 and mentioned himself as student and verified the documents on biometric. At the end defendant requested for dismissal the case of plaintiff baseless the instant suit is baseless.

Thereafter, representative of defendant closed his evidence.

After concluding evidence, arguments of the parties heard. In light of valuable assistance by counsels for the parties and perusal of entire record, the issue-wise findings of the Court are as under:

### **ISSUE NO.2**

*Whether the correct date of birth of plaintiff is 23.08.2001 but wrongly mentioned in the record of defendants as 23.08.2004? OPP*

Plaintiff contended in his plaint that his real/correct date of birth is 23.08.2001 while in the record issued by the defendants it has been wrongly mentioned as 23.08.2004, which is wrong, illegal, against the law and facts, ineffective upon the rights of plaintiff and is liable to be corrected.

In support of his stance, Plaintiff produced as many as three witnesses. Plaintiff real mother appeared as PW-01 and recorded her statement on oath wherein she acceded to the stance of plaintiff. She produced her CNIC (original seen and return) copy of which is Ex.PW-1/1.

PW-02 is the statement of real sister of plaintiff who conceded to the stance of plaintiff on oath. she produced her CNIC copy which is Ex.PW-2/1.

Plaintiff himself appeared before the court and recorded his statement on oath as PW-03.

Perusal of the suit file and evidence produced by the plaintiff reveals that plaintiff has claimed correction in his NADRA record and in his support his real mother and real sister recorded their statements on oath. Moreover, it is pertinent to mention here that the evidence of mother is considered as the best evidence. here wisdom is taken from the case law reported in **“PLD 2003 Supreme Court page 849, “wherein it has been mentioned by the Honorable Supreme Court of Pakistan that the best evidence to prove this fact (age or date of birth) was of those persons who would have an ordinary course of life having**

**personal knowledge. Statement of mother is at high pedestal as compared to others as she has given birth to him.”**

Secondly, defendant has stated in his statement that they recorded the present date of birth of plaintiff in their record as per his form bay while the same has not been produced by the defendant. Mere oral assertions cannot be relied on by the court.

Thirdly, as per the statement of mother and plaintiff himself he is illiterate, thus he could not be presumed to gain any undue benefit to the disadvantage of anyone else from the said correction.

Fourthly no damage would be caused to the policy of the defendant by rectifying the record of plaintiff in his CNIC nor will it disturb his family tree in any manner.

Hence, the evidence produced by plaintiff in support of his stance, seems genuine, hence, the issue is decided in affirmative.

### **ISSUE NO. 1 & 3**

- i) *Whether the plaintiff has got cause of action?*
- iii) *Whether plaintiff is entitled to the decree as prayed for in his plaint?*

Both the issues are inter-linked, hence, decided collectively.

In the light of evidence discussed on issue No.2 the plaintiff has got genuine cause of action and is entitled to the relief as prayed for. Hence, both the issues are decided in affirmative.

**RELIEF**

Issues wise findings of this court and detail discussion would be that the plaintiff has proved his case through cogent and reliable evidence; hence, suit in hand is hereby **decreed** in favor of plaintiff against the defendant. Moreover, no rights of third party will be affected from the said correction. Therefore, defendant is directed to enter and record correct date of birth of plaintiff as **23.08.2001** in his record. No order as to cost. File be consigned to record room after its necessary completion and compilation.

**ANNOUNCED:**

10.03.2023

**(Miss Sadia Ibrahim)**  
Civil Judge-VII/JM,  
Haripur

**CERTIFICATE**

Certified that my judgment consists of seven (07) pages. Each page has been checked, read over, corrected where necessary and duly signed by me.

**(Miss Sadia Ibrahim)**  
Civil Judge-VII/JM,  
Haripur

ORDER-12

10.03.2023

Plaintiff along with Counsel Touseef Ahmed & Iram Touseef Advocate and defendant through representative Nadia Jadoon DAD Legal present.

Vide my detailed judgment of today, consists of Seven (07) pages, placed on file. Sequel of my discussion would be that the plaintiff has proved his case through cogent and reliable evidence. Therefore, suit in hand is hereby **decreed** in favor of the plaintiff against the defendant. Defendant is directed to enter and record correct date of birth of plaintiff as **23.08.2001** in his record. No order as to cost. File be consigned to record room after its due completion and compilation.

Announced

10.03.2023

(Miss Sadia Ibrahim)  
Civil Judge-VII/JM,  
Haripur