

34

IN THE COURT OF REHMAT ULLAH WAZIR,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 91/1 of 2022
Date of Institution: 15.09.2022
Date of Decision: 28.02.2023

Muhammad Israr s/o Din Badshah R/O Qoum Feroz Khel, Tappa
Hassan Khel, Tajkan, Tehsil Lower, District Orakzai.

(Plaintiff)

VERSUS

The Chairman, BISE Kohat through Controller Examination, BISE
Kohat

(Defendant)

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

JUDGEMENT:

Plaintiff Muhammad Israr has brought the instant suit
for declaration-cum-permanent injunction against defendant,
seeking therein that the correct date of birth of the plaintiff is

01.01.1997 according to CNIC and Service Card while the
defendant has wrongly entered the same as 01.01.1992 in his
record, which is wrong, ineffective upon the rights of the
plaintiff and liable to correction. That the defendant was
asked time and again for correction of date of birth of the
plaintiff but he refused to do so, hence the present suit;

1. Defendant was summoned who appeared before
the court through legal advisor Shaheen Muhammad

REHMAT ULLAH WAZIR
Senior Civil Judge/Jr.,
Orakzai at Baber Mela

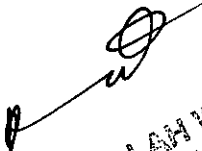
135

Advocate who contested the suit by filing written statement, wherein, various legal and factual objections were raised.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether the suit of the plaintiff is time barred?
3. Whether the correct date of birth of the plaintiff is "01.01.1997" according to the CNIC and Service Book while it has been wrongly entered as 01.01.1992 in the record of the defendant?
4. Whether the plaintiff is entitled to the decree as prayed for?
Relief.


REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baber Mela

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

The plaintiff produced witnesses in whom, the one Mr. Seen Badshah, a brother and special attorney of the plaintiff, appeared as PW-01, who supported the stance of the plaintiff by narrating the same story as in the plaint. Further, he produced CNIC, Service Card and Matric DMC of the plaintiff, which are Ex.PW-1/1 to Ex.PW-1/3 respectively. Further, he produced his Special Power of Attorney and his own CNIC, which are Ex.PW-1/4 and Ex.PW-1/5

36

respectively. Further, Mr. Owais, a Co-Villager of the plaintiff, appeared as PW-02, who also supported the stance of the plaintiff by narrating the same story as in the plaint. Both these witnesses have been cross examined but nothing tangible has been extracted out of them during cross-examination.

In order to counter the claim of the plaintiff, the legal advisor of the defendant stated at the bar that he does not want to produce any evidence rather he relies on the written statement and the documents annexed to the same.

Issue wise findings of this court are as under: -

Issues No. 02:

REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Esber Mela

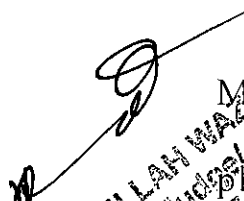
The defendant in written statement raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile 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 **15.09.2022**. Thus, the same is well within time. The issue is decided in negative.

37

Issue No. 03:

The plaintiff alleged in her plaint that the correct date of birth of the plaintiff is 01.01.1997 according to CNIC and Service Card while the defendant has wrongly entered the same as 01.01.1992 in his record, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendant was asked time and again for correction of date of birth of the plaintiff but he refused to do so, hence the present suit;

The plaintiff produced witnesses in whom, the one Mr. Seen Badshah, a brother and special attorney of the plaintiff, appeared as PW-01, who supported the stance of the plaintiff by narrating the same story as in the plaint. Further, he produced CNIC, Service Card and Matric DMC of the plaintiff, which are Ex.PW-1/1 to Ex.PW-1/3 respectively. Further, he produced his Special Power of Attorney and his own CNIC, which are Ex.PW-1/4 and Ex.PW-1/5 respectively. Further, Mr. Owais, a Co-Villager of the plaintiff, appeared as PW-02, who also supported the stance of the plaintiff by narrating the same story as in the plaint.


REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai District Court

38

Both these witnesses have been cross examined but nothing tangible has been extracted out of them during cross-examination.

In order to counter the claim of the plaintiff, the legal advisor of the defendant stated at the bar that he does not want to produce any evidence rather he relies on the written statement and the documents annexed to the same.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that both the documents produced by the plaintiff in support of his claim are more authentic and genuine and produced from proper official custody than the one in the possession of the defendant.

REHMAT ULLAH WAZIR
Senior Civil Judge
Orakzai at Behar Mela

Thus, in the light of aforesaid findings, the plaintiff established his claim through cogent and reliable evidence. Hence, the issue is decided in positive.

Issue No. 01 & 04:

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

As sequel to my findings on issue No. 03, the plaintiff has got a cause of action and therefore, entitled to

139

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 costs.

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

Announced
28.02.2023



(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

Certified that this judgment of mine consists of six (06) pages, each has been checked, corrected where necessary and signed by me.



(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)