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

Civil Suit No. : 94/1 of 2022
Date of institution : 20.09.2022
Date of Decision : 13.03.2023

**Muhammad Ayub s/o Abdul Hameed R/O Qoum Ali Khel, Tappa Sher
Khel, Habib Garhi, Tehsil Upper, District Orakzai.**

(Plaintiff)

VERSUS

1. **Central Government through Chairman NADRA, Islamabad**
2. **Assistant Director NADRA, District Orakzai.**

(Defendants)

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

JUDGEMENT:

Plaintiff Muhammad Ayub has brought the instant suit for declaration-cum-permanent and mandatory injunction against the defendants to the effect that correct date of birth of the plaintiff is 20.09.1982 and he is resident of Tehsil Upper, District Orakzai whereas, defendants have wrongly entered his date of birth as 27.02.1988 and his address as "Tehsil Central, District Orakzai" in their record. That the correct date of birth of his eldest son namely Raheem Khan is 07.02.2003 according to his CNIC. Thus, there is an unnatural gap of 15 years approximately between the dates of

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birth of the plaintiff and his son, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth and address of the plaintiff but they refused to do so, hence the present suit;

Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

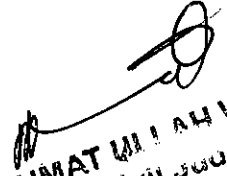
Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the plaintiff is estopped to sue?*
3. *Whether the suit of the plaintiff is time barred?*
4. *Whether the correct date of birth of the plaintiff is 20.09.1982 and he is resident of Tehsil Upper, District Orakzai whereas, the defendants have wrongly mentioned his date of birth as 27.02.1988 and his address as Teshil Central, District Orakzai in their record?*
5. *Whether the plaintiff is entitled to the decree as prayed for?*
6. *Relief?*

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

Issue wise findings of this court are as under: -


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Issue No. 02:

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issues No. 03:

The defendants in their written statement raised their objection that suit of the plaintiffs 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 **20.09.2022**. Thus, the same is well within time. The issue is decided in negative.

Issue No. 04:

The plaintiff alleged in his plaint that correct date of birth of the plaintiff is 20.09.1982 and he is resident of Tehsil Upper, District Orakzai whereas, defendants have wrongly entered his date of birth as 27.02.1988 and his address as "Tehsil Central, District

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Orakzai" in their record. That the correct date of birth of the eldest son namely Raheem Khan is 07.02.2003 according to his CNIC. Thus, there is an unnatural gap of 15 years approximately between the dates of birth of the plaintiff and his son, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth and address of the plaintiff but they refused to do so, hence the present suit;

Plaintiff in support of his contention produced witnesses, in whom the plaintiff himself appeared as PW-01, who narrated the same story as in the plaint and produced his own CNIC which is Ex.PW-1/1. Further, Khyal Zar Khan, a relative of the plaintiff appeared as PW-02, who supported the stance of the plaintiff by narrating the same story as in the plaint and produced his CNIC which is Ex.PW-2/1. This witness has been cross-examined but nothing tangible has been extracted out of him during cross-examination. Further, Hayat Ullah s/o Fazal, school record keeper appeared as PW-03 who also supported the stance of the Plaintiff. He further produced his CNIC and admission & withdrawal register of the school, which are Ex.PW-3/1 and Ex.PW-3/2 respectively

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and according to Ex.PW-3/2, the date of birth of the plaintiff is 20.09.1982. This witness has been cross-examined but nothing tangible has been extracted out of him during cross-examination.

The defendants produced only one witness as the record keeper of NADRA, Orakzai appeared as DW-01, who produced the Alpha and Beta Family Trees of the plaintiff, which are Ex.DW-1/1 and Ex.DW-1/2 respectively. He further produced the CNIC Processing Form of the plaintiff, which is Ex.DW-1/3 and that according to these documents, the date of birth of the plaintiff is 27.02.1988.

During cross-examination, he admitted that there is a gap of 15 years between the dates of birth of the plaintiff and his eldest son and according to SOPs of NADRA, the unnatural gap must be rectified.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that solid evidence is produced with respect to the date of birth of the plaintiff as it is naturally impossible for the plaintiff to have a child in the age of 15 years. Further, this unnatural difference creates difficulties for the child of the plaintiff namely Raheem Khan and so far

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as, the question that the plaintiff has once corrected the date of birth as 1988 somewhere cannot be used to punish his son Raheem Khan by depriving him of his rights, which is against the principles of natural justice and equity. Also, the defendants failed to produce a solid piece of evidence to counter down the claim of the plaintiff; therefore, the issue is decided in positive.

Issue No. 01 & 05:

Both these issues are interlinked, hence, taken

together for discussion.

As sequel to my findings on issue No. 04, the plaintiff has got a cause of action and therefore entitled to 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
13.03.2023

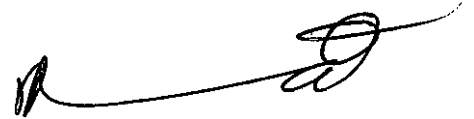
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CERTIFICATE

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



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