

IN THE COURT OF SYED ABBAS BUKHARI,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 167/1 of 2023 - 21/4/2023 *Amir*
Date of Original Institution: 02.03.2023
Date of Decision: 19.04.2023

Shah Wali Khan S/O Niqab Shah, R/O Qaum Feroz Khel,
Tapa Qemmat Khel, Shana Naka, Tehsil Lower, District
Orakzai.

.....(Plaintiff)

VERSUS

Assistant Director, NADRA District Orakzai.

.....(Defendant)

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

JUDGMENT

Brief facts of the case in hand are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that his correct date of birth is **10.03.2002** while same has been incorrectly mentioned in the record of defendant as 10.03.2005, which needs to be corrected and said entries are wrong, illegal and ineffective upon the rights of plaintiff. The defendant was asked time and again to rectify the date of birth of plaintiff but he refused, hence, the present suit.

With due process of law and procedure, the defendant was summoned, who appeared through his

representative and submitted his authority letter and written statement.

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

Issues:

1. Whether plaintiff has got cause of action? OPP
2. Whether the correct date of birth of plaintiff is **10.03.2002** while it has been wrongly entered as 10.03.2005 in his CNIC by defendant? OPP
3. Whether the plaintiff is entitled to the decree as prayed for? OPP
4. Relief.

Issue wise findings of this court are as under: -

Issue No. 02:

Whether the correct date of birth of plaintiff is 10.03.2002 while it has been wrongly entered as 10.03.2005 in his CNIC by defendant? OPP

The plaintiff previously alleged in his plaint that the correct date of birth of plaintiff is **10.03.2002**, however, defendant has entered the same as 10.03.2005 which is wrong, ineffective upon the rights of the plaintiff and liable to correction.

Plaintiff produced witnesses in whom Mr. Shah Wali Khan S/O Niqab Shah, the plaintiff himself, appeared as PW-01. He stated that he is 21 years old

and according to his CNIC he is 18 years old. Further stated that he has obtained his smart card for the first time 02 years back and he did not submitted any documents at that time. He further stated that Kiramat Shah and Aaisha Bibi are his real brother and sister, who are 01 year younger than him, but in defendant record he is 02 years younger from Kiramat Shah and Aaisha Bibi. He lastly stated that he is not 18 years old but in fact he is 21 years old. He produced the copy of his CNIC which is Ex. PW-1/1. During cross examination he stated that he is illiterate. He further stated that Bismia Bibi is his sister who is older than him.

Salip Khan
 SYED ABIDAS BUGHARY
 CIVIL COURT
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Mr. Salip Khan S/O Lal Mat Shah, the relative of the plaintiff is appeared as PW-02. He stated that the one Kiramat Shah is brother of plaintiff who is younger than plaintiff. He further stated that in fact the plaintiff is 21 years old. His CNIC is Ex. PW-2/1. During cross examination nothing tangible has been extracted out of him.

Mr. Khan Afzal S/O Lal Mat Khan, appeared and deposed as PW-03. He stated that plaintiff is 22 years old and plaintiff has born in 2002. The one Kiramat Shah is brother of the plaintiff who is younger than

plaintiff. His photocopy of CNIC is Ex. PW-3/1. During cross examination nothing in rebuttal has been brought on the record.

Mr. Niqab Shah S/O Haji Jalat Shah, the father of plaintiff, appeared as PW-04. He stated that his son's exact age is 22 years wherein as per defendant record his son is 18 years old. Copy of his CNIC is Ex. PW-4/1. During cross examination nothing in rebuttal has been brought on record.

Thereafter, counsel for the plaintiff closed his evidence with a note.

In order to counter the claim of the plaintiff, the defendant produced only one witness, the representative of the defendant who appeared as DW-1. He produced the family tree and CNIC Processing Form of plaintiff which are Ex. DW-1/1 and Ex. DW-1/2 respectively. He stated that plaintiff obtained his 1st CNIC on 01.07.2020 and his father verified the same. He lastly requested for dismissal of the suit. During cross examination he stated that on the time of his first CNIC, no credential has been submitted. Thereafter, defendant has closed his evidence.

In light of above discussion as plaintiff succeeded to prove his stance by producing cogent, documentary,


SYED ALI ASLAM KHAN
Counsel for Plaintiff
Tehsil Courts Malaya

oral and reliable witnesses, which fully supported the claim of the plaintiff. Furthermore, if the instant suit is decreed in favor of plaintiff, the age of plaintiff would increase up to 03 years, which would certainly effect the rights of plaintiff if in case he applies for government job. This fact also reveal that plaintiff has approached this court with clean hands.

In light of above discussion, the plaintiff established his claim through cogent and reliable evidence, therefore, the issue is decided in positive.

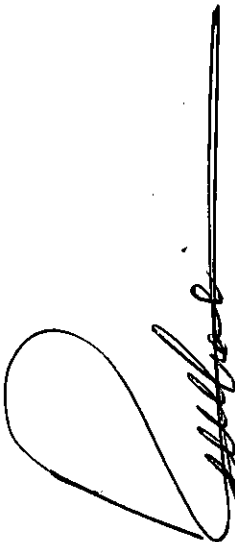
Issue No. 01 & 03:

Whether the plaintiff has got cause of action? OPP

Whether the plaintiff is entitled to the decree as prayed for? OPP

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

As sequel to my findings on issue No. 2, the plaintiff has got a cause of action and therefore he is entitled to the decree as prayed for. Thus, both these issues are decided in positive.

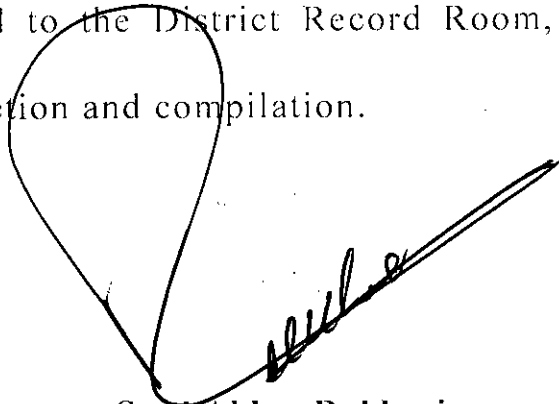

 SYED SAAD ALI KHAN
 Civil Judge (M) I
 Tehsil Courts Malaya

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby **decreed** as prayed for. No order as to costs. Defendant is directed to correct date of birth of plaintiff as **10.03.2002** in their record. This decree shall not effect the rights of other person(s) or service record if any.

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

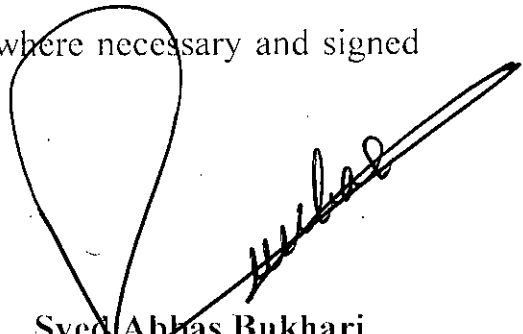
Announced
19.04.2023



Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai

CERTIFICATE

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



Syed Abbas Bukhari
Civil Judge-II,
Tehsil Court, Kalaya, Orakzai