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IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 117/1 of 2019
Date of Institution: 20/05/2019
Date of Decision: 02/01/2020

Alim Badshah s/o Said Man Shah

Resident of Village Nawasi Kot, PO Ghiljo, Tehsil Upper & District Orakzai.....
(Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Registrar, General NADRA Islamabad.**
3. **District Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION


JUDGEMENT:

Plaintiff, **Alim Badshah s/o Said Man Shah**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **12.03.1991** and correct father name is **Said Man Shah**, while it has been wrongly mentioned, date of birth as **01.01.1988** and father name as **Sunab Shah** by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, which is placed on file.

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

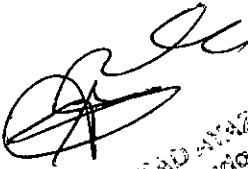
Issues:


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(16)

1. Whether plaintiff has got cause of action.
2. Whether suit of plaintiff is within time.
3. Whether the correct name of the father of the plaintiff is Said Man Shah while it has been wrongly entered in his CNIC as Sunab Shah and the correct date of birth of the plaintiff is 12.03.1991 while it has been wrongly entered in the CNIC as 01.01.1988.
4. Plaintiff is entitled to the decree as prayed for.
5. Relief.

6. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses including himself.
7. PW-1, Alim Badshah, is plaintiff himself, who recorded his statement. He stated that correct name of his father is Said Man Shah, which is wrongly mentioned in his CNIC as Sunab Shah. Secondly, his correct date of birth is 12.03.1991, while it has been wrongly mentioned in his CNIC as 01.01.1988 by the defendants. He produced and exhibited the copy of his father's CNIC as Ex.PW-1/1, in which the father name of the plaintiff is correctly entered as Said Man Shah. He exhibited copy his CNIC as Ex.PW-1/2, copy of the CNIC of his mother as Ex.PW-1/3. He requested for grant of decree as prayed for. He was cross examined by the defendants.
8. PW-2, Syed Man Shah, is father of the plaintiff. He stated that the correct name of the father of the plaintiff is Said Man Shah and correct date of birth is 12.03.1991. He exhibited copy of his


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CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.

9. PW-3, Muhammad Ghani, is PST teacher of Govt Primary School Kot Ali Khel. He produced the school registration certificate of the plaintiff and exhibited the same as Ex. PW-3/1. He supported the contention of the plaintiff. He is cross examined by the defendants through attorney.

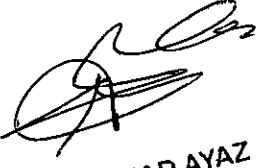
10. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced the registration form of the plaintiff and exhibited the same as Ex. DW-1/1, family tree of Sunab Shah as Ex. DW-1/2 and family tree of Said Man Shah as Ex. DW-1/4. He is cross examined by the plaintiff.

11. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:

Issue No. 02:


12. The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.


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Issue No.03:

Perusal of record and evidence present on file reveals that the plaintiff claims his correct date of birth as **12.03.1991** and correct father's name as **Said Man Shah**, and he relied upon the school record, Ex.PW-3/1. It is settled law that whenever there is clash between the CNIC and school certificates, in respect of date of birth, the school certificate shall prevail. In present case, as per Ex. PW-3/1, the correct date of the birth of the plaintiff is **12.03.1991**, which is not even objected by the defendants in the evidence. Secondly, the real father of the plaintiff namely Said Man Shah appeared and recorded his statement as PW-2 and exhibited his CNIC as Ex. PW-2/1, who verified that his correct name is "**Said Man Shah**", which is wrongly mentioned in the CNIC of the plaintiff as Sunab Shah. The real father of the plaintiff is in good position to tell his real name and correct date of birth of the plaintiff. The said factum has not been shattered by the defendants in evidence. The same are not rebutted by any documents by the defendants, hence, the said evidence is admissible, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanun-e-Shahadat. Even otherwise, it is the fundamental right of the plaintiff to correct


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his date of birth in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said document is admissible in evidence, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. Hence, the said document is admissible in evidence, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants.


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Hence, the issue in hand is decided in affirmative.

Issue No.1&04:

Both issues are taken together. For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

The issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their

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record and issue CNIC to the plaintiff with correct name of his father as **Said Man Shah** and correct the date of birth as **12.03.1991**. Parties are left to bear their own costs.

File be consigned to the record room after its completion.

Announced

02/01/2020

(Muhammad Ayaz Khan)

Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

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

(MUHAMMAD AYAZ KHAN)

Senior Civil Judge,
Orakzai (at Baber Mela).