

IN THE COURT OF REHMIAT ULLAH WAZIR,
CIVIL JUDGE-I ORAKZAI AT BABER MELA

Civil Suit No. 24/1 of 2019
Date of Institution: 30/03/2019
Date of Decision: 18/10/2019

Roman Khan S/O Ghulam Muhammad Khan

Resident of Drey Sotey Upper, Orakzai

(Plaintiff)

VERSUS

1. **Registrar, General NADRA, Islamabad, Pakistan.**

2. **District Registration Officer, NADRA, District Orakzai.**


Through District Registration Officer, NADRA, Orakzia.....

(Defendants)

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

JUDGEMENT:

1. Plaintiff Roman Khan has brought the instant suit for declaration-cum-perpetual and mandatory injunction against defendants Registrar General NADRA, Islamabad, Pakistan through Assistant Registrar General NADRA, Bahadur Banda, District Orakzai seeking therein that correct date of birth of the plaintiff is 1970, according to his Service Book and Medical Certificate, whereas, defendants have wrongly entered the same as 1963 instead of 1970, which is wrong and 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 of the plaintiff but they refused to do so, hence the present suit;
2. Defendants were summoned. Defendant Nos. 01 & 02 appeared before the court through their representative and contested the suit by filing their written statement.


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

Issues:

1. Whether the plaintiff has got any cause of action?
2. Whether suit of the plaintiff within time?
3. Whether the correct date of birth of the plaintiff is 1970 while the date 1963 as mentioned in the CNIC of the plaintiff is incorrect?
4. Whether the plaintiff is entitled to the decree as prayed for?
5. 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 statements 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 30/03/2019. Thus, the same is well within time. The issue is decided in positive.

Issue No. 03:

The plaintiff alleged in his plaint that his correct date of birth is 1970, according to his Service Book and Medical Certificate whereas, defendants have wrongly entered the same as 1963 instead of 1970, which is wrong and 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 of the plaintiff but they refused to do so, hence the present suit;

The plaintiff produces witnesses in whom the record keeper Levy section/ Police section, Mr. Ishaq Ali appeared as PW-1, who produced Service Book, Appointment Order and Medical Certificate of the plaintiff, which are Exhibited as Ex. PW-1/1, PW-1/2 and PW-1/3 respectively. and that according to these documents, the date of birth of the plaintiff is 1970. Further, Mr. Ajmal Khan S/O Muhammad Akber, the relative of the plaintiff appeared is PW-2, who produced his own CNIC which is Ex. PW-2/1, and further narrated the same story as in the plaint. Further Mr. Mastan Shah S/o Zarbad Shah, the other relative of the plaintiff appeared as PW-3, who narrated the same story in the plaint and produced his own CNIC as Exhibit PW-3/1. The plaintiff himself as appeared as PW-4. He stated that the correct date of birth is 1970 but the same has been wrongly entered in the CNIC as 1963 by the defendants and he produced his own CNIC which is exhibited as PW-1/4. And further narrated the same story as in his plaint. All witnesses were cross

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examined but nothing solid has been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the defendants produced only one witness as Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced the RG-1 "Manual Record Form" and "Form A" of the plaintiff which are exhibited as Ex. DW-1/1 and DW-1/2 respectively, and that according to this the date of birth of the plaintiff is 1963 but admitted is his cross examination that it is correct that date of birth of the plaintiff is not clear in the RG-1 "Manual Record Form" and the date of issue of the same is also not clear.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that admittedly the date of birth of the plaintiff is not clear in the RG-1 "Manual Record Form" and the date of issue of the same is also not clear while the suit CNIC has been issued to the plaintiff on 26/07/2010 and the service record of the plaintiff produced by PW-1 pertains to the year 1999, which is earlier in time and presume to be more authentic and genuine than the one in the possession of the defendants. Thus, in the light of aforesaid findings, the issue is decided in positive.

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Issue No. 01 &04:

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 3, 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 no order as to costs.

Defendants are directed to issue CNIC to the plaintiff as per her correct date of birth i.e. 1970.

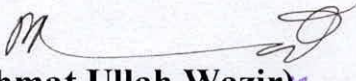
File be consigned to the Record Room after its completion and compilation.

Announced
18/10/2019


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CERTIFICATE

Certified that this judgment of mine consists of 05 pages, each has been checked, corrected where necessary and signed by me.


(Rehmat Ullah Wazir)
Civil Judge-I,
Orakzai at Baber Mela.