

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

Civil Suit No. 57/1 of 2019
Date of Institution: 15/07/2019
Date of Decision: 18/10/2019

Noor Rehman S/O Muhammad R/O Ghoz Garrh Orakzai (Plaintiff)

VERSUS

1. **Registrar, General NADRA, Islamabad, Pakistan.**
2. **Deputy Registrar, General NADRA, KPK, Peshawar.**
3. **District Registration Officer, NADRA, District Orakzai.**
4. **Director Immigration and Passport, Islamabad.**
Through Director Passport Office District Orakzai..... (Defendants)

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

JUDGEMENT:

1. Plaintiff Noor Rehman has brought the instant suit for declaration-cum-perpetual and mandatory injunction against defendants Registrar General NADRA, Islamabad, Pakistan and Deputy Registrar General NADRA, Peshawar, KPK, through Director Passport Office, District Orakzai, seeking therein that correct date of birth of the plaintiff is 05/02/1968, as per his School leaving Certificate issued by GMS Ghoz Garrh, Orakzai, whereas, defendants have wrongly entered the same as 1958 instead of 05/02/1968, 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 of the plaintiff but they refused to do so, hence the present suit;
2. Defendants were summoned. Defendant Nos. 01 to 03 appeared before the court through their representative and contested the

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suit by filing their written statement, while the defendant No.4 has been proceeded is ex-parte due to its absence on 06/05/2019.

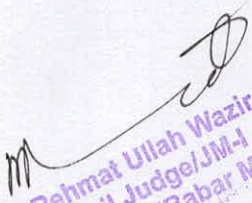
3. Divergent pleadings of the parties were reduced into the following issues;

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 05/02/1968 as per his school record while the date 1958 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 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 27/03/2019. 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 05-02-1968, as per his school record, whereas, defendants have wrongly entered the same as 1958, instead of 05-02-1968, 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 produced witnesses in whom the record keeper, Government Middle School, Ghoz Garrh, Mr. Eid Muhammad appeared as PW-1, who produced Enrollment Register of the plaintiff, which is Ex. PW-1/1, in which the plaintiff is enrolled on S.No 315/113, and that according to this the date of birth of the plaintiff is 05-02-1968. Further Mr. Usman Ghani, the special attorney of the plaintiff appeared is PW-2, who produced the special attorney which is exhibited as Ex. PW-2/1, and further produced the School Leaving Certificate, his CNIC and Passport copy, which are exhibited as Ex. PW-2/2, Ex. PW-2/3, and Ex. PW-2/4 respectively. Further Mr. Nawab Gul, the Uncle of the plaintiff appeared as PW-3, who narrated the same story in the plaint. Further, he produced his own CNIC which is exhibited as Ex. PW-3/1. All the witnesses have been crossed


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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, is Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced the "Manual Card Form" and Form" A" of the plaintiff which is exhibited as Ex. DW-1/1 and Ex. DW-1/2 respectively and that according to this the date of birth of the plaintiff is 1958.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the school record produced by the concerned record keeper is earlier in time and presumed to be more authentic than the record in the custody of the defendants. Further the plaintiff is a poor and illiterate person and correction of his date of birth would have no adverse effect upon the rights of any other person. Thus, in the light of the 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. 05-02-1968.

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

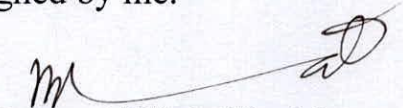
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CERTIFICATE

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.

Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai at (Baber Mela)