

IN THE COURT OF MUHADMMAD IMTIAZ CIVIL JUDGE-II

ORAKZAI

Suit No.....52/1 of 2019
Date of institution.....21/06/2019
Date of decision.....18/10/2019

Mr. Niamat Ullah Advocate for the Plaintiff
Defendants through representative MR. Farhat Abbas

Umar Hayat S/O Muhammad Rafique Cast: Mishti, R/O
Tappa Manizai Ibrahim, Tehsil Central Orakzai, District
Orakzai.

..... (Plaintiff)

VERSUS

1. Registrar General Nadra, Islamabad
2. Deputy Registrar General Nadra Peshawar, KPK
3. Assistant Registrar General Nadra District Orakzai

..... (Defendants)

SUIT FOR DECLARATION, PERPETUAL AND MANDATORY

INJUNCTION

JUDGMENT

1. Brief facts of the case are that Plaintiff filed suit for Declaration along with Perpetual and Mandatory Injunction to effect that Plaintiff correct date of birth is 16-06-1993 while in the defendants record his

Date of birth is recorded as 01-01-1987 which is wrong, clerical mistake and liable to be corrected.

2. Defendant were summoned through the Process of the Court upon which the he appeared and filed Written Statement and denied the claim of the plaintiff and objected the same on so many legal and factual grounds.

3. Pleadings of the parties were reduced to as many as in the following Consolidated issues.

ISSUES:

(1) *Whether plaintiff has got the cause of action?*

OPP

(2) *Whether suit of the plaintiff is bad in its present form? OPP*

(3) *Whether correct date of birth of plaintiff is 16/06/1993 whereas defendants have wrongly recorded the same in their record as 01/01/1987? OPP*

(4) *Whether the plaintiff is entitled to the decree as prayed for? OPP*

Relief

4. Parties were provided with an opportunity to produce their respective evidence who accordingly produced their respective evidence.

5. PW-01 Mr. Muhammad Habib S/O Zafar Khan appeared before the Court as PW-01. Recorded his statement on oath. He deposed to the extent that Plaintiff was his student at Madrasa. According to the Certificate issued by Wafaq U Madaris to him, his D.O.B is recorded

Muhammad Imtiaz
Civil Judge, M-II
Ghatkoti
18-7-14

as 16-06-1993. Submitted copy of the said certificate as Ex.PW 01/01.

6. PW-02 Plaintiff himself appeared before the court as PW-02. He recorded his statement on oath. Submitted before the court that defendants have wrongly recorded his date of birth as 01-01-1987 while his elder brother namely Abdul Qayum date of bith has been recorded as 16-02-1987 which is un-natural and prayed for granting decree in his favor for correction of his date of birth as 16-06-1993. He submitted copy of his CNIC as PW 02/01 and copy of CNIC of his elder brother as mark "A". Evidence of Plaintiff then closed.

7. DW-01 on the other hand representative of the defendants Mr. Farhat Abbas appeared as DW-01 and recorded his statement on oath. He submitted form-A and Form-B of the plaintiff as EX. DW 1/1 and DW-1/2 respectively. Evidence of the Defendant then closed

8. With the valuable assistance of learned counsel for the parties, I have gone through the record. My issue wise findings are as under: -

Issue No. 05:- Whether suit of the plaintiff is bad in its present form? OPD

9. Perusing the case file and gone through the evidence recorded by the parties' defendants fail to point out any defect or illegality in the form of the suit.

10. Hence above issued is decided in "**Negative**"

Muhammad Arif
Civil Judge, DM-II
Orakzai at (Dakar Meela)

Issue No.03:- *Whether correct date of birth of plaintiff is 16/06/1993 whereas defendants have wrongly recorded the same in their record as 01/01/1987?*

OPP

11. Onus to prove this issue is upon the plaintiff. Perusal of case file reveals that this is the main contention of the plaintiff. The main prayer of the plaintiff is that Plaintiff correct date of birth is 16-06-1993 while in the defendants record his Date of birth is recorded as 01-01-1987 which is wrong, clerical mistake and liable to be corrected.

12. To discharge his burden, plaintiff produced only PW-01 his teacher and appeared himself as PW-02 and produced only copy of his CNIC as PW 02/01 and copy of CNIC of his elder brother as mark "A" and copy of Certificate issued by Wafaq U Madaris Ex.PW 01/01. It is evident from the record that Ex.PW 1/1 was issued after EX. PW 2/1. Evidence proceed by the plaintiff on the balance of probabilities in not enough to support his stance.

13. Even if we take into consideration the date of birth of plaintiff as 16-06-1993 and the time at which he applied for obtaining his CNIC i.e Date: 07-01-2010 (CNIC was issued to plaintiff on 29-01-2010) even then his age count as 16 years and 07 months which is not the age of majority for obtaining CNIC.

14. for the reasons discussed in para 12 and 13 above issue is decided in "**Negative**"

Muhammad Imtiaz
Civil Judge/JM-II
Orakzai (Babar Mela)
18-10-21

Muhammad Imtiaz
Civil Judge/JM-II
Orakzai (Babar Mela)

Issue No.01:- Whether plaintiff has got the cause of action? OPP

Issue No.04:- Whether the plaintiff is entitled to the decree as prayed for? OPP

15. Both issues are inter related hence, will be decided together. On the basis of above discussion Plaintiff has **not** got cause of action. Plaintiff is not entitled to the decree as prayed for.


16. Hence both issued are decided in “**Negative**”.

Relief

17. As plaintiff failed to prove his case through cogent and reliable evidence the same is hereby stands dismissed at the cost of Rs.100/-.

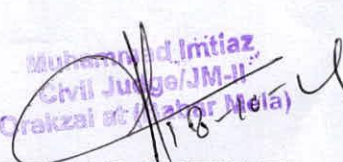
18. File be consigned to record room after its necessary completion.

ANNOUNCED:
18/10/2019


MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI

CERTIFICATE

Certified that this judgment consists of five (05) pages and each page is read over, checked and corrected wherever necessary.


MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI