

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

Civil Suit No. 54/1 of 2019
Date of Institution: 09/07/2019
Date of Decision: 07/11/2019

Fazal Jamil S/O Malik Masooli Khan R/O Qom A' Khel, Sarki Khel
Upper District Orakzai. (Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad, Pakistan.**
2. **Director General NADRA, KPK, Peshawar.**
3. **Assistant Director, NADRA, District Orakzai.**
Through Assistant Director NADRA, Orakzia..... (Defendants)

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

JUDGEMENT:

1. Plaintiff Fazal Jamil has brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, through Assistant Director, Bahadur Banda, District Orakzai seeking therein that correct date of birth of the plaintiff is 1969, whereas, defendants have wrongly entered the same as 1959 in the CNIC No. 21604-0150485-9 instead of 1969, 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, who appeared before the court through their representative and contested the suit by filing their written statement.

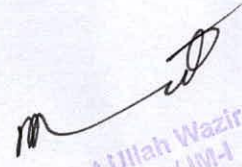
Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai (Babar Mela)

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 the plaintiff is estopped to sue?
3. Whether suit of the plaintiff within time?
4. Whether the correct date of birth of the plaintiff is 1969 as per his service book while the same has been wrongly mentioned in his CNIC as 1959?
5. Whether the plaintiff is entitled to the decree as prayed for?
6. Relief?

Parties were given an opportunity to produce evidence which they did accordingly.


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Issue wise findings of this court are as under: -

Issue No. 02:

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

Issue No. 03:

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 **08/07/2019**. Thus, the same is well within time. The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in his plaint that his correct date of birth is 1969, whereas, defendants have wrongly entered the same as 1959 instead of 1969, 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 plaintiff himself appeared as PW-1, who produced his CNIC which is Ex. PW-1/1 and that according to this the date of birth is 1969. Further stated that he was appointed in the Orakzai Levies on 16/09/1999 and according to service record his correct date of birth is 1969 and that he is illiterate. Further, Muhammad Saeed S/O Amal Hassan, the relative of the plaintiff appeared is PW-2, who produced his own CNIC which is Ex. PW-2/1, further narrated the same story as in the plaint. Further, Muhammad Salim S/O Masooli Khan, the brother of the plaintiff appeared as PW-3, who produced his own CNIC which is Ex. PW-3/1 and further narrated the same story in the plaint. The plaintiff produced the

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

In order to counter the claim of the plaintiff, the defendants produced only Mr. Syed Farhat Abbas, the representative of the defendants as DW-1, who produced the Manual NIC Form, Form A and Family tree of the plaintiff which are Ex. DW-1/1, Ex. DW-1/2 and Ex. DW-1/3 respectively. and that according to this the date of birth of the plaintiff is 1959 but admitted in his cross examination that it is correct that according to the plaintiff's service book record and medical certificate the date of birth is 1969 and that the plaintiff is an illiterate person.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the defendants have issued the CNIC to the plaintiff which is bearing date of birth as 1959 on 15/04/2013 while his Medical Certificate and service record available on case file which is bearing his date of birth as 1969 pertains to the year 1999, thus, older in time and presumed to be more genuine and authentic.

Thus, the issue is decided in positive.


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Issue No. 01 &05:

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, 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 his correct date of birth i.e. 1962.

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


Announced
07/11/2019


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

Rehmat Ullah Wazir
Civil Judge-I
Orakzai at (Babar Mela)

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-I
Orakzai at (Babar Mela)