

IN THE COURT OF MUHADMMAD IMTIAZ CIVIL JUDGE-II

ORAKZAI

(31)

Suit No.....57/1 of 2019
Date of institution.....08/07/2019
Date of decision.....27/11/2019

**Jan Gul S/O Muhammad Akbar, Currently R/O, Wach Bazar
District Hangu.**

..... (Plaintiff)

V E R S U S

1. Chairman Nadra, Islamabad
2. Director General Nadra Peshawar, KPK
3. Assistant Director General Nadra District Orakzai

..... (Defendants)

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

***Mr. Abid Ali Advocate for the Plaintiff
Defendants through representative MR. Farhat Abbas***

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 1968 while in the defendant's record **(CNIC No. 14101-0780452-9)** his Date of birth is recorded as 1964 which is wrong, clerical mistake and liable to be corrected.

2. Defendant were summoned through the Process of the Court upon which they appeared, through representative Mr. Farhat Abbas filed Written Statement and denied the claim of the plaintiff and objected the same on so many legal and factual grounds. (82)

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? OPD*

(3) *Whether correct date of birth of plaintiff is 1968 whereas defendants have wrongly recorded the same in their record as 1964? 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 them as follows:

5. **PW-01** Plaintiff himself appeared before the Court as PW-01. Recorded his statement on oath. Submitted copy of his CNIC Ex.PW 01/01 (Original seen and returned).

6. **PW-02** Ahmad Gul S/O Nezrab Khan appeared as PW-02, Recorded his statement on oath. Submitted copy of his CNIC Ex.PW 02/01 (Original seen and returned).

7. PW-03 Muhammad Shoaib clerk levis Khasadar

Section/Police appeared as PW-03, Recorded his statement on oath.

Submitted copies of service book of the Plaintiff as Ex.PW 03/01

(Consisting of 07 pages) and medical report of the Plaintiff submitted

by him at the time of joining the service Dated: - 15-10-1989 as

Ex,Pw 03/02 (All original seen and returned) respectively.

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8. Then after Plaintiff closed his evidence. On the other hand,

Defendants produced the following evidence.

9. 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 MNIC record of the Plaintiff; which is prior to the

CNIC, CNIC record form, Plaintiff's family tree by birth and

Plaintiff's family tree by marriage as EX. DW 1/1, DW-1/2, DW-1/3

and DW-1/4 respectively. Evidence of the Defendant then closed

10. 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. 02:- Whether suit of the plaintiff is bad in its

present form? OPD

11. Perusing the case file and going through the evidence

recorded by the parties' defendants fail to point out any defect or

illegality in the form of the suit.

12. Hence above issued is decided in "Negative"

Issue No.03:- Whether correct date of birth of

plaintiff is 1968 whereas defendants have wrongly

recorded the same in their record as 1964? OPP

13. Onus to prove this issue is upon the plaintiff. Perusal of case file reveals that this is the main contention of the plaintiff.

14. To discharge his burden, plaintiff himself appeared and through PW-03 produced his service record. Plaintiff alleged that he is an illiterate person and working as cook with former levis khasadar and now with Police. (34)

15. PW-03 who produced service book and medical certificate of the Plaintiff for service are the only documentary evidence available to be relied upon. The said documents were produced through proper custody and not objected by the defendants' representative to be fake or bogus hence admitted to be true and correct. That also support the stance of Plaintiff's D.O.B as 1964. Even otherwise Ex.PW 03/02 is thirty years old documents and carries presumption of truth and there is no rebuttal on behalf of the defendants for falsity of Ex.PW 03/02.

16. For what has discussed above this issue is decided in **"Affirmative"**

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

17. Both issues are inter related hence, will be decided together. On the basis of discussion, while deciding issue No.03, Plaintiff has got cause of action. Plaintiff is entitled to the decree as prayed for.

18. Hence both issued are decided in **"Affirmative"**.

Relief

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19. As plaintiff proved his case through cogent and reliable evidence the same is hereby **Decreed** to effect that Plaintiff correct date of birth is 1968 while in the defendant's record (CNIC No. No. 14101-0780452-9) his Date of birth is recorded as 1964 which is wrong, clerical mistake and liable to be corrected.

20. Defendants are further directed to issue *appropriate* Nation Identity Card to the Plaintiff with correct date of birth as 1968

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

ANNOUNCED:
27/11/2019

Muhammad Imtiaz
Civil Judge-II
Orakzai (Sadar, Orakzai)
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 (Sadar, Orakzai)
MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI

DECREE SHEET

IN THE COURT OF MUHAMMAD IMTIAZ CIVIL JUDGE-II ORAKZAI

Suit No. 57/1 of 2019

Date of institution.....08.07.2019

Date of decision27.11.2019

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(1) Jan Gul S/O Muhammad Akbar currently R/O Wach Bazar, District Hangu.

..... (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

This suit coming on the date 27th day of November 2019 for final disposal before me, in presence of counsel for the plaintiff Mr. Abid Ali advocate and representative for defendants Mr. Farhat Abbas. It is ordered that Keeping in view my detail judgement separately placed on file consisting of 05 pages.

1. *As plaintiff proved his case through cogent and reliable evidence the same is hereby Decreed to effect that Plaintiff correct date of birth is 1968 while in the defendant's record (CNIC No. No. 14101-0780452-9) his Date of birth is recorded as 1964 which is wrong, clerical mistake and liable to be corrected.*

2. *Defendants are further directed to issue appropriate Nation Identity Card to the Plaintiff with correct date of birth as 1968.*

COSTS OF SUIT

PLAINTIFF	CONTENTS	DEFENDANT
	Stamp on suit	
	Pre-emption amount	
	Commission fee	
	Stamp of power	
	Proclamation fee	
	Witness expensive	
	Miscellaneous	
	Total	

Note: Given under my hand signature and seal stamp of this court on 27nd day of, November, 2019.

Muhammad Imtiaz
Civil Judge-II
Orakzai
Muhammad Imtiaz
Civil Judge, Orakzai.