

IN THE COURT OF MUHAMMAD AYAZ KHAN,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

(4)

Civil Suit No. 166/1 of 2019
Date of Institution: 12/09/2019
Date of Decision: 09/12/2019

Muhammad Javid s/o Nizrab Khan

Resident of Village Firoz Khel, PO Feroze Khel, Tehsil lower Orakzai & District Orakzai..... (Plaintiff)

VERSUS

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

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

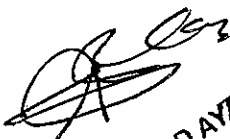
Plaintiff, **Muhammad Javid s/o Nizrab Khan**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **05.03.2000** while it has been wrongly mentioned as **1989** by the defendants, which is incorrect and against the facts, so, liable to be corrected. Hence, the instant suit.

Defendants were summoned, who appeared through attorney namely **Syed Farhat Abbas** and submitted written statement, which is placed on file.

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

Issues:


1. Whether the plaintiff has got any cause of action?


MUHAMMAD AYAZ KHAN
Senior Civil Judge,
Orakzai at Habesha

2. Whether suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is **05.03.2000**, while the date 1989 as mentioned in CNIC of the plaintiff is incorrect.
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief.


Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses.

1. PW-1, Muhammad Javid, is the plaintiff himself. He stated that his correct date of birth is **05.03.2000**, which is correctly entered in his school certificate, while the date of birth in his CNIC has been wrongly mentioned as **1989** by the defendants. He produced and exhibited copy of his CNIC as Ex.PW-1/1 and copy of his SSC school certificate as Ex.PW-1/2. He requested for decree as prayed for. He is cross examined by the attorney of the defendants.
2. PW-2, Naseeb Khan, is relative of the plaintiff, who appeared and recorded his statement. Wherein he supported the contention of the plaintiff and stated that the real date of birth of the plaintiff is **05.03.2000**. He produced and exhibited copy of his CNIC as Ex.PW-2/1. He is cross examined by the attorney of the defendants.


MULHAMMAD AYAAZ
Senior Civil Judge
District Court, Lahore

3. PW-3, Safar Gul, is relative of the plaintiff. He produced and exhibited copy of his CNIC as Ex.PW-3/1. He stated that the correct date of birth of the plaintiff is **05.03.2000**. He is cross examined by the attorney of the defendants.
4. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced and exhibited processing form of the plaintiff as EX. DW-1/1, Form-B as Ex. DW-1/2 and marriage family tree of the plaintiff as Ex. DW-1/3, birth family tree as Ex. DW-1/4. He is cross examined by the plaintiff.

After conclusion of the evidence arguments pro and contra heard. Case file is gone through.


MUHAMMAD AYAZ
 Senior Civil Judge,
 Orakzai at Hangu


My issues wise findings are as under:

Issue No. 02:

The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.

Issue No.03:

Perusal of record and evidence present on file reveals that correct date of birth of the plaintiff is **05.03.2000**, which is evident from the SSC school certificate of the plaintiff, exhibited as Ex. PW-1/2. It is settled law that whenever there is clash between the CNIC and the matric certificate, in respect of date of birth, the matric certificate shall prevail. Interestingly, it is in the policy of the NADRA that for educated person the date of birth is mentioned as per matric certificate of that person. So, as per the matric certificate, correct date of birth of the plaintiff is **05.03. 2000**. Nothing is produced by the defendants to rebut the said document. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanun-e-Shahadat. Even otherwise, it is the fundamental right of the plaintiff to correct his date of birth in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said factum is admissible in evidence, which is relied upon in present


MUHAMMAD AYAZ
Senior Civil Judge,
Orakzai at Hangu

circumstances. Nothing is produced in rebuttal by the defendants. The issue in hand is decided in affirmative.

Issue No. 04:

For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

The issue is decided in affirmative.

Relief:

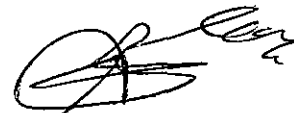
Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as **05.03.2000** forthwith.

Parties are left to bear their own costs.

File be consigned to the record room after its completion.

Announced

09/12/2019




(Muhammad Ayaz Khan)

Senior Civil Judge,
Orakzai at Baber Mela

CERTIFICATE

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



(MUHAMMAD AYAZ KHAN)

Senior Civil Judge,
Orakzai (at Baber Mela).