

(30)

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

Civil Suit No. 139/1 of 2019
Date of Institution: 12.04.2019
Date of Decision: 27/02/2020

**Saif Ullah S/O Mir Hassan Jan R/O Ghiljo, Qom Qutab Khel,
District Orakzai.**

(Plaintiff)

VERSUS

1. **The Chairman BISE, Kohat.**
2. **The Agency Education Officer, Orakzai.**
3. **The Head Master Govt. Primary School, Sherpao, District: Kohat.**
4. **The Principal, Comprehensive High School, Kohat.**
5. **The Registrar General, NADRA, Islamabad.**
6. **The Deputy Registrar General, Peshawar.**
7. **The Director NADRA Office, Orakzai**

Through

System Engineer, NADRA Office, Orakzai

(Defendants)

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

JUDGEMENT:

1. Plaintiff Saif Ullah has brought the instant suit for declaration-cum-permanent injunction against defendants, seeking therein that correct father name of the plaintiff is Mir Hassan Jan while the same is mentioned as Mehar Hassan Jan in academic record which is incorrect and the correct date of birth of the plaintiff as per record of BISE Kohat and Comprehensive High School is 13.02.2001, whereas, defendants have wrongly entered the same as 01-01-1995 in his CNIC and other Academic documents instead of

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13.02.2001, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again for correction of father's name and date of birth of the plaintiff but they refused to do so, hence, the present suit;

2. Defendants were summoned, in whom the defendant No. 05 to 07 appeared before the court through their representative and contested the suit by filing their written statement, wherein various legal and factual objections were raised while the rest of the defendants were placed and proceeded ex-parte.
3. Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether the plaintiff has got a cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether suit of the plaintiff is time barred?
4. Whether the correct father's name of the plaintiff is Mir Hassan Jan while the same is wrongly entered as Mehar Hassan Jan in the record of the defendants, and the correct date of birth of the plaintiff is 13.02.2001 while the same is wrongly entered in the record of the defendants as 01.01.1995?

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5. Whether the plaintiff is entitled to decree as prayed for?

6. Relief?

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


Issue wise findings of this court are as under: -

Issue No. 02:

The contesting defendant 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 contesting defendant in their written statement 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 to the erstwhile FATA 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 12.04.2019. Thus, the same is well within time. The issue is decided in positive.


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Issue No. 04:

The plaintiff alleged in his plaint that correct father name of the plaintiff is Mir Hassan Jan while the same is mentioned as Mehar Hassan Jan in academic record which is incorrect and the correct date of birth of the plaintiff as per record of BISE Kohat and Comprehensive High School is **13.02.2001**, whereas, defendants have wrongly entered the same as **01-01-1995** in his CNIC and other Academic documents, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendants were asked time and again for correction of father's name and 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 the copy of his CNIC which is Ex.PW 01/1 and that according to this his date of birth is 13.02.2001, further produced his secondary school certificate which is Ex. PW 01/2, domicile certificate which is Ex.PW 01/3, his SSC DMC which is Ex.PW 01/4, his Form "B" which is Ex.PW 01/5, his Birth certificates of the schools which are Ex.PW 01/6 and Ex.PW 01/7 and further narrated the same story as in his plaint. He has been cross examined

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but nothing solid has been extracted out of him during cross examination. Further Mr. Mir Hassan Jan, the father of the plaintiff appeared as PW-2, who produced his CNIC which is Ex. PW 02/1 and further supported the stance of the plaintiff by deposing the same facts as in the plaint. He has cross examined but he has not been contradicted during cross examination.

In order to counter the claim of the plaintiff, the contesting defendant produced only one witness as Mr. Syed Farhat Abbas, the representative of the contesting defendants appeared as DW-1, who produced the Processing Form, Form B and Family Tree of the plaintiff which are Ex. DW-1/1 to DW-1/3 respectively. And that according to these documents, the date of birth of the plaintiff is **01.01.1995**. But admitted in his cross examination that it is correct that the plaintiff has not provided his primary school certificate to NADRA and further that it is correct that according to Family Tree, the name of the father of the plaintiff is Mir Hassan Jan.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the stance of the plaintiff is supported by his Secondary School Certificate, Domicile Certificate, DMC, Form "B" and his own CNIC, which all are presumed to be


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genuine for the purpose for which they are produced. Thus, in the light of the aforesaid findings, the issue is decided in positive.

Issue No. 01 &05:

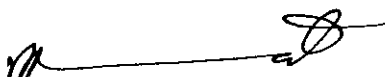
Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with costs.


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

Announced
27-02-2020


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

CERTIFICATE

Certified that this judgment of mine consists of six (06) pages, each has been checked, corrected where necessary and signed by me.


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