

(13)

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

Civil Suit No. 62/1 of 2019
Date of Original Institution: 29/07/2019
Date of Institution after restoration 10/02/2020
Date of Decision: 28/02/2020

**Syed Aman Abbas S/O Syed Tahir Hussain R/O Sec: Syedan,
Sub-Sec: Syedan, Kalaya, Tehsil: Lower, 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 Syed Aman Abbas has brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, through Assistant Director, District Orakzai seeking therein that correct date of birth of the plaintiff is 01.01.1982, whereas, defendants have wrongly entered the same as 01.01.1977 in the CNIC No. 216034-570759-1 instead of 01.01.1982 while the correct date of birth of the elder brother of the plaintiff is mentioned in his CNIC as 05.01.1979 by the defendants while that of the plaintiff


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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.
- 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 the suit of the plaintiff is time barred?
- 4. Whether the correct date of birth of the plaintiff is 01.01.1982 while the same has been incorrectly mentioned in his CNIC as 01.01.1977?
- 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.

Issue wise findings of this court are as under: -

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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 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 29/07/2019. Thus, the same is well within time.

The issue is decided in positive.

Issue No. 04:

The plaintiff alleged in his plaint that correct date of birth of the plaintiff is 01.01.1982, whereas, defendants have wrongly entered the same as 01.01.1977 in the CNIC No. 216034-570759-1 instead of 01.01.1982 while the correct date of birth of the elder brother of the plaintiff is mentioned in

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his CNIC as 05.01.1979 by the defendants while that of the plaintiff 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 01.01.1977. Further, he produced the copy of CNIC of his alleged elder brother, namely Syed Amir Abbas which is Ex.PW 01/2 and that according to this his date of birth is 05.01.1979 but, the plaintiff is shown elder to this brother. Further, narrated the same story as in his plaint. But,

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admitted in his cross examination that all the particulars which were mentioned in his Manual NIC were transferred/mentioned in the present CNIC and that at the time of the making of CNIC, the date of birth was mentioned according to my knowledge. Further, the father of the plaintiff appeared as PW-02, who supported the stance of the plaintiff by narrating the same story as in the plaint.

In order to counter the claim of the plaintiff, the defendants produced only one witness, as Mr. Syed Farhat Abbas, the representative of the defendants appeared as

DW-1, who produced the CNIC Processing Form, Manual Record Form, Form A and Family Tree of the plaintiff which are Ex. DW-1/1 to Ex. DW-1/4 respectively and that according to this the date of birth of the plaintiff is 01.01.1977. He has been cross examined but nothing relevant has been extracted out of him during cross examination.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff failed to establish his claim through cogent and reliable evidence rather the whole of his claim and evidence are based on mere oral assertions. There is no tangible piece of evidence from which it can be presumed that there is an arguable case in favour of the

plaintiff. He has also not produced any piece of evidence which could establish that his brother namely Syed Amir Abbas is elder to him. Thus, in the light of the aforesaid findings, the issue is decided in negative.

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 no cause of action and therefore not entitled to the decree as prayed for. Both these issues are decided in negative.

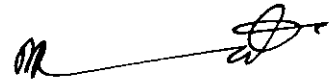
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RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby dismissed with costs.

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

Announced
28/02/2020

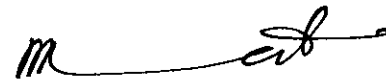


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CERTIFICATE

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.

Rehmat Ullah Wazir
Civil Judge
Orakzai at (Babar Mela)