

IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....22/1 of 2023.
Date of Institution.....18.05.2023.
Date of Decision.....31.05.2023.
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Agha Jan S/O Noora Bat Khan R/O Qaum Mishti, Tappa Haider Khel,
Tehsil Central, District Orakzai.....*(Plaintiff)*

Versus

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Khyber Pakhtunkhwa, Hayatabad.
3. Assistant Director NADRA, District Orakzai.


..... *(Defendants)*

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT
31.05.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Agha Jan against the defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that true and correct date of birth of plaintiff as per pension book is 31.03.1942 whereas defendants have incorrectly and wrongly entered the same as 01.01.1949. It is further averred that correct father's name of plaintiff is **Noora Bat Khan** whereas defendants have incorrectly and wrongly entered the same as **Noor Ayat Khan** which entries are


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
31/05/2023


wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That defendants were asked time and again to do the needful but in vain, hence the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement. In the written statement defendants have taken several legal and factual objections.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties. The controversial pleadings of the parties were reduced into the following issues:

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time? OPP
3. Whether correct date of birth of plaintiff is 31.03.1942 and defendants have wrongly entered the same is 01.01.1949 in their record? OPP
4. Whether correct father's name of plaintiff is Noora Bat Khan instead of Noor Ayat Khan ? OPP
5. Whether plaintiff is entitled to the decree as prayed for? OPP
6. Relief.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
31/05/02 3

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiff produced two witnesses in support of his claim while defendants produced one witness in defense.

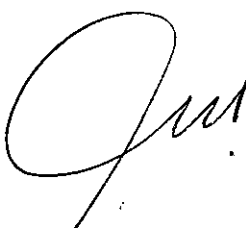
Muhammad Gul (special attorney and son of plaintiff) appeared and deposed as PW-01. He reiterated the averments of plaintiff. Special power of attorney is Ex. PW-1/1. Copy of CNIC of plaintiff is Ex. PW-1/2. Copy of Pension Payment Order Book is Ex. PW-1/3. He requested for decree of suit in favour of plaintiff against the defendants as prayed for.

Makhmali Khan, nephew of plaintiff appeared and deposed as PW-02. He supported plea of plaintiff. Copy of his CNIC is Ex. PW-2/1.

Thereafter, evidence of plaintiff was closed.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced family tree, Beta family tree and RTS which are Ex. DW-1/1 to Ex. DW-1/3 respectively. He stated that plaintiff has been issued CNIC as per information provided by plaintiff and that he has got no cause of action and lastly requested for dismissal of suit.

Thereafter, evidence of defendants was closed.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

31/05/023

The above discussion boils down to my following issue-wise findings.

ISSUE NO.2

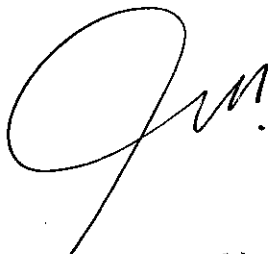
CNIC of plaintiff was renewed on 02.05.2019 with expiry date as lifetime. Suit in hand was filed on 18.05.2023. In plethora of judgments of Apex Superior Courts, every wrong entry will accrue fresh cause of action. CNIC of plaintiff was renewed on 02.05.2019. As period of limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiffs is held to be within time. Issue decided in positive.

ISSUE NO.3 & 4

Both these issues are interlinked, therefore, taken together for simultaneous discussion.

Claim and contention of plaintiff is that his true and correct date of birth, as per Pension Book is 31.03.1942 whereas defendants have incorrectly and wrongly entered the same as 01.01.1949. It is further averred that correct father's name of plaintiff is **Noora Bat Khan** whereas defendants have incorrectly and wrongly entered the same as **Noor Ayat Khan** which entries are wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified.

Record shows that plaintiff was issued CNIC with date of birth as 1949 and father's name as Noor Ayat Khan on the basis of


ZAHIR KHAN
Civil Judge JM
Kalaya Orakzai
31/05/23


43
MNIC bearing No. 147-49038318. Fourth and fifth digits of the MNIC suggest year of birth of plaintiff which is 1949. Per Ex.DW-1/1 to Ex.DW-1/3, plaintiff was issued CNIC on 01.04.2003 on the basis of entries recorded in MNIC. CNIC of plaintiff was renewed on 17.02.2009 with expiry date as 31.01.2019 and it was again renewed on 02.05.2019. On each occasion, plaintiff received his CNIC without any objection regarding his date of birth and father's name. Moreso, per Ex.DW-1/1, father's name of plaintiff's sister (Gul Zeray) is recorded as Noor Ayat Khan. The said sister of plaintiff is not party to the suit which is also fatal to the case of plaintiff. Record keeper of service record was not produced during course of recording evidence. Plaintiff did not appear before the court for evidence. Oral evidence produced by plaintiff is also insufficient to establish claim of plaintiff.

Plaintiff failed to produce cogent, convincing and reliable documentary and oral evidence in support of his claim.

Keeping in view the above discussion, documentary as well as oral evidence available on file, issue No. 3 & 4 are decided in negative and against the plaintiff.

ISSUE NO. 1 & 5.

In the light of foregoing discussion, it is held that plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence; therefore, he has got no cause of action and he is not entitled to the decree, as prayed for. Both these issues are decided in negative and against the plaintiff.


ZAHIR KHAN
Civil Judge, JM
Kalaya Orakza

31/05/23

45

RELIEF.

Crux of my issue wise discussion is that as plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence, therefore, suit of the plaintiff is hereby dismissed.

No order as to cost.

File be consigned to record room after its necessary completion and compilation.

ANNOUNCED
31.05.2023



Zahir Khan
Civil Judge-I, Kalaya, Orakzai

CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
Civil Judge-I, Kalaya, Orakzai