

27

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

Civil Suit No. 11/6 of 2019 (Neem)
Date of Original Institution: 26/11/2019
Date of Institution after restoration 04/06/2020
Date of Decision: 30/09/2020

**1. Syed Baqir Hussain S/O Syed Ajeem Hussain, Section Stori
Khel, Sub-Section Baba Nawasi, 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 Baqir Hussain 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 14.05.1988 according to his school record and service record, whereas, defendants have wrongly entered the same as 14.05.1982 in the CNIC No. 21603-2165822-7 instead of 14.05.1988 which is wrong and ineffective upon the

*Rehmata Ullah Wazir
Civil Judge-I
Orakzai at Baber Mela*

28

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 cause of action?*
2. *Whether the suit of the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 14.05.1988 while is has been wrongly entered in his CNIC as 14.05.1982?*
4. *Whether the plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

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

Issue wise findings of this court are as under: -

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.

29

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 26/11/2019. 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 14.05.1988 according to his school record and service record, whereas, defendants have wrongly entered the same as 14.05.1982 in the CNIC No. 21603-2165822-7 instead of 14.05.1988 which 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 copy of his CNIC

Handwritten signature
Original of (CNIC) (2019)

which is Ex.PW-1/1, copy of his Seat Roll as Ex.PW-1/2. Further, narrated the same story as in his plaint. Further, the paternal uncle of the plaintiff appeared as PW-02 who supported the stance of the plaintiff by narrating the same story as in the plaint. Paternal cousin of the plaintiff appeared as PW-03 who also supported the stance of the plaintiff by narrating the same story as in the plaint. Both the witnesses were cross examined but nothing tangible has been extracted out of them during cross examination.

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 Manual Record Form which is Ex. DW-1/1, Family Tree of the plaintiff which is Ex. DW-1/2 and according to this the date of birth of the plaintiff is 01.01.1982. 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 mainly rely on his school leaving certificate and service record but both of the same are produced by the plaintiff himself and not by the relevant official custodian of the same, thus cannot be relied upon as

31

genuine. Thus, 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. Thus, in the light of the aforesaid findings, the issue is decided in negative.

Issue No. 01 &05:

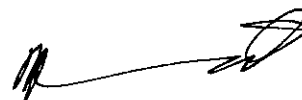
Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got no cause of action and therefore not entitled to the decree as prayed for. Both these issues are decided in negative.

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
30/09/2020


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

22

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.

23

DECREE SHEET

IN THE COURT OF REHMAT ULLAH WAZIR CIVIL JUDGE-I ORAKZAI

Suit No. 11/6 Neem of 2020
Date of original institution.....26-11-2019
Date of institution after restoration.04-06-2020
Date of decision30-09-2020

(1) Syed Baqer Hussain S/O Syed ajeem Hussain section stori khel, sub section / baba Nawasi 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, District Orakzai

.....(Defendant)

SUIT FOR DECLARATION- CUM-PERPETUAL AND MANDATORY INJUNCTION.

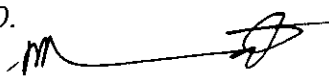
1. This suit coming on the date 4th day of June 2020 for final disposal before me, Vide my detailed judgement of today, consist of 06 pages, the suit of the plaintiffs is dismissed with to Cost.
2. Suit is disposed off as per the amended rules of CPC.
3. File be consigned to Record room after completion compilation.

Announced
30/09/2020

COSTS OF SUIT

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

Note: Given under my hand signature and seal stamp of this court on 30th day of, September, 2020.


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