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IN THE COURT OF MUHADMMAD IMTIAZ CIVIL JUDGE-II

ORAKZAI

Suit No..... 69/1 of 2019
Date of Institution..... 26/09/2019
Date of Decision..... 10/01/2020

1. **Aziz Ullah** S/O Hassan Khan, R/O Section: Rabia Kheil, Sub-
Section: Babi Kheil, Bagaro, Tehsil Ismael Zai, District Orakzai.
..... (Plaintiff)

V E R S U S

1. Chairman Nadra, Islamabad
2. Director General Nadra Hayatabad Peshawar, KPK
3. Assistant Director General Nadra District Orakzai at Hangu

..... (Defendants)

**SUIT FOR DECLARATION, PERPETUAL AND MANDATORY
INJUNCTION**

Mr. Abid Ali Advocate for the Plaintiff
Defendants through representative MR. Farhat Abbas

JUDGMENT

1. Brief facts of the case are that Plaintiff filed suit for Declaration along
with Perpetual and Mandatory Injunction to effect that Plaintiff's correct

date of birth is **06.09.1982** while in the defendants record (CNIC#14101-8632991-9) his date of birth is recorded as **01.01.1977** which is wrong, clerical mistake and liable to be corrected.

2. Defendant were summoned through the Process of the Court upon which they appeared, through representative Mr. Farhat Abbas filed Written Statement and denied the claim of the plaintiff and objected the same on so many legal and factual grounds.

3. Pleadings of the parties were reduced to as many as in the following Consolidated issues.

ISSUES:

1. *Whether the plaintiff has got the cause of action? OPP*
2. *Whether suit of the plaintiff is bad in its present form? OPD*
3. *Whether correct date of birth of plaintiff is 06.09.1982 whereas defendants have wrongly recorded the same in their record as 01.01.1977? OPP*
4. *Whether the plaintiff is entitled to the decree as prayed for? OPP*

Relief

4. Parties were provided with an opportunity to produce their respective evidence who accordingly produced them as follows:

5. **PW-01** Plaintiff himself appeared as PW-01. Recorded his statement on oath. Submitted copy of his CNIC as Ex.PW01/01, copy of his School Leaving Certificate, copy of SSC Examination certificate (Original seen and returned).

6. **PW-02** One Shahid Riaz S/O Sawab Gul appeared as PW-02. Recorded his statement on oath and prayed for grant of Decree in favour of the Plaintiff.

Muhammad Imtiaz
S/O Farhat Abbas
CNIC#14101-8632991-9
Qawal (Farhat Abbas)

7. PW-03 One Muhammad Jamal S/O Muhammad Janan Head Master (Record Keeper) GPS Baghatto, Hangu appeared as Pw-03. Recorded his statement on oath.

Submitted before the Court Copy of page داخل / خاداج رجسٹر گورنمنٹ پرائمری سکول بگٹو ہنگو
(Original Seen and returned) as Ex.PW 03/01. Wherein at the serial No. 1001 name of the Plaintiff and his father name are mentioned. His D.O.B is recorded as 06.09.1982

8. PW-04 One Muhammad Shoib (clerk Police Section Dist.: Orakzai) appeared as PW-04. Recorded his statement on oath. Submitted copy of Medical certificate, and Plaintiff's appointment order as Ex.PW 04/01 and Ex.PW 04/02 respectively.

9. Then after Plaintiff closed his evidence. On the other hand, Defendants produced the following evidence

10. DW-01 Representative of the defendants Mr. Farhat Abbas appeared as DW-01, recorded his statement on oath. He submitted CNIC record form of the plaintiff, family tree of Plaintiff Aziz Ullah, SMID processing form as EX. DW 1/1, EX DW-1/2 and EX DW-1/3 respectively. Evidence of the Defendant then closed

11. With the valuable assistance of learned counsel for the parties, I have gone through the record. My issue wise findings are as under: -

Issue No. 02:- Whether suit of the plaintiff is bad in its present form? OPD

12. Perusing the case file and going through the evidence recorded by the parties' defendants fail to point out any defect or illegality in the form of the suit.

13. Hence above issued is decided in “**Negative**”

Issue No.03:- Whether correct date of birth of plaintiff is 06/09/1982 whereas defendants have wrongly recorded the same in their record as 01/01/1977? OPP

14. Onus of to prove this issue is upon the plaintiff. To discharge his burden plaintiff produced Documentary and oral evidence.

15. PW-03 produced ہنگو داخل / خارج رجسٹر گورنمنٹ پرائمری سکول بگٹو as Ex.PW 03/01 which show Plaintiff's Date of birth as 06-09-1982. Ex. PW03/01 is more than 30 years old document. Under QSO 1984, it carries Presumption of truth. Although rebuttable, but the same is not rebutted by the representative of defendants through any mean.

16. Plaintiff also produced Ex.PW 04/01 (Medical Certificate of the Plaintiff submitted at the time of appointment) and Ex. PW 04/02 (Appointment letter of Job in Khasadar Force). Both documents show Plaintiff's Date of birth as 06-09-1982. The same are not rebutted by the representative of defendants.

17. In the light of what has been discussed above, Plaintiff Succeeded to discharge his burden.

18. For what has discussed above this issue is decided in “**Affirmative**”

Issue No.01:- Whether plaintiff has got the cause of action? OPP

Issue No.04:- Whether the plaintiff is entitled to the decree as prayed for? OPP

19. Both issues are inter-related, will be decided together. On the basis of discussion, while deciding issue No.03, Plaintiff **Has** got cause of action. Plaintiff is **Entitled** to the decree as prayed for.

20. Hence both issued are decided in “**Affirmative**”

Relief

21. As plaintiff proved his case through cogent and reliable evidence the same is hereby **Decreed** to effect that Plaintiff’s correct Date of Birth is 06-09-1982 while in the defendant’s record (CNIC No. 14101-8632991-9) his Date of birth is recorded as 01-01-1977 which is wrong, clerical mistake and liable to be corrected.

22. File be consigned to record room after its necessary completion.

ANNOUNCED:
10/01/2020

Muhammad Imtiaz,
Civil Judge-II
Orakzai (Sahar Mata),
2020
MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI

CERTIFICATE

Certified that this judgment consists of five (05) pages and each page is read over, checked and corrected wherever necessary.

Muhammad Imtiaz,
Civil Judge-II
Orakzai (Sahar Mata),
2020
MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI