

310

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

Civil Suit No. 87/1 of 2020
Date of Institution: 11/07/2020
Date of Decision: 30/01/2021

1. Sher Muhammad Khan S/O Sultan Muhammad, R/O Quvi Mela, Tappa Haider Khel, Quam Mishti, 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, Orakzai. Defendants

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

JUDGEMENT:

1. Plaintiff Sher Muhammad Khan s/o Sultan Muhammad 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 28.01.1971 and his correct name is Sher Muhammad Khan according to his Service record, pension book and old MNIC, whereas, defendants have wrongly entered the same as 28.01.1977 and Sher Muhammad in the CNIC No. 21603-1169047-3 instead of 28.01.1971 and Sher Muhammad Khan

Handwritten signature and stamp
Rehmiat Ullah Wazir
Civil Judge-I Orakzai
District Orakzai

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;

- 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 plaintiff is estopped to sue?*
- 3. *Whether the suit of the plaintiff is within time?*
- 4. *Whether the correct date of birth of the plaintiff is 28.01.1971 and his correct name is Sher Muhammad Khan as per his old MNIC and his service record and pension book while it has been wrongly entered as 28.01.1977 and Sher Muhammad in his CNIC?*
- 5. *Whether the plaintiff is entitled to the decree as prayed for?*
- 6. *Relief?*

Handwritten signature
 District Judge (M.A.)
 District Court (M.A.)
 District Judge (M.A.)
 District Court (M.A.)

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.

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 13/10/2020. 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 28.01.1971 and his correct name is Sher Muhammad Khan according to his Service record, pension book and old MNIC, whereas, defendants have wrongly entered the same as 28.01.1977 and Sher Muhammad in the CNIC No. 21603-1169047-3 instead of 28.01.1971 and Sher Muhammad Khan 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 his CNIC, the copy of which is Ex-PW 1/1, further produced his pension book which is Ex-PW 1/2 and certificate of service which is Ex-PW 1/3, according to which his correct date of birth is 1971 while his correct name is Sher Muhammad Khan. further MR. Noran Gul, a relative of the plaintiff appeared as PW-2, who fully supported the stance of the plaintiff by narrating the same story as in the plaint. Further Mr. Saif Ullah, the brother of the plaintiff appeared as PW-3, who also supported the stance of the plaintiff.

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 Detail Form of CNIC of the plaintiff which is Ex-DW 1/1, Family tree of the plaintiff as Ex-DW 1/2 and by marriage Family Tree of the plaintiff as Ex-DW 1/3.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff established his case through oral and documentary evidence. Also the plaintiff is increasing but not decreasing his age which will not violate the rights of any third person. Thus, in the light of the aforesaid finding the issue is decided in positive.

Issue No. 01 &05:

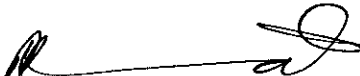
Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 4, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in negative.

RELIEF:

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

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

Announced
30/01/2021


(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.