

(34)

IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 363/1 of 2020
Date of Institution: 03/12/2020
Date of Decision: 21/01/2021

Habeeb Ahmad s/o Shehzad Mir

Section Ali Khel Sub Section Shawas Khel, PO Ghiljo, Tehsil Upper & District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

21.01.2020

Brief facts of case in hand are that the plaintiff, **Habeeb Ahmad s/o Shehzad Mir**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct date of birth is **09.06.2004** while defendants have wrongly mentioned the same in their record as **01.01.2002**, which is incorrect and liable to be corrected. That defendants were repeatedly asked to correct their record but they refused. Hence, the present suit.

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, wherein they contested the suit of plaintiff on various grounds.

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Divergent pleadings of the parties were reduced into the following issues;

Issues:

1. Whether plaintiff has got cause of action?
2. Whether the correct date of birth of the plaintiff is "09.06.2004" while defendants have wrongly mentioned the same as 01.01.2002 in their record?
3. Whether plaintiff is entitled to the decree as prayed for?
4. Relief.

5. Parties were provided opportunity to produce evidence in support of their respective contention, which they did.

Plaintiff produced his witnesses as PW-1 to PW-3.


In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the birth family tree of the plaintiff and exhibited the same as Ex. DW-1/1.

7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
8. My issues wise findings are as under:

Issue No.02:

Plaintiff contended in his plaint that his correct date of birth is 09.06.2004 but inadvertently the same has been recorded as 01.01.2002 in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of plaint in his examination in chief. He also produced his birth registration


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certificates as Ex.PW-1/1 and Ex.PW-1/2. PW-2. He requested for grant of decree as he has prayed for. Muhammad Saeed, who is teacher of "Al-Muslim Public School Kohat" stated in his examination in chief that as per their school record, the correct date of birth of the plaintiff is **09.06.2004**. He produced the admission and withdrawal register as Ex.PW-2/2 and school leaving certificate of the plaintiff as Ex.PW-2/3. PW-3, Muhammad Talha, who is elder brother of the plaintiff also supported the contention of the plaintiff and stated in his examination in chief that correct date of birth of the plaintiff is **09.06.2004** and date of birth entered as 01.01.2002 in Form-B of the plaintiff is incorrect. PW-1 and PW-3 were subjected to cross examination but nothing substantial was brought on record which could have shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. Their testimony is also corroborated by the School record of plaintiff produced by PW-2 as Ex.PW-2/2 and Ex.PW-2/3 wherein, the date of birth of plaintiff has been recorded as **09.06.2004**. So, the oral and documentary evidence produced by the plaintiff establishing that the correct date of birth of the plaintiff is **09.06.2004**. The incorporation of date of birth of the plaintiff as **01.01.2002** in the record of NADRA appears to be a mistake. Hence, the issue No. 2 is decided in positive.

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Issue No. 01 & 03:

These issues are taken together. For what has been held in issue No. 2, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

The issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record by incorporating the date of birth of the plaintiff as **09.06.2004** in their record. Parties are left to bear their own costs.

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

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Orakzai at Baber Mela

(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).

Announced
21/01/2021

CERTIFICATE

Certified that this judgment of mine consists of **04** (four) pages, each page has been checked, corrected where necessary and signed by me.

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela

(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).