

IN THE COURT OF MUHADMMAD IMTIAZ
CIVIL JUDGE-II, ORAKZAI

Suit No..... 79/1 of 2019
Date of Institution..... 16/10/2019
Date of Decision..... 03/03/2020

**Ghafoor khan S/O Sharif Khan R/O Section Isa Khel,
Sub Section Meer Khel. Tehsil Central, Post office
Mishti Mela, 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, MANDATORY AND
DIRECTORY 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 Mandatory and Directory Injunction to effect that Plaintiff **Correct** Date of birth is **18-02-1997** while in the defendant's record (**CNIC No. 21601-1168761-1**) his Date of birth is recorded as **01/01/1992** 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


 Munaf Ahmad
 Civil Judge/JM-II
 Orakzai & (Babar Mela)

32

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 the following 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 18-02-1997 whereas defendants have wrongly recorded the same in their record as 01-01-1992? 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:

PW- NAME	DOCUMENTS PRODUCED	EXHIBIT
<u>PW-01</u>	a. Copy of his CNIC	a.Ex.PW01/01
Ghafoor Khan	b. D.O.B as per School record.	b.Ex.PW 01/02
Plaintiff	c. S.S.C Certificate	c.Ex.PW 01/03
himself	d. Matric DMC	d. Ex.PW 01/04
	e.Provisional Certificate of HSSC	e. Ex.PW 01/05

03-03-2022
Civil Judge/JM-1
Orakzal at (Babar Mela)

<p><u>PW-02</u> Meewa Khan <u>"Brother"</u> of Plaintiff</p>	a. Copy of his CNIC	a. Ex.PW 02/01
<p><u>PW-03</u> Wakil Khan <u>"Cousin"</u> of Plaintiff</p>	a. Copy of his CNIC	a. Ex.PW 03/01
<p><u>PW-04</u> Abdul Wali khan <u>"Record Keeper/ Teacher"</u></p>	a. داخل خارج رجسٹر of Government Primary School Isa Kheil Central Orakzai	a. Ex.PW 04/01

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

DW- NAME	DOCUMENTS PRODUCED	EXHIBIT
<p><u>DW-01</u> <u>"Representative"</u> of the defendants Mr. Farhat Abbas</p>	<p>a. CNIC Processing form of the Plaintiff b. Plaintiff's Form "A" c. Plaintiff's family tree</p>	<p>a. EX. DW 1/1 b. EX. DW-1/2 c. EX.DW-1/3</p>

Evidence of the Defendant then closed.

5. 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? OPP

6. 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.

7. Hence above issued is decided in "Negative"

Issue No.03: - Whether correct date of birth of plaintiff is 18-02-1997 whereas defendants have wrongly recorded the same in their record as 01-01-1992? OPP

8. Onus to prove this issue is upon the plaintiff. Perusal of case file reveals that this is the main contention of the plaintiff.

9. To discharge his burden plaintiff appeared himself along with his brother, Cousin and Record keeper/Teacher of Govt. Primary School Isa Kheil Central Orakzai appeared before the Court. Submitted oral along with Documentary evidence.

10. All the education documents produced by the plaintiff support his stance. The same are not objected by the representative of defendants to be fake or bogus. Meaning thereby that he impliedly admitted them as true and correct.

Muhammad Usman
Civil Judge/Jr-II
Orakzai (Sabar Mela)

11. داخل خارج رجسٹر of Government Primary School Isa Kheil Central Orakzai. Produced by PW-04 further supplements the plaintiff's version. Wherein plaintiffs date of birth is recorded as 18-02-1997. Ex. PW-4/1 is admitted impliedly by the representative of Nadra.

12. 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*

13. 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.

14. Hence both issues are decided in "Affirmative".

Relief

15. As plaintiff proved his case through cogent and reliable evidence the same is hereby Decreed to effect that Plaintiff **Correct** Date of birth is 18-02-1997 while in the defendant's record (CNIC No. 21601-1168761-1)

his Date of birth is recorded as 01/01/1992 which is wrong, clerical mistake and liable to be corrected.

16. Defendants are hereby directed to make the changes/correction accordingly in their Documents/Record concerned as per their prescribed procedure by law.

17. Parties are left to bear their own cost. Case file be consigned to record room after necessary completion and compilation.

ANNOUNCED:
03-03-2020

Muhammad Imtiaz
03/03/2020
Muhammad Imtiaz
Civil Judge-II
Orakzai (Babar Mela)
MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI

CERTIFICATE

Certified that this judgment consists of six (06) pages and each page is read over, checked and corrected wherever necessary.

Muhammad Imtiaz
03/03/2020
MUHAMMAD IMTIAZ
CIVIL JUDGE-II
ORAKZAI