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

Suit No..... 80/1 of 2019
Date of Institution..... 08/10/2019
Date of Decision..... 14/03/2020

Muhammadi Jan S/O Muhammad Amin R/O Sheikhan,
Tappa Samozai, Kanganiye, P.O Mishti Mela, Tehsil
Central, 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
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 Directory and Mandatory Injunction to effect that Plaintiff **Correct** Date of birth is 03-02-1998 while in the defendant's record (CNIC No. 21601-7483457-5) his Date of birth is recorded as 01-01-1991 which is wrong, clerical mistake and liable to be corrected.

2. Defendant were summoned through the Process of the Court upon which the they appeared, through

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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 03.02.1998 whereas defendants have wrongly recorded the same in their record as 01.01.1991? 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> Muhammad Amin, Father of Plaintiff	a. Copy of his CNIC b. Copy of his mother CNIC	a.Ex.PW01/01 b.Ex.PW 01/02
<u>PW-02</u> Muhammadi Jan Plaintiff himself	a. Copy of his CNIC b. Report of Principle Alhadi Public School & College regarding Plaintiff date of birth c. Copy of SSC Provisional School Certificate d. Copy of DMC Certificate SSC e. Copy of HSSC Provisional School Certificate f. Copy of HSSC DMC Part-I & II	a. Ex. PW 02/01 b. Ex. PW 02/02 c. Ex. PW 02/03 d. Ex. PW 02/04 e. Ex. PW 02/05 f. Ex. PW 02/06

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<u>PW-03</u> Muhammad Hayat "Cousin" of Plaintiff		
<u>PW-04</u> Abdul Raziq "Record Keeper" of Alhadi Public High School, Mishti Mela, District Orakzai	a. Admission and Withdrawal Register of Alhadi Public School & College, Mishti Mela, District Orakzai	a. Ex. PW 04/01 (2 Pages)

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

DW- NAME	DOCUMENTS PRODUCED	EXHIBIT
<u>DW-01</u> "Representative" of the defendants Mr. Farhat Abbas	a. Plaintiff CNIC processing form b. Plaintiff's family tree by birth c. Plaintiff's family tree by marriage	a. EX. DW 1/1 b. Ex. DW 1/2 c. Ex. DW 1/3

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? OPD

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"

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Issue No.03: - Whether correct date of birth of plaintiff is 03.02.1998 whereas defendants have wrongly recorded the same in their record as 01.01.1991?

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 Father, Cousin and Record Keeper of the Alhadi Public School & College, Mishti Mela, District Orakzai. Submitted oral along with Documentary evidence.

10. Educational documents Ex.PW-01/02 to Ex. PW-01/06 produced by the plaintiff support his stance. The same is not objected by the representative of defendants to be fake or bogus. Meaning thereby that he impliedly admitted it as true and correct.

11. Even Ex. PW-4/1 (admission and withdrawal register of Alhadi Public School Mishti Mela Orakzai) produced by PW-4 clearly shows plaintiff's date of birth as 03.02.1998 at serial no. 445 (original seen and returned). The same has not been objected by the representative of defendants to be fake or bogus. Meaning thereby that he impliedly admitted it as true and correct.

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12. PW-1 who is the father of the plaintiff also verified on oath that the correct date of birth of plaintiff is 03.02.1998. Statements of the parents always carries great weightage for the reason they give birth to children's and they know the accurate date of birth of their kids.

13. 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*

14. 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.

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

Relief

16. As plaintiff proved her case through cogent and reliable evidence the same is hereby Decreed to effect that Plaintiff **Correct** Date of birth is 03-02-1998 while in the defendant's record (CNIC No. 21601-7483457-5)

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his Date of birth is recorded as 01-01-1991 which is wrong, clerical mistake and liable to be corrected.

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

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

ANNOUNCED:
14-03-2020

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CERTIFICATE

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

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