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

Civil Suit No. 278/1 of 2020
Date of Institution: 28/02/2020
Date of Decision: 01/04/2021

Muhammad Naeem s/o Mutabar Khan
Resident of Qoam Mala 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:

Brief facts of case in hand are that the plaintiff, **Muhammad Naeem s/o Mutabar Khan**, 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 "01.01.2002" while defendants have wrongly mentioned the same in their record as "05.04.2008", which is incorrect and liable to be corrected. That plaintiff and her sister namely Nadia Bibi are twins and born on 01-01-2002. That date of birth of Nadia Bibi has been correctly recorded as 01-01-2002, while, date of birth of plaintiff has been wrongly recorded as 05-04-2008 in NADRA record. That defendants were repeatedly asked to correct the


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date of birth of plaintiff 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.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether suit of plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is "01.01.2002" while defendants have wrongly mentioned the same as 05.04.2008 in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.

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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.


7. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC processing forms and family tree of plaintiff as Ex. DW-1/1 to Ex. DW-1/3.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:

Issue No.03:

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Plaintiff contended in his plaint that his correct date of birth is "01.01.2002" but inadvertently the same was recorded as 05.04.2008 in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-3 and he repeated the contents of plaint in his examination in chief. He also produced his form "B" as Ex.PW-3/1 and his CNIC as Ex.PW-3/2, while PW-01 is the mother of plaintiff and PW-2 is the maternal uncle of plaintiff, who stated in their examination in chief that plaintiff and his sister Nadia Bibi are twins, who born on 01-01-2002. PW-1 to 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. From the statement of PW-01 to PW-03 coupled with the family tree Ex.DW-1/3 of plaintiff, it is evident that plaintiff and Nadia Bibi are real brother and sister. From the statement of PWs it is also established that plaintiff and Nadia Bibi are twins. The date of birth of Nadia Bibi recorded in Ex.DW-1/3 is 01-01-2002, while of plaintiff is 05-04-2008, which means that date of birth of plaintiff and his sister Nadia Bibi are not the same as in spite of the fact that they are twins. This fact alone suggests that the date of birth of plaintiff has been wrongly recorded in his smart card and other


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record of NADRA. So, the oral and documentary evidence produced by the plaintiff clearly establishing that the correct date of birth of the plaintiff is **01.01.2002**. The incorporation of date of birth of the plaintiff as 05.04.2008 in the record of NADRA appears to be a mistake. Hence, the issue No. 3 is decided in positive.

Issue No. 02:

Perusal of Ex.PW-3/2 reveals that smart card was issued to the plaintiff on 10-09-2019, wherein, the date of birth of plaintiff was recorded as 05-04-2008. Plaintiff challenged the same date of birth by filing instant suit on 28-02-2020. Period provided for declaratory suit as per article 120 of Limitation Act is 06 years. Hence, the suit of plaintiff is within time.

The issue is decided in positive.

Issue No. 01 & 04:

These issues are taken together. For what has been held in issue No. 3, 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

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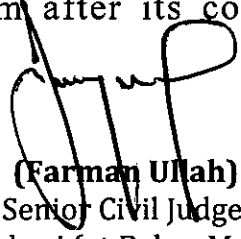
record by incorporating the date of birth of the plaintiff as **01.01.2002** in their record. Parties are left to bear their own costs.

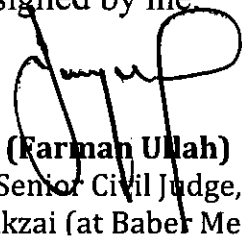
10. File be consigned to the record room after its completion and compilation.

Announced
01/04/2021

CERTIFICATE

Certified that this judgment of mine consists **05** (five) pages, each has been checked, corrected where necessary and signed by me.


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