

Order-15  
14/04/2021

Plaintiff present through counsel and nephew.

Defendants present through representative.


My this order is aimed at disposal of application for rejection of plaint filed by defendants.

Defendants filed instant application by contending that previously plaintiff filed a suit No. 62/1 of 2019 before the court of Civil Judge-I, which was dismissed and thereafter plaintiff filed an appeal. The appeal was also dismissed vide order dated: 20-08-2020 but in spite of that plaintiff again filed instant suit. Hence, the suit of plaintiff is liable to be dismissed.

Plaintiff contested the application by submitting reply, wherein, it was contended that the cause of action in previous suit and instant suit are different. Hence, the application of defendant is liable to be dismissed.

Learned counsel for the parties heard and record perused.

From the reply of plaintiff coupled with the record of previous suit No. 62/1, original date of institution 29.07.2019, it is evident that prior to instant suit plaintiff filed a suit, wherein, declaration was sought to the effect that his correct date of birth is 01.01.1982 but defendants have wrongly mentioned the same in their record and CNIC of plaintiff as 01.01.1977, which is ineffective upon the rights of plaintiff and liable to correction. The said suit was contested by the defendants by submitting their written statement. After framing of issues, both the parties produced their respective evidence and thereafter arguments were heard. The learned Civil Judge-I Orakzai vide

  
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judgment dated: 28.02.2020 dismissed the suit of plaintiff.

Feeling aggrieved plaintiff filed appeal but the appeal was also dismissed in default vide order of learned ADJ-I Orakzai dated: 20.08.2020. After dismissal of appeal, plaintiff filed instant fresh suit by seeking declaration to the effect that correct date of birth of plaintiff as per school record is 01.01.1982 while defendants have wrongly recorded the same as 01.01.1977 which is liable to be corrected.

From the comparison of instant suit with the previous suit it is evident that matter in issue in present suit and in previous suit is the same as in both the suits plaintiff has challenged his date of birth by contending that his correct date of birth is 01.01.1982 while it has been wrongly mentioned by defendants as 01.01.1977. Similarly, it is also clear from the record that parties in both the suits are the same and the matter in controversy between the parties has also been finally decided by the competent court of law. Being such a position, the present suit of plaintiff is hit by principle of res judicata.

In view of above discussion application in hand is accepted and plaint is rejected with the special cost of Rs. 30,000/- (Thirty thousand).

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

**Order Announced**  
14.04.2021

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