

IN THE COURT OF ZAHIR KHAN
CIVIL JUDGE-I, TEHSIL KALAYA, ORAKZAI

Suit No.....32/1 of 2023.
Date of Institution.....23.06.2023.
Date of Decision.....26.06.2023.
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Ahmad Ullah S/O Gul Sharif R/O Qaum Mala Khel, Tappa Qutab Khel,
Satar Kalay, Tehsil Upper, District Orakzai.
.....(*Plaintiff*)

VERSUS

1. Assistant Director NADRA, District Orakzai.
 2. Chairman NADRA, Khyber Pakhtunkhwa, Peshawar.
- (*Defendants*)


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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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JUDGEMENT
26.06.2023

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Ahmad Ullah against defendants Chairman NADRA, Peshawar and one other for declaration and permanent injunction.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

Brief facts in the backdrop are that plaintiff has filed the instant suit against the defendants for declaration and permanent injunction to the effect that as per Secondary School Certificate and matric DMC, correct date of birth of plaintiff is 01.04.2005, however, defendants have incorrectly entered the same as 02.01.2000 which is wrong, illegal and liable to be

rectified. That defendants were asked time and again to rectify date of birth of plaintiff but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties.

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit is within time? OPP
3. Whether correct date of birth of plaintiff is 01.04.2005 instead of 02.01.2000? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their respective evidence.

After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.


ZAHIR KHAN
Civil Judge, JM
Kalya Orakzai

During course of recording evidence, plaintiff produced one witness.

Plaintiff himself appeared and deposed as PW-01. He reiterated the averments of plaint. He produced Secondary School Certificate and Matric Detail Marks Certificate as Ex.PW-1/2 and Ex.PW-1/3. According to Ex.PW-1/2 and Ex.PW-1/3, date of birth of plaintiff is recorded as 01.04.2005. Copy of his CNIC is Ex.PW-1/1. He lastly requested for decree of suit in his favour.


Thereafter, evidence of plaintiff was closed. Nothing contradictory could be brought on record from PW.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. Family tree, Data Processing Form were exhibited as Ex.DW-1/1 & Ex.DW-1/2. He stated that plaintiff has been issued CNIC as per information provided by him and that he has got no cause of action and lastly requested for dismissal of suit. Thereafter, evidence of defendants was closed.

My issue wise findings are as under: -

ISSUE NO.2:

Plaintiff has been issued CNIC on **30.01.2018** with expiry date as 30.01.2028 while suit in hand was filed on **23.06.2023**. As period of limitation under Article 120 of Limitation Act for filing declarative suit is six years, therefore, suit of plaintiff is within time. Issue no. 2 decided in positive.


ZAHIR KHAN
Civil Judge (M)
Kalaya Orakzai


ISSUE NO.3:

Claim of plaintiff is that his true and correct date of birth is **01.04.2005** but defendants have incorrectly recorded the same as **02.01.2000** in their record, which entry is wrong and liable to be rectified. Plaintiff produced documentary evidence in support of his claim in shape of Matric DMC and Provisional Certificate as Ex. PW-1/2 and Ex. PW-1/3 as per which, date of birth of plaintiff is recoded as 01.04.2005. The same carries weight as presumption of correctness is attached to it. Plaintiff is a young person and cannot be presumed to have instituted the instant case for any ulterior motive. Oral evidence is also supportive to the averments of plaintiff.

Keeping in view the above discussion and documentary as well as oral evidence available on file, it is held that correct date of birth of plaintiff is 01.04.2005 which is correctly recorded in his Matric Detail Marks and Provisional Certificates. Date of birth of plaintiff to be rectified/modified from **02.01.2000** to **01.04.2005**. Issue decided in favour of plaintiff and against the defendants.

ISSUE NO.1 & 4.

In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided accordingly.

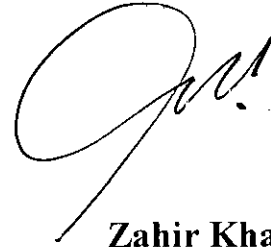
RELIEF.

ZAHIR KHAN
Civil Judge JM
Kalaya Orakzai

Crux of my issue wise discussion is that suit of plaintiff is hereby decreed in his favor against the defendants as prayed for. No order as to costs. This decree shall not affect the rights of any other person interested, if any or service record of plaintiff, if any.

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

ANNOUNCED
26.06.2023



Zahir Khan
Civil Judge-I, Kalaya,

Orakzai

CERTIFICATE

It is certified that this judgment consists of **05** pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
Civil Judge-I, Kalaya, Orakzai