

IN THE COURT OF SHAUKAT AHMAD KHAN
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL APPEAL NO. : 24/13 OF 2021
DATE OF INSTITUTION : 21.04.2021
DATE OF DECISION : 31.05.2021

MUHAMMAD NASEER S/O MEHMOOD SHAH, TRIBE MALAKHEL,
SUB-TRIBE CHARKHA KHEL, VILLAGE KHARKE, TEHSIL UPPER,
DISTRICT ORAKZAI

.....(APPELLANT)

-VERSUS-

CHAIRMAN BOARD KOHAT AND FIVE OTHERS

..... (RESPONDENTS)

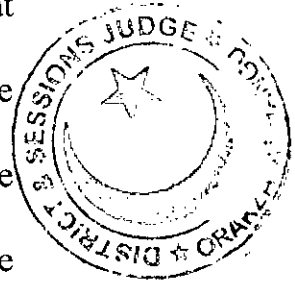
Present: Noor Mir Jaan Advocate for appellant.
: Akbar Ali, District Attorney for respondents

JUDGEMENT
31.05.2021

In a suit before the trial court, appellant/plaintiff claimed correction of his date of birth from 19.04.1985 to 19.04.1986 in the record of the respondents/defendants. The learned trial court after full trial dismissed the suit vide impugned judgement and decree dated 29.03.2021, hence the appeal in hand.

(2). As per contents of plaint, appellant/plaintiff claims that the correct date of his birth is 19.04.1986 which has also be incorporated in the CNIC of the appellant/plaintiff while the respondents/defendants have incorrectly incorporated the same in their record as 19.04.1985. The respondents/defendants no. 2 to 6 were proceeded ex-parte while respondent no. 1 contested the suit by submission of written statement. The learned trial

31/05/21
(SHAUKAT AHMAD KHAN)
District Judge, Orakzai
at Baber Mela



court incorporated the pleadings of the parties into the following issues.

1. *Whether plaintiff has got cause of action?*
2. *Whether the plaintiff is estopped to sue?*
3. *Whether suit of plaintiff is within time?*
4. *Whether the correct date of birth of the plaintiff is 19.04.1986 but it has been wrongly mentioned in the record of the defendants as 19.04.1985?*
5. *Whether the plaintiff is entitled to the decree as prayed for?*
6. *Relief*

(3). Parties were given opportunity to produce pro and contra evidence in support of their respective contentions.

(4). Accordingly, appellant/plaintiff produced Mehmood Shah, the father of appellant/plaintiff, as PW-2 while he himself appeared in the witness bar as PW-1. On the other hand, respondent/defendant no. 1 relied upon the written statement and the documents annexed therein. After having heard the arguments, the learned trial court non-suited the appellant/plaintiff hence, present appeal.

(5). Arguments heard. Record perused.

(6). Perusal of case file shows that the claim of the appellant/plaintiff is based upon the oral testimony of PW-2 and the entries of his CNIC. PW-2 is father of the appellant/plaintiff, whose knowledge, regarding the date of birth of the appellant/plaintiff, cannot be doubted however, in his cross examination he has categorically admitted that the date of birth of appellant/plaintiff in his school record has been incorporated

(SHAUKAT AHMAD KHAN)
 District Judge, Orakzai
 at Baber Mela


31/05/21



at his (PW) instance. With respect to documentary evidence, the appellant/plaintiff has relied upon entry of his CNIC wherein the date of birth of appellant/plaintiff has been incorporated as 19.06.1986 which is later in time and incorporated upon the oral assertion of the appellant/plaintiff. On the other hand, the record of the respondent/defendant being maintained on the basis of school record of the appellant/plaintiff, contain the date of birth of the appellant/plaintiff as 19.04.1985 which has got presumption of truth which cannot be shattered upon the oral testimony upon the appellant/plaintiff and his father.

(7). In the light of above, it is held that the impugned judgement and decree of the learned trial court alongwith findings on the suit issues, are based upon proper appreciation of evidence available on file. Hence, the appeal in hand is dismissed being without merit. No order as to cost. File of the trial court be returned while file of this court be consigned to Record Room after its completion and compilation.

Announced
31.05.2021


(SHAUKAT AHMAD KHAN)
District Judge, Orakzai
at Baber Mela

CERTIFICATE

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 31.05.2021


(SHAUKAT AHMAD KHAN)
District Judge, Orakzai
at Baber Mela

