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**IN THE COURT OF SAMI ULLAH,
CIVIL JUDGE-I, ORAKZAI AT BABER MELA**

Civil Suit No. 28/1 of 2023
Date of Institution: 23/05/2023
Date of Decision: 19/10/2023

Fazal Raheem S/O Fazal Akbar
R/O Qoam Mamozai, Tappa Meer Kalam Khel, Tehsil Upper, District Orakzai.
.....(Plaintiff)

VERSUS

1. Chairman Nadra, Islamabad
2. Director General Nadra, Peshawar
3. Assistant Director Nadra, District Orakzai.

..... (Defendants)

**SUIT FOR DECLARATION CUM PERPETUAL AND
MANDATORY INJUNCTION**

**SUMMARY JUDGEMENT:
19.10.2023**

1. Brief facts of the case in hand are that the plaintiff, **Fazal Raheem** has brought the instant suit for declaration cum perpetual and mandatory injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **01.07.2009**, while it has been wrongly mentioned as 05.08.2018 by the defendants in their record with respect to the plaintiff which is liable to correction. That the defendants were repeatedly asked to correct the date of birth of plaintiff but they refused, hence, the instant suit.
2. Defendants were summoned, who appeared through their representative namely Mr. Irfan Hussain, who submitted written statement.

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3. During the scheduling conference within the meaning of order IX-A of CPC, it was revealed that the matter involved in the instant case is very petty in nature, which can be decided through summary judgement as per relevant record. To this effect notice was given to the parties that why not the case in hand be decided on the basis of available record without recording lengthy evidence, as the primary aim and objective of Amended Management Rules in CPC is, "*to enable the court to-*

- a. *Deal with the cases justly and fairly;*
- b. *Encourage parties to alternate dispute resolution procedure if it considers appropriate;*
- c. *Save expense and time both of courts and litigants; and*
- d. *Enforce compliance with provisions of this Code."*

4. The plaintiff produced two witnesses and testified that the correct date of birth of the plaintiff is **01.07.2009** while defendants have wrongly mentioned in their record as 05.08.2018.

5. PW-1 namely Abdul Ghafar recorded in his statement that he personally knows the plaintiff and his father. Plaintiff belongs to his cast and he is student. He was studying at Tappi Kohat. Now, he is studying at District Orakzai. His CNIC is Ex.PW-1/1. During cross examination he admitted that plaintiff don't belong to his cast. He further admitted that plaintiff is studying in District Kurram at class 7/8.

6. PW-02 namely Ahmad Shah (power of attorney) said in his statement that plaintiff is his nephew and studying at District

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Kurram in class 8th and he is about 14 years of age. His power of attorney is Ex. PW-2/1 and his CNIC is Ex. PW-2/2.

7. Representative of NADRA appeared as DW-01. He produced family tree and Form B Processing form which are Ex. DW-1/1 to Ex. DW1/2 and relied on these documents. He admitted in his cross examination that Form B of the plaintiff was made on information given orally by the father of the plaintiff. Further stated that according to the School Leaving Certificate issued on 03.02.2023, date of birth of the plaintiff 01.07.2009 and was studying at class 6th.
8. Learned counsel for plaintiff and representative for defendants heard and record gone through.
9. Record reveals that plaintiff through instant suit is seeking correction of his date of birth to the effect that his correct date of birth is 01.07.2009, while it has been wrongly mentioned as 05.08.2018 by the defendants in their record with respect to the plaintiff. Plaintiff has produced two witnesses who testified that plaintiff is around 14 years of age and studies in class 7th, which strengthen the stance of the plaintiff that his correct date of birth is 01.07.2009. The date of birth mentioned in Nadra Record is 05.08.2018, which if were correct, the plaintiff would have been five years of age. The plaintiff has annexed School Leaving Certificate, according to which, his correct date of birth is 01.07.2009 and he was studying in class 6th. Furthermore, there is no counter document available with

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the defendants to rebut the document produced by the plaintiff in support of his stance. Hence, in these circumstances, the said document is admissible and reliance is placed on it and is sufficient to decide the fate of the case and no further evidence is required to be produced by the parties. So, the available record clearly establishes the claim of the plaintiff.

10. Consequently, upon what has been discussed above and the jurisdiction vested in this court under order IX-A and XV-A of CPC, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct the date of birth of plaintiff as **01.07.2009** in their record.
11. Parties are left to bear their own costs.
12. File be consigned to the record room after its necessary completion and compilation.

Announced
19.10.2023

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CERTIFICATE

Certified that this judgment of mine consists of **04** (Four) pages, each has been checked, corrected where necessary and signed by me.

Sami Ullah
Sami Ullah
Civil Judge/JM-I,
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