

IN THE COURT OF BAKHT ZADA,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 35/1 of 2023
Date of Institution: 06.09.2023
Date of Decision: 06.10.2023

*Muhammad Minhaj S/O Said Khan, R/O Qoum Mamozai, Tehsil
Upper, District Orakzai*
(Plaintiff)

VERSUS

1. *Chairman NADRA, Islamabad.*
2. *Director General NADRA, KPK at Hayat Abad Peshawar.*
3. *Assistant Director NADRA, Orakzai.*

(Defendants)

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

JUDGEMENT:

06.10.2023

1. Plaintiff Muhammad Minhaj S/O Said Khan has brought the instant suit against defendants Chairman NADRA, Islamabad and 02 others for declaration-cum-perpetual and mandatory injunction to the effect that his correct date of birth according to his Secondary School Certificate is 10.04.1998, but the same has been wrongly entered in his record with the defendants as 01.01.1986. He alleged that the defendants were asked time and again for correction of date of birth of the plaintiff, but they refused to do so, hence, the present suit;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

BAKHT ZADA
Senior Civil Judge
Orakzai, District Orakzai

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

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the suit of the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 10.04.1998 and the defendants have wrongly entered the same as 01.01.1986 in their record?*
4. *Whether plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given opportunity to produce evidence in support of their respective claims. The plaintiff produced and recorded the statements of following PWs;

PW-01: Abdul Mateen S/O Khial Bat Khan appeared as PW-01 and stated that he is relative of the plaintiff. He supported the claim of the plaintiff. Copy of his CNIC is ExPW-1/1.

PW-02, is the statement of the Hazrat Bilal S/O Said Khan. He is the elder brother of the plaintiff. He also affirmed that date of birth of the plaintiff is 10.04.1998. His CNIC is Ex.PW-2/1.

PW-03, plaintiff Muhammad Minhaj S/O Said Khan repeated the contents of his plaint and exhibited his Secondary School Certificate as Ex.PW-3/2. His CNIC is Ex.PW-3/1.

On the other hand, representative for NADRA, Irfan Hussain recorded his statement as DW-01, wherein he has alleged that the date of birth of the plaintiff according to their record is 01.01.1986. He requested for dismissal of the suit.

After closing of evidence of the parties, arguments of the learned

BAKHT ZADA
Senior Civil Judge
Orakzai District
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31
counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

The plaintiff has alleged in his plaint that one week before the institution of the instant suit, the defendants refused from making the required correction in his date of birth. The defendants have not categorically denied this fact in their written statement, therefore, admitted facts needs not to be proved. Issue No. 02 is decided in positive.

Issue No. 03:

The plaintiff alleged that his correct date of birth according to his Secondary School Certificate is 10.04.1998, but the same has been wrongly entered in his record with the defendants as 01.01.1986. During the course of evidence, statement of Abdul Mateen (relative) and Hazrat Bilal (brother), recorded as PW-01 and PW-02, who supported the stance of plaintiff and stated that as per metric certificate, the correct date of birth of plaintiff is 10.04.1998. Plaintiff Muhammad Minhaj appeared as PW-03 and stated that his correct date of birth is 10.04.1998 according to his Secondary School Certificate Ex.PW-3/1. He prayed for decree for correct date of birth as prayed for in the plaint.

The evidence produced by the plaintiff particularly the statement of PW-02, who is elder brother of the plaintiff is of

6
Senior Civil Judge
Orakzai/10 Baber Mela
BAKHT ZADA
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32 much importance and no doubt he can be safely considered the natural witness of his birth, coupled with the fact that the same date of birth is also mentioned in his Secondary School Certificate Ex.PW-3/2. The date of birth mentioned in the SSC Ex. PW-3/2 is authentic document and cannot be rebutted through ordinary oral or documentary evidence. The defendants have not produced any authentic documentary evidence except their own record which is impugned before this court through the instant suit therefore, the same cannot be considered authentic. Furthermore, the same has got no preference over the matric certificate. The plaintiff will suffer in his practical life if correction in his NADRA record is not made in accordance with his authentic date of birth mentioned in his SSC. The plaintiff is neither government employee nor such correction will damage the right of any third person. Issue is decided in positive.

Issue No. 01 & 04:

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 03, the plaintiff has proved through cogent evidence that his correct date of birth is 10.04.1998 instead of 01.01.1986. Issue No. 01 & 04 are decided in positive.

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BAKHT ZADA
Senior Civil Judge/JM
Orakzai at Baiter Mela

33
RELIEF:

As sequel to my above issue-wise findings, the plaintiff proved his case through cogent evidence, therefore suit of the plaintiff is hereby decreed as prayed for with no order as to cost.

File be consigned to the Record Room after its completion and compilation.

Announced
06.10.2023

Bakht Zada
6.10.23
(Bakht Zada)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

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

Bakht Zada
6.10.23
(Bakht Zada)
Senior Civil Judge,
Orakzai at (Baber Mela)