

42

IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 23/1 of 2021
Date of Institution: 11/03/2021
Date of Decision: 10/11/2021

Muhammad Sartaj s/o Toti Khan

Section Rabia Khel, Sari Mela, PO Saifal Darah, District Orakzai
(Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

10.11.2021

Brief facts of case in hand are that the plaintiff, **Muhammad Sartaj S/o Toti Khan**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct date of birth as per his school and board record is **01.10.1998** while defendants have wrongly mentioned the same in their record as **1988**, which is incorrect and liable to be corrected. That repeatedly defendants were asked to correct his date of birth by issuing CNIC but they refused. Hence, the present suit.

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela

10.11.2021

43

Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, wherein they contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether the correct date of birth of the plaintiff is "01.10.1998" while defendants have wrongly mentioned the same as 1988 in his CNIC?
3. Whether plaintiff is entitled to the decree as prayed for?
4. Relief.

Parties were provided opportunity to produce evidence in support of their respective contention, which they did.

10.11.2021 Plaintiff produced his witnesses as PW-1 to PW-03.

6. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC Processing Form of plaintiff and Family Tree as Ex. DW-1/1 and Ex. DW-1/2.
7. Learned counsel for the plaintiff and representative for defendants heard and case file gone through.
8. In the light of arguments and available record, my issues wise findings are as under:

44

Issue No.02:

Plaintiff contended in his plaint that his correct date of birth as per school and Board record is **01.10.1998** but defendants have wrongly recorded the same as **1988** in their record. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of plaint in his examination in chief. He also produced his CNIC, Promotion card of class 9th, Roll Number slips of class 9th and of class 10th as Ex.PW-1/1, Ex.PW-1/2, Ex.PW-1/3, Ex.PW-1/4 respectively. PW-02 stated in his examination in chief that plaintiff is his younger brother and his correct date of birth is 01-10-1998 but defendants have wrongly recorded the same in the CNIC of plaintiff as 1988. He produced his CNIC as Ex.PW-2/1. PW-03 stated in her examination in chief that plaintiff is her son and he is 10 years younger than her elder son namely Moeen Khan. She produced her CNIC as Ex.PW-3/1. However, PW-03 stated during cross examination that she does not know about the age of plaintiff.

On other hand DW-01 repeated the contents of written statement in his examination in chief and also produced the CNIC Processing Form and Family Tree of plaintiff as Ex. DW-1/1 and Ex.DW-1/2.

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
10.11.2021

45

From the CNIC of plaintiff Ex.PW-1/1 and CNIC Processing Form of plaintiff Ex.DW-1/1, it is an admitted position that CNIC was issued to the plaintiff on 29-09-2006, wherein, date of birth of plaintiff has been recorded as 1988. Plaintiff through instant suit has challenged his date of birth recorded in his CNIC on the ground that his correct date of birth as per school and Board record is **01.10.1998**. However, record shows that plaintiff failed to produce his school record in the shape of Register for Admission and Withdrawal as well as School Leaving Certificate. Plaintiff has only produced Promotion Card and Roll Number Slips of class 9th and of class 10th as Ex.PW-1/1, Ex.PW-1/2, Ex.PW-1/3 and Ex.PW-1/4. Though in Ex.PW-1/1 to Ex.PW-1/4 the date of birth of plaintiff has been recorded as **01.10.1998** yet the Provisional Certificate and DMC of the plaintiff produced during the arguments show that plaintiff appeared in the examination of class 9th and 10th as private candidate, which suggest that such entry regarding the date of birth of plaintiff has not been recorded on the basis of his school record rather plaintiff, being appearing as private candidate, has filled the Examination Form himself and the same has neither been recorded on the basis of his school record nor of NADRA record. Moreover, record shows that plaintiff appeared in examination of class 9th and 10th in year 2020 and 2021

FARMANULLAH
Senior Civil Judge
Orakzai at Badli Mela

10.11.2021

46

respectively, while CNIC was issued to the plaintiff in year 2006. So the date of birth of plaintiff recorded in his CNIC is older than his date of birth recorded in Board record. Being such position, the presumption of truth is attached to older record. Apart from this, it is evident that CNIC was issued to the plaintiff in year 2006 and plaintiff through instant suit is claiming his date of birth as of the year 1998 instead of 1988. If the date of birth of plaintiff was of year 1998, then how he applied for the issuance of CNIC in year 2006 at the age of 08 years? The photographs of plaintiff on his CNIC Ex.PW-1/1 as well as on Ex.DW-1/1 also manifest that the plaintiff was of sufficient age at the time of applying for CNIC in year 2006. The photographs of plaintiff by no means suggests that plaintiff at the time of applying for CNIC in year 2006 was of 08 years. So it also negates the claim of plaintiff regarding the his date of birth of year 1998. The available record on file does not support the claim of plaintiff. Hence issue No. 02 is decided in negative.

Issue No. 01 & 03:

These issues are taken together. For what has been held in issue No. 02, this court is of the opinion that plaintiff has got neither cause of action nor he is entitled to the decree as prayed for.

Issues No.1 and 3 are decided in negative.

FARIDAMULLAH
Senior Civil Judge
Orakzai at Baber Mela

10.11.2021

47

Relief:

As sequel to above discussion, it is held that plaintiff failed to prove his stance through cogent, reliable and confidence inspiring evidence. Hence, the suit of plaintiff is dismissed. No order as to costs.

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

Announced

10/11/2021

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

CERTIFICATE

Certified that this judgment of mine consists of **06** (six) pages, each page has been checked, corrected where necessary and signed by me.

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