

63

IN THE COURT OF REHMAT ULLAH WAZIR,

CIVIL JUDGE-I, CAMP COURT, KALAYA, ORAKZAI

Civil Suit No. 11/1 of 2019
Date of Original Institution: 19/12/2019
Date of Transfer in: 21/06/2021
Date of Decision: 26/10/2021

**Muhammad Ibrar S/O Muhammad Israr, R/O Qoum Feroz
Khel, Tappa Jaisal Khel, Goin, Tehsil Lower, District
Orakzai.**

(Plaintiff)

VERSUS

1. **Chairman NADRA, Islamabad, Pakistan.**
2. **Director General NADRA, KPK, Peshawar.**
3. **Assistant Director, NADRA, District Orakzai.**

(Defendants)

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

JUDGEMENT:

1. Plaintiff Muhammad Ibrar S/O Muhammad Israr has brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK and Assistant Director, District Orakzai seeking therein that correct date of birth of the plaintiff is **01.10.2011** according to his Middle School Record and Admission & Withdrawal Register, while it has been wrongly entered as 01.10.2009 in his Form-B, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. 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;

REHMAT ULLAH WAZIR
CIVIL JUDGE-I
CAMP COURT
KALAYA ORAKZAI

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.
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 plaintiff is within time.
3. Whether the correct date of birth of the plaintiff is **01.10.2011** while the same have been wrongly entered in his Form-B as 01.10.2009?
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief?

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 02:

REHMAT ULLAH WAZIR
 CIVIL JUDGE JM-1
 CAMP COURT
 KALAYA ORAKZAI

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on **19.12.2019**.

(65)

Thus, the same is well within time. The issue is decided in positive.

Issue No. 03:

The plaintiff alleged in his plaint that his correct date of birth is **01.10.2011** according to his Middle Record and Admission & Withdrawal Register while it has been wrongly entered as 01.10.2009 in his Form-B, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. 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.

The plaintiff produced witnesses, in whom Mr. Issa Muhammad S/O Muhammad Marjan, an uncle of the plaintiff's father, appeared as PW-1, who produced his CNIC which is exhibited as Ex. PW-1/1 and further fully narrated the same story as in the plaint. Further, Mr. Jahangir Khan S/o Rooh Ullah Khan, the School Teacher appeared as PW-02, Who produced the admission & withdrawal register of his school, according to which on serial No-546, the name of the plaintiff is entered along with his date of birth as **01.10.2011**, the copy of which is Ex-PW 3/1, further produced the middle school certificate of the plaintiff which is Ex-PW 3/2 and according to which the date of birth of the plaintiff which is **01.10.2011**, the witness has been cross examined but nothing tangible have been extracted out of him during cross examination. Further, Mr.

REHMAT ULLAH WAZIR
CIVIL JUDGE/JM-1
CAMP COURT
KALAYA ORAKZAI

Faiz Ullah S/O Abdulmat Khan appeared as PW-04, the special attorney of the plaintiff, who produced his CNIC and power of attorney which are Ex. PW-4/1 & Ex. PW-4/2 respectively and further supported the stance of the plaintiff. All the witnesses are cross examined but nothing tangible have been extracted out of them during cross examination.

In order to counter the claim of the plaintiff, the defendants produced only one witness, as Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced CNIC processing detail form of the plaintiff which is Ex-DW-1/1, the form A of the plaintiff which is Ex-DW-1/2 and Family tree of the plaintiff which is Ex-DW-1/3. But during cross examination, he admitted that he does not know the fact that the plaintiff is a literate.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff mainly relies on his middle school record which is public document and bear the presumption of truth unless rebutted. Also, the representative of the defendants has not objected over the aforesaid document when they were exhibited which legally results into admission on the part of the defendants. Thus, the plaintiff established his claim through cogent and reliable evidence, therefore, the issue is decided in positive.

REHMAT ULLAH WAZIR
CIVIL JUDGE/JM-1
CAMP COURT
KALAYA CRAKZAI

67

Issue No. 01 & 02:

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

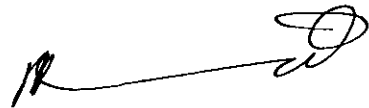
As sequel to my findings on issue No. 3, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Thus, both these issues are decided in positive.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for.

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

Announced
26.10.2021



(Rehmat Ullah Wazir)
Civil Judge-I,
Camp Court, Kalaya, Orakzai

CERTIFICATE

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



(Rehmat Ullah Wazir)
Civil Judge-I,
Camp Court, Kalaya, Orakzai