

IN THE COURT OF REHMIAT ULLAH WAZIR,
CIVIL JUDGE-I CAMP COURT, KALAYA, ORAKZAI

Civil Suit No. 06/1 of 2019
Date of Original Institution: 26/11/2019
Date of Remand: 28/11/2020
Date of Decision: 23/11/2021

**Syed Baqir Hussain S/o Syed Ajeem Hussain, Section Stori
Khel, Sub-Section Baba Nawasi, Tehsil Lower, District
Orakzai.**

(Plaintiff)

VERSUS

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

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

JUDGEMENT:

1. Plaintiff Syed Baqir Hussain has brought the instant suit for declaration-cum-permanent injunction against defendants Chairman NADRA, Islamabad, Pakistan, Director General NADRA, Peshawar, KPK, through Assistant Director, District Orakzai seeking therein that correct date of birth of the plaintiff is **14.05.1988**, according to his school record and service record, whereas, defendants have wrongly entered the same as 14.05.1982 in the CNIC No. 21603-2165822-7 instead of 14.05.1988, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time

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

Issues:

1. *Whether the plaintiff has got a cause of action?*
2. *Whether the suit of the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 14.05.1988 while it has been wrongly entered in his CNIC as 14.05.1982?*
4. *Whether the plaintiff is entitled to the decree as prayed for?*
5. *Relief?*

Parties were given an opportunity to produce evidence, but counsel for the plaintiff stated that he relies on the already recorded evidence and only filed an application for summoning the record keeper of the Frontier Constabulary, Karachi, which accordingly accepted and summons was issued to the said Record Keeper but the address of the same was not correct. The plaintiff was again directed to submit correct address of the said Record Keeper but he failed and even remained absent from the court proceedings. Also, his counsel was least interested in the present case. Later on, a notice U/O 17 R 3 CPC was given to the plaintiff but his attitude remained the same, finally, his right of evidence was struck off U/O 17 R 3 CPC and the judgment was announced on the

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available record.

Issue wise findings of this court are as under: -

Issue No. 02:

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 26.11.2019. Thus, the same is well within time. The issue is decided in positive.

Issue No. 03:

4. The plaintiff alleged in his plaint that correct date of birth of the plaintiff is **14.05.1988**, according to his school record and service record, whereas, defendants have wrongly entered the same as 14.05.1982 in the CNIC No. 21603-2165822-7 instead of 14.05.1988 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 the plaintiff himself appeared as PW-1, who produced copy of his CNIC, which is Ex. PW-1/1, the copy of his Seat Roll as Ex-PW-1/2. Further, narrated the same story as in his plaint. Further, the paternal uncle of the plaintiff appeared as PW-02, who supported the stance of the plaintiff by narrating the same story as in the plaint. Further, paternal cousin of the plaintiff appeared as PW-03, who also supported the stance of the plaintiff by narrating same story as in the plaint. Both the witnesses were cross examined but nothing tangible has 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 the manual record form which is Ex-DW 1/1, the Family tree of the plaintiff as Ex-DW 1/2 and according to this the date of birth of the plaintiff is 01.01.1982. He has been cross examined but nothing relevant has been extracted out of him during cross examination.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff merely rely on his school leaving certificate and service record but of the same are produced by the plaintiff himself and not by the relevant official custodian

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of the same, thus, cannot be relied upon as genuine. Thus, the plaintiff failed to establish his claim through cogent and reliable evidence rather the whole of his claim and evidence are based on mere oral assertions. There is no tangible piece of evidence from which it can be presumed that there is an arguable case in favor of the plaintiff. Thus, in the light of the aforesaid findings, the issue decided in negative.

Issue No. 01 &04:


Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 3, the plaintiff has got no cause of action and therefore not entitled to the decree as prayed for. Both these issues are decided in negative.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby dismissed with costs.

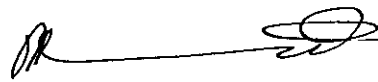
File be consigned to the Record Room after its completion and compilation.

Announced
23.11.2021


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

CERTIFICATE

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


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