

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

Civil Suit No. 42/1 of 2023
Date of Institution: 04.10.2023
Date of Decision: 10.11.2023

Ahmad Jan S/O Malak Din, R/O Qoum Sheikhan, Tappa Umarzai, Tehsil Upper, District Orakzai
(Plaintiff)

VERSUS

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

(Defendants)

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

JUDGEMENT:

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1. Plaintiff Ahmad Jan S/O Malak Din 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 is 01.01.1962, but the same has been wrongly entered in his record with the defendants as 01.01.1972. That due to this wrong entry, there is unnatural age difference of about 06 years between plaintiff and his daughter namely Mst. Basmeri and 12 years between plaintiff and his son namely Hazrat Ullah. 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;

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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 the plaintiff is within time?*
3. *Whether the correct date of birth of the plaintiff is 01.01.1962 and the defendants have wrongly entered the same as 01.01.1972 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, plaintiff Ahmad Jan S/O Malak Din repeated the contents of his plaint and exhibited the following documents.

1. Ex. PW-1/1: Copy of his CNIC.
2. Ex. PW-1/2: Copy of CNIC of his daughter namely Mst. Basmeri.
3. Ex. PW-1/3: Copy of CNIC of his son namely Hazrat Ullah.

He requested for decree of suit as prayed for.

PW-02, is the statement of the Haleem Ullah S/O Ahmad Jan. He is son of the plaintiff. He also affirmed that the correct date of birth of the plaintiff is 01.01.1962. His CNIC is Ex.PW-2/1.

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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 01.01.1972. He produced family tree of plaintiff which is Ex. DW-1/1. He requested for dismissal of the suit.

After closing of evidence of the parties, arguments of the learned counsel for the parties were heard and available record perused.

My Issue wise findings are as under: -

Issue No. 02:

Plaintiff has renewed his CNIC on 26.03.2013 with expiry date of 26.03.2023 while suit in hand was filed on 04.10.2023. In plethora of judgements of the superior courts, it is held that every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of Limitation Act is six years and CNIC of plaintiff has already been expired on 26.03.2023 and the defendants are bent upon not issuing him with new CNIC, therefore, suit of plaintiff is held to be within time.

Issued decided in positive.

Issue No. 03:

The plaintiff alleged that his correct date of birth is 01.01.1962, but the same has been wrongly entered in his record with the defendants as 01.01.1972. That due to this wrong entry, there is unnatural age difference of about 06 years between plaintiff and his daughter namely Mst. Basmeri and 12

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years between plaintiff and his son namely Hazrat Ullah. During the course of evidence, statement of Haleem Ullah (son of plaintiff) was recorded as PW-02, who stated that the correct date of birth of plaintiff is 01.01.1962 and it has been wrongly mentioned in the record with the defendants as 01.01.1972.

The evidence produced by the plaintiff particularly the statement of PW-02, who is son of the plaintiff supported the stance of the plaintiff relating to unnatural age difference between the plaintiff and his children. The defendants have not brought any authentic documentary or oral evidence in order to rebut the stance of the plaintiff, except their own record which is impugned before this court through the instant suit therefore, the same cannot be considered authentic. The plaintiff is neither government employee nor such correction will damage the right of any third person and continuing with the wrong entry will result in to hardships and miseries to the plaintiff and his children in their future life. 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 01.01.1962 instead of 01.01.1972. Issue No. 01 & 04 are decided in positive.

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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
10.11.2023

Bakht Zada
10.11.23
(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.

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