

IN THE COURT OF SYED OBAIDULLAH SHAH
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL APPEAL NO. : 19/13 OF 2023
DATE OF INSTITUTION : 25.10.2023
DATE OF DECISION : 06.12.2023

MUHAMMAD HANIF S/O MUHAMMAD FAQIR KHAN, R/O CASTE
ALI KHEL, GHILJO, TEHSIL UPPER, DISTRICT ORAKZAI

....(APPELLANT)

-VERSUS-

1. CHAIRMAN NADRA, ISLAMABAD
2. DEPUTY CHAIRMAN NADRA, PESHAWAR
3. ASSISTANT DIRECTOR NADRA, DISTRICT ORAKZAI

.... (RESPONDENTS)

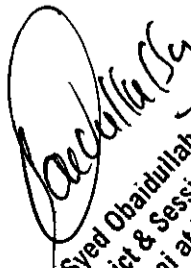
Present: Khurshheed Alam and Noor Karim Advocates for appellant
Irfan Hussain, Assistant Superintendent, the representative of
respondents

JUDGEMENT
06.12.2023

Impugned herein is the order/judgment dated
06.10.2023 of learned Senior Civil Judge, Orakzai vide which
the suit of the appellant/plaintiff has been dismissed u/s 11 of
the CPC.

- (2). In a suit before the learned trial court,
appellant/plaintiff claimed that his correct date of birth is
25.05.1987 while respondents/defendants have wrongly
mentioned the same as 25.05.1992. Respondents/defendants
were summoned who appeared before the learned trial court
through their legal representative and submitted written
statement raising various legal and factual objections.
Pleadings of the parties were culminated into following issues;

1. Whether plaintiff has got cause of action?

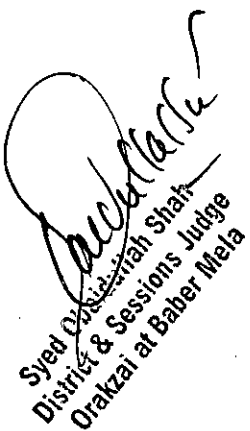

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2. Whether suit of plaintiff is within time?
3. Whether the correct date of birth of plaintiff is 25.05.1987 and the defendants have wrongly entered the same as 25.05.1992 in his record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief

(3). The learned trial court, after having heard the arguments, dismissed the suit u/s 11 of the CPC vide impugned order/judgement dated 06.10.2023. The appellant/plaintiff, being aggrieved of the impugned order/judgment, filed the instant appeal.

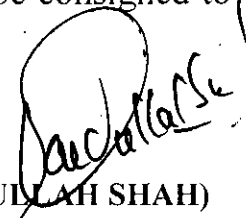
(4). Arguments heard and case file gone through.

(5). Perusal of the case file reveals that the appellant/plaintiff successfully obtained a degree related to the rectification of his date of birth on April 10, 2017, from the then Assistant Political Agent/Additional District Magistrate wherein he asserted that his accurate date of birth is May 25, 1992, whereas the National Database and Registration Authority (NADRA) incorrectly recorded it as March 3, 1984. Moreover, the available record indicates that the appellant/plaintiff's son, as per his Form-B and Detailed Marks Certificate (DMC) attached to the appeal, was born on July 15, 2005. If the date of birth of the appellant/plaintiff's is accepted as May 25, 1992, an incongruous gap of 13 years emerges between the appellant/plaintiff and his son. These aforementioned discrepancies could potentially lead to significant challenges for them in the future.


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(6). Hence, in view of the well settled principle of law that parties must have opportunity to adduce evidence in support of their contentions and no one should be condemned unheard, the impugned order/judgment of the learned trial court dated 06.10.2023 is set aside. The case is remanded back to the learned trial court to decide the case on merits after giving opportunity to the appellant/plaintiff to produce evidence. Needless to mention here that respondents/defendants must also be given opportunity to produce evidence in rebuttal, if any.

Judgment announced. Record be returned forthwith with copy of this judgment while file of this court be consigned to record room



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District Judge, Orakzai
at Baber Mela



CERTIFICATE

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 06.12.2023


(SYED OBAIDULLAH SHAH)
District Judge, Orakzai
at Baber Mela