

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

Civil Suit No. 11/1 of 2021
Date of Institution: 03/02/2021
Date of Decision: 15/09/2021

Muhammad Umar s/o Haleem Khan

Qoam Mamo Zai, Tapa Ado Khel, Muhabat Nawasi, PO Ghiljo, Tehsil Upper &
District Orakzai..... (Plaintiff)

VERSUS

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

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

Brief facts of case in hand are that the plaintiff, **Muhammad Umar s/o Haleem 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 is **13.01.1998** while his correct name is "**Muhammad Umar**" but defendants have wrongly mentioned his date of birth as 01.04.2004 and name as "**Umar**" in their record, which are incorrect and liable to be corrected.

Hence, the present suit.

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.

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15.09.21

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 **13.01.1998** while it has been wrongly entered as **01.04.2004**?
3. Whether the correct name of the plaintiff is **Muhammad Umar** while it has been wrongly entered as **Umar** in his CNIC by defendants?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.
6. Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced his witnesses as PW-1 to PW-3.
In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the record of plaintiff and exhibited the same as Ex. DW-1/1 to Ex. DW-1/3.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:

Issue No. 02:

It is the contention of plaintiff that his correct date of birth is 13.01.1998 but defendants have erroneously recorded the same as 01.04.2004 in his CNIC.

Plaintiff in support of his contention appeared as PW-1 and repeated the contents of plaint in his examination in chief. During cross examination he stated that smart card was issued to him in year 2019 and before issuance of card, he was accompanied by his mother to the office of NADRA and where she verified his form. He also stated that Azim Bibi is his elder sister while Shakila Bibi is one year older than him. PW-2 and PW-3 though stated in their examination in chief that correct date of birth of the plaintiff is 13.01.1998, yet during cross examination PW-2 stated that plaintiff is proceeding to Saudi Arabia and therefore, he wants to enhance his age upto 06 years. PW-03 also stated in her cross examination that the plaintiff wants to enhance his age from 17 to 23 years because he is proceeding to Saudi Arab for which minimum age of 21 years is required.

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On other hand representative of defendants produced CNIC processing form and family tree of the plaintiff Ex.DW-1/1 and Ex.DW-1/2 in which the date of birth of the plaintiff has been mentioned as 01.04.2004.

From the analysis of available it is an admitted position that Azim Bibi and Shakila Bibi are the real sister of plaintiff. From the admission of plaintiff while appearing as PW-01, it is evident that Azim Bibi is his elder sister while Shakila Bib is

also older than plaintiff. The family tree of plaintiff Ex.DW-1/2 reflects the date of birth of Azim Bibi as 01.01.2001 while of Shakila Bibi as 02.07.2003. So, the family tree Ex.DW-1/2 negates the claim of plaintiff regarding his date of birth as 13.01.1998 for the reason that how the date of birth of younger brother be of year 1998 while of elder sister is of year 2001 and 2003 respectively. This fact alone is sufficient to suggest that the entire claim of plaintiff is contrary to the facts and the same is without any solid footing.

More it is also clear from facts uttered by PW-02 and PW-03 during their cross examination that plaintiff through instant suit wants to enhance his age as he intends to proceed Saudi Arab, where the minimum is required age is 21 years while plaintiff at present is of 17 years. These facts suggest that plaintiff does not intend to correct his date of birth rather he desires to wrongly change his date of birth only to proceed Saudi Arab.

Hence instant issue is decided in negative.

Issue No.03:

Plaintiff contended in his plaint that, his correct name is "Muhammad Umar" but inadvertently the same was recorded

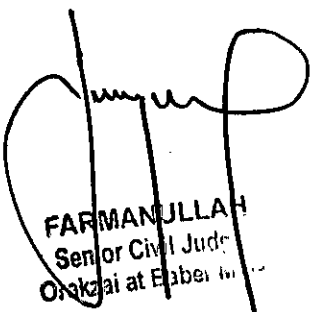
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as **Umar** in record of defendants. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of the plaint in his examination in chief. He also produced his CNIC as Ex.PW-1/1, his affidavits as Ex.PW-1/2 and birth certificate as Ex.PW-1/3, while PW-2, is the statement of Said Arauf, who stated in his examination in chief that correct name of the plaintiff is **Muhammad Umar**. PW-1 and PW-2 were subjected to cross examination but nothing substantial was brought on record which could have shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. Even the facts uttered by PW-01 and PW-02 regarding the name of plaintiff were not cross examined by the opposite party rather went un rebuttal. No cross examination on such facts by the opposite party amounts to admission. So, from the evidence produced by plaintiff, it is evident that correct name of plaintiff is **Muhammad Umar**. Hence, issue No.3 is decided in positive.

Issue No. 01 & 04:

Instant issues are taken together. For what has been held in issue No.2 and 3, this court is of the opinion that plaintiff has


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got cause of action and he is entitled to the decree to the extent of correction of his name in NADRA record while to the extent of correction of his date of birth he has neither got cause of action nor entitled to decree. Hence, both the issues are partially decided in negative and partially in positive.

Relief:

Consequently, suit of the plaintiff partially succeeds and is hereby decreed to the extent of name while dismissed to the extent of his date of birth. Defendants are directed to correct their record by incorporating the name of the plaintiff as “**Muhammad Umar**”. Parties are left to bear their own costs.

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

Announced
15/09/2021

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

CERTIFICATE

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

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