

IN THE COURT OF SHAUKAT AHMAD KHAN
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL APPEAL NO. : 8/13 OF 2022
DATE OF INSTITUTION : 22.06.2022
DATE OF DECISION : 06.07.2022

CHAIRMAN, NADRA ISLAMABAD THROUGH SYSTEM
ENGINEER DISTRICT ORAKZAI
.....(APPELLANT)

-VERSUS-

ABDUL KHALIQ S/O DALIL KHAN, R/O CASTE AKHEL,
DILAQ NAWASI, TEHSIL ISMAILZAI, DISTRICT ORAKZAI
..... (RESPONDENT)

Present: Syed Farhat Abbas, the representative of appellant.
: Sana Ullah Khan Advocate for respondent.

JUDGEMENT
06.07.2022

Impugned herein is the judgment/decree dated 31.05.2022 of the learned Senior Civil Judge, Orakzai passed in civil suit no. 10/1 vide which suit of the respondent/plaintiff was decreed in his favour as prayed for.

(2). In a suit before the trial court, respondent/plaintiff claimed that his correct date of birth is 10.04.2000 but the appellants/defendants have wrongly incorporated the same as 01.01.1992 in their record. Appellant/defendant contested the suit by submission of written statement.

(3). As the stance of the plaintiff was based on school record; therefore, the learned trial court after giving notice of the

disposal of suit through summary judgment, examined Muhammad Janan, the record keeper of the Collegiate Public

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High School as CW and after having heard the arguments, decreed the suit through summary judgment.

The appellant/defendants being aggrieved of the impugned judgement and decree, filed the instant appeal.


- (4). Arguments heard. Record perused.
- (5). Perusal of case file shows that as per contents of plaint, the stance of the plaintiff/respondent is based on school record which in normal course of events, being prior in time, has got a presumption of truth but in the instant case the CNIC has been issued to the plaintiff/respondent on 11.02.2011 while he has been admitted in school on 12.04.2011 in class 6th, which on one hand is later in time while on the other hand no primary school record has been produced on the basis which he has got admission in class 6th; therefore, the school record cannot be relied upon as a sole ground for believing the 10.04.2000 as correct date of birth of plaintiff/respondent. However, as the case has been disposed off on the basis of summary judgment and parties have not been given opportunity to adduce evidence in support of their respective contention; therefore, instead of non-suiting the plaintiff/respondent, he must have opportunity to prove its case.

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Gawalpindi
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Hence, in view of what is discussed above, the impugned judgment/decree of the learned trial court dated 31.05.2022 is set aside. The case is remanded back to the learned trial court with the directions to frame issues and after giving

opportunity to the parties to adduce evidence in support of their respective contentions decide the case on the basis of merits. Parties are directed to appear before the learned trial court on 14.07.2022. Record be returned forthwith with copy of this judgment while file of this court be consigned to record room.


Pronounced:
06.07.2022


(SHAUKAT AHMAD KHAN)
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: 06.07.2022


(SHAUKAT AHMAD KHAN)
District Judge, Orakzai
at Baber Mela

