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

Civil Suit No. 46/1 of 2021
Neem No. 46/1
Date of Original Institution: 09/08/2021
Date of Institution after restoration: 17/11/2021
Date of Decision: 07/03/2022

Muhammad Ismail s/o Muhammad Yousaf

Qoam Mamo Zai, Tappa Meer Kalam Khel, P/O Ghiljo, Tehsil Upper & District Orakzai... (Plaintiff)

VERSUS

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

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

07.03.2022

Brief facts of case in hand are that the plaintiff, **Muhammad Ismail s/o Muhammad Yousaf**, 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 **15.12.1984** while defendants have wrongly mentioned the same in their record as **1976**, which is incorrect and liable to be corrected. That he repeatedly asked defendants to correct his date of birth but they refused. Hence, the present suit.

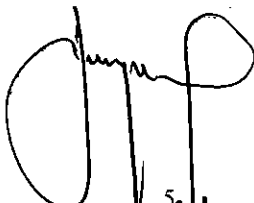
Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written

statement, wherein they contested the suit of plaintiff on various grounds.

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 "15.12.1984" while defendants have wrongly mentioned the same as 1976 in his CNIC?
3. Whether plaintiff is entitled to the decree as prayed for?
4. Relief.


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Parties were provided opportunity to produce evidence in support of their respective contention, which they did.

Plaintiff produced his witnesses as PW-01 to PW-03.

6. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the CNIC Processing Form of plaintiff as Ex.PW-1/1 and family tree as Ex.DW-1/2.
7. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
8. My issues wise findings are as under:

Issue No.02:

Plaintiff contended in his plaint that his correct date of birth is 15.12.1984 but inadvertently the same has been

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recorded as 1976 in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of his contention appeared as PW-1 and he repeated the contents of plaint in his examination in chief. He also produced his CNIC as Ex. PW-1/1. During the cross examination stated that manual ID card was issued to him before the issuance of CNIC and his date of birth was recorded as 1976 in his manual ID Card. He also stated that the age of his elder son is 10/12 years. PW-02 stated in his examination in chief that plaintiff is his son, whose number is 2nd in his children and is 05 years younger than his 1st son. During cross examination stated that he has no knowledge about his own age. He further stated that the elder son of plaintiff is 12/13 years old. PW-03 is the statement of Ahmad Khan who stated in examination in chief that he is the brother of plaintiff and the correct date of birth of plaintiff is 15.12.1984. He also stated that plaintiff is 05 years younger than him. During cross examination he stated that manual ID card was issued to the plaintiff, wherein, his date of birth was recorded as 1976.


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On other hand DW-01 produced the CNIC Processing Form of plaintiff as Ex. DW-1/1 and family tree of the plaintiff as Ex. DW-1/2.

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From the analysis of CNIC Processing Form of plaintiff Ex. DW-1/1 and from the admission of PW-01 and PW-03, it is an admitted position that manual ID card was issued to the plaintiff before the year 2003 and the same card, his date of birth was recorded as 1976 and thereafter, CNIC for the first time was issued to the plaintiff in year 2003, wherein, his date of birth was also recorded as 1976 while 2nd CNIC was issued to the plaintiff in year 2016, wherein, also his date of birth has been recorded as 1976. Plaintiff through instant suit has challenged the same CNIC issued in the year 2016. From the record, it is also evident that plaintiff has neither challenged his date of birth recorded as 1976 in his manual ID card when issued to him before the year 2003 nor he challenged his date of birth recorded in his CNIC issued in year 2003. Rather he has challenged his date of birth only, when 2nd CNIC was issued to him in year 2016. There is no explanation available on file that why plaintiff remained mum on his date of birth recorded in his manual ID card and 1st CNIC and why not he challenged the same when it was issued to him. Such a long silence on the part of plaintiff over date of birth as 1976, itself suggest that the same was correctly recorded and now challenging the same after such long period suggest that plaintiff intends to change his date of birth from 1976 to 15.12.1984 for some ulterior motives best known to


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him. Moreover, PW-01 and PW-02, during cross examination stated that the age of the elder son of plaintiff is 12/13 years but family tree Ex.DW-1/2 manifests that the date of birth of elder son of plaintiff namely Ameen Ullah is 10.03.2006. If the date of birth of plaintiff's son is calculated then it comes to be 16 years. The contradiction in statement of PW-01 and PW-02 with the family tree reflects that both the PWs have deliberately concealed the true facts for the reason to present the plaintiff younger than his actual age. Such concealment of facts makes their testimony doubtful, which cannot be termed as credible and trustworthy. Being such a position, their evidence cannot be relied upon. Furthermore, if the correct date of birth of plaintiff is 15.12.1984, then how he applied for manual ID card before the year 2003 at the age of less than 18 years? As it is an established fact that plaintiff himself recorded his date of birth as 1976 in his manual ID card and as well as in his CNIC form. So, under principle of estopple, the plaintiff is precluded to challenge the same, hence instant issue is decided in negative.

Issue No. 01 & 03:

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

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neither cause of action nor he is entitled to the decree as prayed for.

Both the issues are decided in negative.

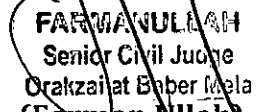
Relief:

As sequel to above discussion, it is held that plaintiff has failed to prove his stance through cogent, reliable and confidence inspiring evidence and under principle of estoppel, he is also precluded to file instant suit by challenging his date of birth. Hence, the suit of plaintiff is dismissed. No order as to costs.

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

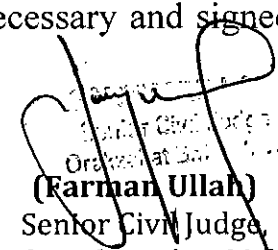
Announced

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

CERTIFICATE

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


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