

42

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

Civil Suit No. 61/1 of 2021
Date of Institution: 23/10/2021
Date of Decision: 22/06/2022

1. Gul Muhammad s/o Idat Khan R/O Mamozai, Orakzai
(Plaintiff)

VERSUS

1. Chairman NADRA, Islamabad, Pakistan.
2. Director General NADRA, KPK, Peshawar.
3. Assistant Director, NADRA, District Orakzai.
(Defendants)

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

JUDGEMENT:

1. Plaintiff Gul Muhammad has brought the instant suit for declaration-cum-perpetual and mandatory injunction against the defendants, seeking therein that the correct date of birth of the plaintiff is 28.09.1999 according to his Matric record, whereas, defendants have wrongly entered the same as 01.01.1990 in record instead of 28.09.1999, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. 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;

2. Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baber Mela

43

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 correct date of birth of the plaintiff is "28.09.1999" while defendants have wrongly mentioned the same as 01.01.1990 in his CNIC?*
3. *Whether the plaintiff is entitled to the decree as prayed for?*
4. *Relief?*

Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

Issue No. 02:

4. The plaintiff alleged in his plaint that the correct date of birth of the plaintiff is 28.09.1999 according to his Matric record, whereas, defendants have wrongly entered the same as 01.01.1990 in their record instead of 28.09.1999, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. 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;

5. Plaintiff in support of his contention produced witnesses, in whom the plaintiff himself appeared as PW-01 and narrated

44

the same story as in the plaint. Further, he produced the copy of his Matric DMC, CNIC, and Provisional Certificate of Orakzai Model School which are Ex. PW-1/1, Ex.PW-1/2 and Ex.PW-1/3 respectively. Further, the one Muhammad Ghani, the cousin of the plaintiff, appeared as PW-02 who fully supported the stance of the plaintiff by narrating the same story as in the plaint and produced the copy of his CNIC which is Ex.PW-2/1. Further, Mr. Khyal Jan, relative of the plaintiff, appeared as PW-03, who also narrated the same story as in the plaint and produced the copy of his own CNIC as Ex.PW-3/1. Further, the record keeper namely Saqib Raj, teacher of Orakzai Model School, appeared as PW-04 who produced the Admission and Withdrawal Register of the school and according to the same, the date of birth of the plaintiff is mentioned as 28.09.1999 on serial number 364, the copy of which is Ex.PW-4/1. He also produced the copy of his CNIC which is Ex.PW-4/2. All these witnesses have been cross-examined but nothing tangible has been extracted out of them during cross-examination.

The defendants produced only one witness, the record keeper of NADRA, Orakzai appeared as DW-01, who produced the CNIC Processing Detail Form of the plaintiff and according to that the plaintiff registered the CNIC in 2010 for the first time whereas he registered his age as 20 years while

REHMAN
Senior Civil Judge/JM,
Orakzai at Baber Mela

(40)

the difference between the imaginary date i.e 1999 to 2010, becomes 11 years and it is impossible to make CNIC in the age of 11 years and exhibited the same as Ex.DW-1/1. Further he produced the Family Tree of the plaintiff which is Ex.DW-1/2, but admitted in his cross examination that it will not lead to unnatural gap in Family Tree by changing the date of birth of the plaintiff. Further, stated that at the time of registration of CNIC, the plaintiff mentioned himself as illiterate but form is not available.

Arguments heard and record perused.

After hearing of arguments and perusal of record I am of the opinion that the plaintiff produced school record in support of his stance which is more reliable and earlier in time meaning thereby that he established his case through oral and documentary evidence. Also the defendants failed to produce a solid piece of evidence to counter down the claim of the plaintiff, therefore, the issue is decided in positive.

Issue No. 01 & 03:

Both these issues are interlinked, hence, taken together for discussion. As sequel to my findings on issue No. 02, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

REHMANULLAH JUDGE IJM,
Senior Judge at Bar, Bahawalpur
Orakzai


46

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with no order as to costs.

File be consigned to the Record Room after its completion and compilation.

Announced
22.06.2022


REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baber Mela
(Rehmat Ullah Wazir)
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.


REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baber Mela
(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)