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IN THE COURT OF ABDUL BASIT
ADDITIONAL DISTRICT JUDGE-II, ORAKZAI

Civil Appeal No. 01/13 of 2024

Date of institution: 03.01.2024

Date of decision: 06.02.2024

Date of consignment:

Shoaib Ali son of Muhammad Azeem resident of Caste Bar Muhammad Khel Tribe Khoidad Khel, Tehsil Lower District Orakzai through his father as next friend (appellant/plaintiff)

Versus

Chairman Nadra Islamabad and one other (respondents/defendants)

APPEAL U/S 96 CPC, 1908 AGAINST JUDGMENT,
DECREE & ORDER OF CIVIL JUDGE-II, ORAKZAI

JUDGMENT

Through this judgment I shall decide appeal preferred by appellant against respondents impugning herein the judgment, decree and order of the Court of learned Civil Judge-II, Orakzai dated 18.12.2023, whereby, he has dismissed suit no. 49/1-Neem-dar-Neem of 2023 of appellant.

Appellant/plaintiff has filed the instant suit, wherein, contended that his correct date of birth is 01.01.2008, however, it is entered wrong by respondents/defendants in their record as 12.08.2005; that the correct date of birth of his father is 09.09.1990, however, wrong entry of his date of birth in records of respondents brought a clash of unnatural gap between the ages of appellant and his father, due to which respondents are not ready to issue him computerized national identity card; thus, appellant has prayed for a decree to declare that his correct date of birth is 01.01.2008; that he has also prayed for decree for permanent and mandatory injunctions so that respondents may be directed for making correction of the same.

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Respondents were summoned by the learned trial court. Respondents appeared and filed joint written statement, wherein, raised various legal and factual objections, which were reduced into issues as below;

Issues:

1. *Whether plaintiff has got cause of action? OPP*
2. *Whether suit of plaintiff is within time?*
3. *Whether correct date of birth of plaintiff is 01.01.2008 and defendants have wrongly and incorrectly entered the same as 12.08.2005? OPP*
4. *Whether plaintiff is entitled to the decree as prayed for? OPP*

Relief?

Parties were offered opportunity to produce evidence in support of their pleas. Resultantly, they have recorded the statements of as many witnesses as they wished. On conclusion of evidence, arguments of learned counsel for parties were heard and learned trial court dismissed the suit of appellant on 18.12.2023.

The appellant being aggrieved of the impugned order filed the present appeal to set-aside the judgment, decree and order of the learned trial court on grounds that it is wrong, illegal, baseless, against the law, facts, result of misreading and non-reading of evidence.

Arguments of learned counsel for parties heard and record perused.

Perusal of record and assistance furnished by learned counsel for parties helped me to reach the conclusion that admittedly the date of birth of appellant is entered in records of respondents as 12.08.2005; however, the onus to prove a fact that it was entered wrong by respondents in records with them was placed on appellant. To support his plea, appellant recorded the statement of Syed Waiz Hussain (PW-1), who though supported the

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stance of appellant, however, his statement cannot be relied because he even did not know that whether appellant was eldest son of the appellant or otherwise. Muhammad Azeem (PW-2) appeared as next friend of appellant, who fully supported the plea of appellant and produced copy of smart card issued by respondents, Exh.PW 2/1; copy of his CNIC, Exh.PW 2/2 and copy of form bay, Exh.PW 2/3. It is, however, strange to note that when appellant has applied for issuance of smart card, his father had also accompanied him for biometric but despite that appellant has furnished his wrong particulars i.e. birth of date, which plays an estoppel against him because he was accompanied by his father, who could have intervened for the correction of date of birth. Even, otherwise, when the applicants apply for the issuance of card, the respondents after filling the form hand over the same to applicant for the verification and correction of mistakes, if any; therefore, such a mistake does not appear to be inadvertent.

Besides above, respondents recorded the sole statement of Irfan Hussain as DW-1, who produced family tree of appellant, Exh.DW 1/1, and processing form, Exh.DW 1/2, according to which the date of birth of appellant is entered as 12.08.2005. Although, representative for respondents stated that there appears an unnatural gap between the ages of appellant and his father but despite that smart card was issued to appellant without any objection; therefore the plea of appellant that respondents do not issue him the computerized national identity card is not convincing.

Importantly, the processing form of appellant, Exh.DW 1/2, suggests that appellant has applied for issuance of CNIC in March 2017, whereas, form bay, Exh.DW 2/3, suggests that it was prepared in December 2021, however, despite this name of appellant is found missing in the form bay presumably on ground that he was more than 18 years at that time.

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It is known to everyone that all those citizens, who had been issued old national identity cards, when applied for the computerized national identity card, their old national identity cards numbers were mentioned on the right side of the CNIC reflecting that he had already been issued the old card. Likewise, father of appellant was also issued the old national identity card, according to which his previous NIC number was 147-82-111496, which is also entered at the right side over back side of his computerized national identity card. It is also in our knowledge that the fourth and fifth digit mentioned in the old national identity cards of the citizens denoted the year of birth or year of issuance of national identity card of the applicants. Whereas, as per previous card number of the father of appellant, the digits mentioned there was 82, which appeared to be the year of birth of the father of appellant. Perusal of family tree, Exh.DW 1/1, further provides that the date of birth of the mother of appellant is 01.01.1984, who is presently six years older than father of appellant, however, when father of the appellant was asked in open court that whether his year of birth was 1982, to which he replied in affirmative and explained that he has changed his date of birth later on, which reflects that there was a genuine age gap between the appellant and his father, however, due to change in date of birth by father of the appellant, the difference resulted.

Even, the appellant did not bring on file a single document reflecting that he was actually born in 2008 and if his contention is believed to be true, even then, his picture available on processing form, Exh.DW 1/2, does not suggest from any angle that he was 9 years old at the time of issuance of smart card to him; therefore, for these reasons I hold that learned trial court has not committed any illegality in deciding the case and has properly appreciated the evidence on file, hence, appeal is **dismissed** and decree and order dated 18.12.2023 of the learned trial court is upheld.

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Parties have to bear costs of their proceedings because none of the parties has specifically proved the cost incurred on the case.

Requisitioned record, if any, returned to headquarter concerned and file of this court consigned to the record room after its completion and compilation.



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CERTIFICATE

Certified that this judgment consists of five (05) pages, those are signed by me after necessary corrections.



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