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

Civil Suit No. 60/1 of 2021
Date of Institution: 23.10.2021
Date of Decision: 28.07.2022

1. Nadeem Gul s/o Fazal Gul R/O Qoum Ali Khel, Tappa Jasrat Khel,
Baghnak, Tehsil Upper, District 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. Plaintiffs Mr. Nadeem Gul has brought the instant suit for declaration-cum-permanent injunction against the defendants to the effect that correct date of birth of the plaintiff is 01.01.1988, whereas, defendants have wrongly entered the same as 01.01.1996 in their record instead of 01.01.1988. That the correct date of birth of the real son namely Karim Ullah, of the plaintiff is 01.06.2007 according to Khoshal Education Academy, Thall Road, Hangu. Thus, there is an unnatural gap of 11 years approximately between the dates of birth of the plaintiff and his son, which is wrong and ineffective upon the rights of the plaintiff and is liable to

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correction. That the defendants were asked time and again to do the aforesaid corrections, 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.

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 "01.01.1988" while the defendants have wrongly mentioned the date of birth of the plaintiff as 01.01.1996 in their record?*
3. *Whether plaintiff himself changed his date of birth from 01.01.1988 to 01.01.1996 through decree of Assistant Commissioner, Orakzai? If so its effect.*
4. *Whether the plaintiff is entitled to the decree as prayed for?*
5. *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 & 03:

4. Both these issues are interlinked, hence, taken together for discussion.

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The plaintiff alleged in his plaint that correct date of birth of the plaintiff is 01.01.1988, whereas, defendants have wrongly entered the same as 01.01.1996 in their record instead of 01.01.1988. That the correct date of birth of the real son namely Karim Ullah, of the plaintiff is 01.06.2007 according to Khoshal Education Academy, Thall Road, Hangu. Thus, there is an unnatural gap of 11 years approximately between the dates of birth of the plaintiff and his son, which is wrong and ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again to do the aforesaid corrections, but they refused to do so, hence the present suit;

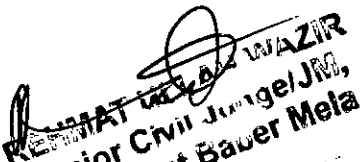
Plaintiff in support of his contention produced witnesses, in whom the one Rafi Ullah Khan, the neighbor of the plaintiff, appeared as PW-01 who narrated the same story as in the plaint and produced the copy of his CNIC which is Ex.PW-1/1. Further, Jalal Khan, relative of the plaintiff, appeared as PW-02, who 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, Zandi Gul, attorney for the plaintiff, appeared as PW-03 who supported the stance of the plaintiff by narrating the same story as in


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the plaint and exhibited special power of attorney and copy of CNIC as Ex.PW-3/1 and Ex.PW-3/2 respectively. All these witnesses have been cross-examined but nothing tangible have been extracted out of them during cross-examination.

The defendants produced only one witness, as Mr. Syed Farhat Abbas, the representative of the defendants appeared as DW-1, who produced CNIC Processing Detail Form of the plaintiff, according to which the plaintiff has changed his date of birth from 1988 to 1996 in 2018 which is Ex.DW-1/1. Further produced the Family Tree of the plaintiff which is Ex.DW-1/2. Further, stated that the order on which the plaintiff has changed his date of birth from District Magistrate is available in the record of the defendants which is Ex.DW-1/3. But admitted in his cross examination that there is no record of the child of the plaintiff with the defendants.


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Arguments heard and record perused.

After hearing of arguments and perusal of record,

I am of the opinion that the plaintiff established his case through oral and documentary evidence. Solid evidence is produced with respect to the date of birth of the plaintiff as it is naturally impossible for the plaintiff to have a child in the

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age of 11 years. Further, this unnatural difference creates difficulties for the child of the plaintiff namely Karim Ullah and so far as, the question that the plaintiff has once corrected the date of birth as 01.01.1988 somewhere in 2018 cannot be used to punish his son Karim Ullah by depriving him of the CNIC, which is against the principles of natural justice and equity. Also, the defendants failed to produce a solid piece of evidence to counter down the claim of the plaintiff, therefore, both these issues are decided accordingly.


Issue No. 01 & 04:

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 02 & 03, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Both these issues are decided in positive.

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.


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

Announced
28.07.2022


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CERTIFICATE

Certified that this judgment of mine which consists of six (06) 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)