

IN THE COURT OF SHABEER AHMAD,
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 23/1 of 2022
Date of Original Institution: 13.06.2022
Date of Transfer in: 28.06.2022
Date of Decision: 27.09.2022

Amin Khan son of Amir Muhammad, resident of Qaum Utman
Khel, Tehsil Lower, District: Orakzai.

.....(Plaintiff)

VERSUS

1. **Assistant Director, NADRA District Orakzai.**

.....(Defendant)

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

JUDGMENT

1. Brief facts of the case in hand are that the plaintiff Amin Khan has brought the instant suit for declaration, permanent and mandatory injunction against the defendant, referred hereinabove, seeking declaration therein that correct date of birth of plaintiff is **05.05.2001**, according to Middle School Leaving Certificate while it has been wrongly mentioned as 01.01.1987 in his CNIC by the defendant, which is wrong, ineffective upon the rights of the plaintiff and liable to correction. That the defendant was asked time

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and again to do the aforesaid correction but they refused, hence, the present suit;

2. Divergent pleadings of the parties were reduced into the following issues;

ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit is within time? OPP
3. What is the correct date of birth of plaintiff? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?

Upon submission of list of witnesses, both the parties on being provided with an opportunity to adduce their desired evidence, the parties produced their evidence.

After the completion of evidence, arguments of the learned counsel for the parties were heard and record of the case file was gone through with their valuable assistance.

Issue wise findings of this court are as under: -

Issue No. 02:

Plaintiff has been issued CNIC by defendant in the year 2005 while suit in hand was filed on 13.06.2022. Knowledge of the alleged wrong entry is obvious from

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2005. As period of limitation for filing declaratory suit under Article 120 of Limitation Act, is six years therefore, suit of plaintiff is not within time. Issue decided in negative.

Issue No. 03:

During course of recording evidence, Muhammad Zahid son of Meer Shah Khan, the school teacher appeared and deposed as PW-1. Copy of his CNIC is exhibited as Ex. PW-1/1, School Admission & Withdrawal Register is exhibited as Ex-PW-1/2. The witness admitted that the plaintiff was enrolled in class 9th and is now studying in class 10th. The plaintiff has not produced the reliable document of class 9th DMC rather provided only a manual Admission & Withdrawal Register of concerned school.

Javid Khan son of Ameer Muhammad, brother of plaintiff appeared and deposed as PW-2. Photocopy of his CNIC was exhibited as Ex-PW 2/1. He supported the claim of plaintiff and requested for rectification of date of birth of plaintiff as 05.05.2001. During cross examination he admitted that his father went to NADRA Office for form verification.

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Ameen Khan son of Ameer Muhammad, the plaintiff himself appeared and deposed as PW-3. Photocopy of his CNIC is Ex. PW-3/1. He prayed for decree of the suit. During cross examination he admitted that he does not know when he made his first CNIC. Further admitted that his first CNIC has been expired and he renewed his CNIC on 10.12.2020. He also admitted that he does not knew his age while making his first CNIC.

The representative of NADRA appeared as DW-1. He stated that plaintiff has been issued CNIC as per information provided by plaintiff. During cross examination the plaintiff has made admissions that CNIC was issued to the plaintiff in year 2005 on attaining the age of 18 years. That correct age of the plaintiff is 35 years. Plaintiff failed to produce cogent, convincing and reliable documentary evidence in support of his claim, therefore, issue No. 3 is decided in negative and against the plaintiff.

Issue No. 01 &04:

In the light of foregoing discussion, plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence; therefore, he has got no cause of action and is not entitled to the decree, as prayed

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for. Both these issues are decided in negative and against the plaintiff.

RELIEF:

Crux of my issue wise discussion is that as plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence, therefore, suit of the plaintiff is hereby dismissed. No order as to costs.

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

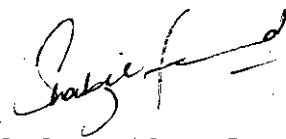
Announced
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CERTIFICATE

Certified that this judgment consists of five (05) pages, each has been checked, corrected where necessary and signed by me.



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