

IN THE COURT OF ZAHIR KHAN
CIVIL JUDGE-I, TEHSIL KALAYA, ORAKZAI

Suit No.....66/1 OF 2022.

Date of Institution.....02.07.2022.

Date of Decision.....11.10.2022.

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Jamil Hussain S/O Qurban Ali R/O Qaum Bar Muhammad Khel, Tappa
Khwaidad Khel, Village Mirako Payyan, Tehsil Lower, District Orakzai.

.....(*Plaintiff*)

VERSUS

1. Chairman NADRA, Islamabad.
2. Director General NADRA, Khyber Pakhtunkhwa, Peshawar.
3. Assistant Director NADRA, Orakzai.

..... (*Defendants*)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

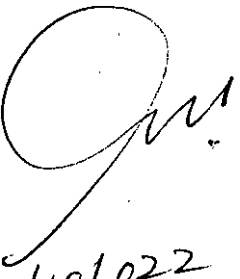
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JUDGEMENT

11.10.2022

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Jamil Hussain against defendants Chairman NADRA, Islamabad and two others for declaration and permanent injunction.

Brief facts in the backdrop are that plaintiff has filed the instant suit against the defendants for declaration and permanent injunction to the effect that as per school record, true and correct date of birth of plaintiff is 27.01.1978, however, defendants have incorrectly entered date of birth of plaintiff as 01.01.1971 which is wrong, illegal and liable to be rectified. That defendants were


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asked time and again to rectify date of birth of plaintiff but in vain hence, the present suit.

After institution of the suit, defendants were summoned, who marked their attendance through representative and contested the suit by filing authority letter and written statement.

From divergent pleadings of the parties, the following issues were framed for adjudication of real controversy between the parties.

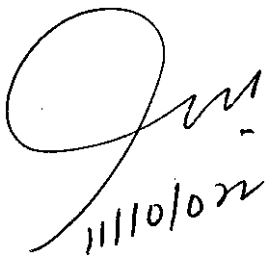
ISSUES

1. Whether plaintiff has got cause of action? OPP
2. Whether suit is within time? OPP
3. Whether correct date of birth of plaintiff is 27.01.1978 instead of 01.01.1971? 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 respective 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.

During course of recording evidence, plaintiff produced two witnesses.


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Syed Sajid Hussain, School teacher Government High School, Kurez, appeared and deposed as PW-01. Copy of his CNIC is Ex. PW-1/1. He produced original admission and withdrawal register copy of which is Ex. PW-1/2. As per which, date of birth of plaintiff is recorded as 27.01.1978.

Plaintiff himself appeared and deposed as PW-02. Copy of his CNIC is Ex. PW-2/1. He reiterated the averments of plaint and lastly requested for decree of suit in his favour.

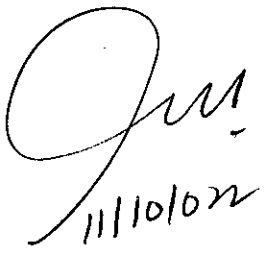
Thereafter, evidence of plaintiff was closed. Nothing contradictory could be brought on record from PWs.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced RTS, CNIC processing form of plaintiff and Family Tree which are Ex. DW-1/1 to Ex. DW-1/3. He stated that plaintiff has been issued CNIC as per information provided by plaintiff and that he has got no cause of action and lastly requested for dismissal of suit. Thereafter, evidence of defendants was closed.

My issue wise findings are as under: -

ISSUE NO.2:

CNIC of plaintiff was renewed on 17.07.2018 while suit in hand was filed on 02.07.2022. In plethora of judgements of the apex superior courts it is held that every wrong entry will accrue fresh cause of action. As period of limitation under Article 120 of

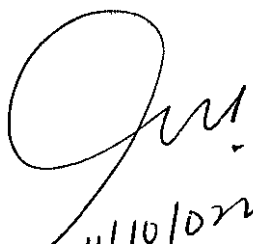

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Limitation Act is six years, therefore, suit of plaintiff is held to be within time. Issued decided in positive.

ISSUE NO.3:

Claim of plaintiff is that his true and correct date of birth is **27.01.1978** but defendants have incorrectly recorded date of birth of plaintiff as **01.01.1971** in their record, which is wrong and liable to be rectified. Plaintiff produced documentary evidence in support of his claim in shape of Ex. PW-1/2 (admission and withdrawal register) as per which, date of birth of plaintiff is recorded as **27.01.1978**. Ex. PW-1/1 is produced by PW-01 who is a school teacher. Plaintiff is not a government servant and to this effect he also submitted an affidavit. The modification/rectification sought by plaintiff will not affect rights of others. More so, DW-01, in his cross examination stated that the modification in date of birth of plaintiff per school record will not affect family tree of plaintiff.

Keeping in view the above discussion and documentary as well as oral evidence available on file, it is held that correct date of birth of plaintiff is **27.01.1978** which is correctly recorded in his school record. Date of birth of plaintiff to be rectified/modified from **01.01.1971** to **27.01.1978**. Issue decided accordingly.


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ISSUES NO.1 & 4.

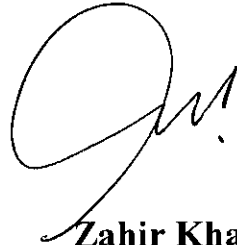
In the light of foregoing discussion, it is held that plaintiff has got cause of action and he is entitled to the decree, as prayed for. Both these issues are decided accordingly.

RELIEF.

Crux of my issue wise discussion is that suit of plaintiff is hereby decreed in his favor against the defendants as prayed for. No order as to costs. This decree shall not affect the rights of any other person interested, if any or service record of plaintiff, if any.

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

ANNOUNCED
11.10.2022



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CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan
Civil Judge-I, Kalaya, Orakzai