

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

Suit No.....93/1 of 2022.

Date of Institution.....20.09.2022.

Date of Decision.....02.11.2022.

=====

Abdul Haq S/O Rasool Khan R/O Qaum Malak Din Khel, Tappa Doulat Khel, Village Maidan Kali, Tehsil Bara, District Khyber presently residing at District Orakzai.

.....(*Plaintiff*)

VERSUS

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

..... (*Defendants*)


=====
SUIT FOR DECLARATION & PERMANENT INJUNCTION
=====

JUDGEMENT

02.11.2022

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Abdul Haq 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 01.01.1993, however, defendants have incorrectly entered date of birth of plaintiff as 01.01.1989 in their


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
02.11.2022

record which is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That defendants were 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 01.01.1993 instead of 01.01.1989? 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.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
02.11.02

During course of recording evidence, plaintiff produced two witnesses.

Ahmad Ullah, School teacher Islamia Public School, appeared and deposed as PW-01. He produced admission and withdrawal register extract of which is Ex. PW-1/1. As per which, date of birth of plaintiff is recorded as 01.01.1993. School leaving certificate is Ex. PW-1/2.

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.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced Family Tree and CNIC processing form of plaintiff which are Ex. DW-1/1 and Ex. DW-1/2. He stated that plaintiff has been issued CNIC as per information provided by him and that he has got no cause of action and lastly requested for dismissal of suit of plaintiff. Thereafter, evidence of defendants was closed.

My issue wise findings are as under: -

ISSUE NO.2:

Record shows that CNIC of plaintiff was renewed on 19.03.2021 while suit in hand was filed on 20.09.2022. 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



ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

02.11.22

limitation under Article 120 of Limitation Act is six years, therefore, suit of plaintiff is held to be within time. Issued decided in affirmative.

ISSUE NO.3:

Claim of plaintiff is that his true and correct date of birth is **01.01.1993** but defendants have incorrectly recorded the same as **01.01.1989** in their record, which is wrong and liable to be rectified. Plaintiff has placed reliance on Ex. PW-1/1 (admission and withdrawal register) and Ex. PW-1/2 (school leaving certificate) as per which, date of birth of plaintiff is recoded as 01.01.1993. Ex. PW-1/1 is a document produced by a teacher of private school. The certificate of class 8 on the strength of which date of birth of plaintiff was entered as 01.01.1993 in Ex. PW-1/1 was not produced by PW-01 along with record. Primary school record was not produced during course of trial. Mere exhibition of a document does not mean that the document is proved. Furthermore, none from the parents, brothers and sisters of plaintiff appeared before the court to support plea of plaintiff. Oral evidence produced by plaintiff is also insufficient to prove claim of plaintiff. Plaintiff was issued CNIC first time on 25.05.2013 with expiry date as 19.03.2021. It was renewed on 19.03.2021 with expiry date as 19.03.2031. Each time plaintiff received his CNIC from defendants without any objection on date of birth recorded therein.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
02.11.2022

Keeping in view the above discussion, documentary as well as oral evidence available on file, issue No. 3 is decided in negative and against the plaintiff.

ISSUES NO.1 & 4.

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

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

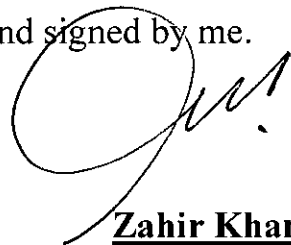
ANNOUNCED
02.11.2022



Zahir Khan
Civil Judge-I, Kalaya, Orakzai

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