

**IN THE COURT OF SHAUKAT AHMAD KHAN  
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)**

CIVIL APPEAL NO. : 15/13 OF 2022  
DATE OF INSTITUTION : 01.12.2022  
DATE OF DECISION : 16.12.2022

MUHAMMAD ZAMAN S/O NOOR GHANI, R/O CASTE FEROZ KHEL,  
TAPA GHAI RAT KHEL, SYED KHALIL BABA, DISTRICT ORAKZAI  
.....(APPELLANT)

-VERSUS-

1. CHAIRMAN, NADRA ISLAMABAD  
2. DIRECTOR GENERAL, NADRA KHYBER PAKHTUNKHWA  
3. ASSISTANT DIRECTOR NADRA, DISTRICT ORAKZAI  
..... (RESPONDENTS)

Present: Sana Ullah Khan Advocate for appellant.  
: Mr. Irfan Hussain, the representative of NADRA.

JUDGEMENT  
16.12.2022

Impugned herein is the judgment dated 03.11.2022 of learned Civil Judge-I, Tehsil Court Kalaya, District Orakzai vide which the suit of the appellant/plaintiff has been dismissed.

(2). The appellant/plaintiff through a suit before the learned trial court sought declaration and permanent injunction to the effect that his correct date of birth, as per his school record, is 01.01.2004 while the respondents/defendants have incorrectly entered the same as 01.01.1994 in their record. Respondents/defendants contested the suit on various legal and factual grounds by submitting written statement. The learned trial court incorporated the pleadings of the parties into the following issues.

1. *Whether plaintiff has got cause of action?*
2. *Whether suit is within time?*
3. *What is the correct date of birth of plaintiff?*

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4. *Whether plaintiff is entitled to the decree as prayed for?*

5. *Relief?*

Parties were given opportunity to produce pro and contra evidence in support of their respective contentions.

Accordingly, appellant/plaintiff appeared in the witness box as PW-1 and produced copy of his CNIC as Ex. PW 1/1, school leaving certificate as Ex. PW 1/2 and extract of admission and withdrawal register as Ex. PW 1/3 in support of his contention. On the other hand, respondents/defendants remained contented with the sole statement of their representative as DW-1 by producing RTS, CNIC processing form and family tree which are Ex. DW 1/1 to Ex. DW 1/4 respectively. After having heard the arguments, the learned trial court dismissed the suit of the appellant/plaintiff. The appellant/plaintiff, being aggrieved of the impugned judgement and decree, filed the instant appeal.

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(3). When the case is fixed for final arguments, the counsel for the appellant/plaintiff submitted application for production of additional evidence. The representative of respondents/defendants conceded the application.

(4). I heard arguments and perused the record.

(5). Perusal of case file shows that the appellant/plaintiff seeks the correction in his date of birth on the strength of school record, in support of which he has produced a copy of School Leaving Certificate issued by Principal Orakzai Model School, Sam Feroz Khel and copy of register of the admission and

withdrawal. Both the documents are not original rather unattested copies. Moreover, it is also not known that as to whether the register of admission and withdrawal is issued by the above-named Orakzai Model School where the appellant/plaintiff, as per school leaving certificate, has got admission on 01.10.2020 and withdrawn from the school on 02.07.2021 or as to whether it is issued by some other primary school?. Therefore, in view of the well settled principle of law that parties must have opportunity to adduce evidence in support of their contentions and no one should be condemned unheard, on acceptance of the application of appellant/plaintiff for additional evidence, the impugned judgment/decreed of the learned trial court dated 03.11.2022 is set aside. The case is remanded back to the learned trial court to decide the case on merits after giving opportunity to the appellant/plaintiff to prove both the documents through production of additional evidence. Needless to mention here that respondents/defendants must also be given opportunity to produce evidence in rebuttal, if any. Parties are directed to appear before the learned trial court on 20.12.2022. Record be returned forthwith with copy of this judgment while file of this court be consigned to record room.


**Pronounced**  
16.12.2022

  
(SHAUKAT AHMAD KHAN)  
District Judge, Orakzai  
at Baber Mela

**CERTIFICATE**

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 16.12.2022

  
(SHAUKAT AHMAD KHAN)  
District Judge, Orakzai  
at Baber Mela

