

IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Suit No.....79/1 of 2022.

Date of Institution.....01.08.2022.

Date of Decision.....21.12.2022.

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Qamat Ali S/O Nawab Khan, R/O Qaum Bar Muhammad Khel, Tappa Alat
Khel, Tehsil Lower, District Orakzai.

.....(Plaintiff)

Versus

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


..... (Defendants)

SUIT FOR DECLARATION & PERMANENT JUNCTION**JUDGEMENT**

21.12.2022

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

Brief facts as per amended plaint are that plaintiff has filed the instant suit for declaration cum-permanent injunction to the effect that true and correct date of birth of plaintiff is **18.03.1987** whereas defendants have incorrectly and wrongly entered the same as **1981**. It is further averred that correct name of plaintiff is Qamat Ali whereas defendants have entered the same as Razmeen Ali. It is further averred


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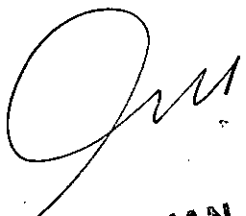
that correct father's name of plaintiff is Nawab Khan and his correct mother's name is Khwaga Jamala whereas defendants have incorrectly and wrongly entered the father's name of plaintiff as Shakir Ali and mother's name as Maila Jan which entries are wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. That defendants were asked time and again to do the needful 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 of plaintiff is within time?
3. Whether correct date of birth of plaintiff is 18.03.1987 instead of 1981? OPP
4. Whether correct name of plaintiff is Qamat Ali instead of Razmeen Ali?
5. Whether correct father's name of plaintiff is Nawab Khan instead of Shakir Ali? OPP
6. Whether plaintiff is entitled to the decree as prayed for? OPP
7. Relief.


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Thereafter, application of plaintiff for amended plaint was allowed vide order dated 19.12.2022. Amended plaint was filed. Defendants submitted amended written statement. The following amended issues were framed.


AMENDED ISSUES:

1. Whether plaintiff has got cause of action? OPP
2. Whether suit of plaintiff is within time?
3. Whether correct date of birth of plaintiff is 18.03.1987 instead of 1981? OPP
4. Whether correct name of plaintiff is Qamat Ali instead of Razmeen Ali?
5. Whether correct father's name of plaintiff is Nawab Khan instead of Shakir Ali and correct mother's name of plaintiff is Khwaga Jamala instead of Maila Jan? OPP
6. Whether plaintiff is entitled to the decree as prayed for? OPP
7. 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.

Plaintiff produced three witnesses in support of his claim while defendants produced one witness in defence.


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Plaintiff himself appeared and recorded his statement as PW-01. He reiterated the averments of plaint. Copy of his CNIC is Ex. PW-1/1. Copy of Sheet Rool is Ex. PW-1/2. He requested for decree of suit in his favour against the defendants as prayed for.

Awan Ali and Omid Ali, appeared and deposed as PW-02 and PW-03 respectively. They supported plea of plaintiff. Copies of their CNICs are Ex. PW-2/1 & Ex. PW-3/1 respectively.

Thereafter, evidence of plaintiff was closed.


Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced family tree and RTS data which are Ex. DW-1/1 & Ex. DW-1/2 respectively. 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.

The above discussion boils down to my following issue-wise findings.

ISSUE NO.2:

As per Ex. PW-1/1 (CNIC of plaintiff), Ex. DW-1/1 (Family tree) and Ex. DW-1/2 (RTS data), plaintiff was issued CNIC by defendants on 15.11.2005 with expiry date 31.10.2011 while suit in hand was filed on 01.08.2022. After expiry of CNIC on 31.10.2011, plaintiff neither approached NADRA authorities for rectification nor


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the then courts of erst-while FATA. Suit of plaintiff is time barred, hence, issue decided in negative.

ISSUES NO.3, 4 & 5

All these issues are interlinked, therefore, taken together for simultaneous discussion.

Claim and contention of plaintiff is that his true and correct date of birth is **18.03.1987** whereas defendants have incorrectly and wrongly entered the same as **1981**. It is further averred that correct name of plaintiff is Qamat Ali whereas defendants have entered the same as Razmeen Ali. It is further averred that correct father's name of plaintiff is Nawab Khan and his correct mother's name is Khwaga Jamala whereas defendants have incorrectly and wrongly entered his father's name as Shakir Ali and mother's name as Maila Jan which entries are wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified.

Plaintiff has placed reliance on Ex. PW-1/2 (Sheet roll), as per which his name is recorded as Qamat Ali, his father's name is recorded as Nawab Khan with date of birth as 18.03.1987. Per Ex. PW-1/2, plaintiff was recruited in FC on 16.02.2008 while as per Ex. PW-1/1, Ex. DW-1/1 & Ex. DW-1/2, plaintiff was issued CNIC on 15.11.2005 with expiry date as 31.10.2011 wherein, his date of birth is recorded as 1981, while his name is entered as Razmeen Ali, father's name as Shakir Ali and mother's name as Maila Jan. Entry in the


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service record is made on the basis of MNIC/CNIC and other certificates of the employee. Plaintiff was issued CNIC in the year 2005, while he was recruited in FC in the year 2008. Ex. PW-1/2 is an unattested copy of Sheet Roll. Original Service book and medical certificate was not produced and exhibited during evidence of plaintiff. Ex. PW-1/2 cannot safely be relied upon. Plaintiff, who deposed as PW-01, stated in his cross examination that his mother is alive but neither she was produced as witness before the court nor her CNIC was produced and exhibited. Oral evidence produced by plaintiff is also insufficient to prove his claim. Plaintiff was issued CNIC on 15.11.2005 with expiry date 31.10.2011. Plaintiff received his CNIC from defendants without any objection on his date of birth, his name and parentage recorded therein.


Keeping in view the above discussion, documentary as well as oral evidence available on file, issues No. 3, 4 & 5 are decided in negative and against the plaintiff.

ISSUES NO.1 & 6.

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


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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

21.12.2022



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CERTIFICATE

It is certified that this judgment consists of 07 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan

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