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IN THE COURT OF REHMAT ULLAH WAZIR,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 09/1 of 2022
Date of Institution: 21.02.2022
Date of Decision: 21.12.2022

1. **Abdul Salam s/o Gul Bahadur** R/O Darha Darh Mamazai,
Tappa Khadin Nawasi, Garhi Kalay, Tehsil: Lower, District:
Orakzai.

(Plaintiff)

VERSUS

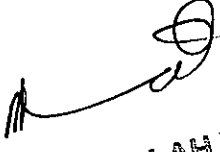
1. **Assistant Director, NADRA, District Orakzai.**
2. **Chairman Board of Education, Kohat.**

(Defendants)

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

JUDGEMENT:

1. Plaintiff Abdul Salam has brought the instant suit for declaration-cum-perpetual and mandatory injunction against the defendants seeking therein that his correct date of birth is 18.08.1997, according to his Birth Certificate and Passport, whereas, defendants have wrongly entered the same as 02.02.2000, in his CNIC and Academic record, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again for correction of date of birth of the plaintiff but they refused to do so, hence, the present suit;


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2. Defendants were summoned, who appeared before the court through their representative and legal advisor and contested the suit by filing their written statements.

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

Issues:

1. *Whether the plaintiff has got cause of action?*
2. *Whether the correct date of birth of the plaintiff is "18.08.1997" while defendants have wrongly mentioned the date of birth of the plaintiff as "02.02.2000" in their record?*
3. *Whether plaintiff is entitled to the decree as prayed for?*
4. *Relief?*

Parties were given an opportunity to produce evidence which they did accordingly.


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Issue wise findings of this court are as under: -

Issue No. 02:


The plaintiff alleged in his plaint that his correct date of birth is 18.08.1997, according to his Birth Certificate and Passport, whereas, defendants have wrongly entered the same as 02.02.2000, in his CNIC and Academic record, which is wrong, ineffective upon the rights of the plaintiff and is liable to correction. That the defendants were asked time and again

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for correction of date of birth of the plaintiff but they refused to do so, hence, the present suit;

Plaintiff in support of his contention produced witnesses, in whom the plaintiff himself appeared as PW-01 and narrated the same story as in the plaint. Further, exhibited his Birth Certificate, Passport of his mother and his own CNIC as Ex.PW-1/1 to Ex.PW-1/3 respectively. Further, the one Nabi Ullah, a relative of the plaintiff appeared as PW-02, who supported the stance of the plaintiff by narrating the same story as in the plaint and exhibited his CNIC as Ex.PW-2/1. Further, the one Abdullah, a relative of the plaintiff, appeared as PW-03, who also supported the stance of the plaintiff and exhibited his CNIC as Ex.PW-3/1. All these witnesses have been cross-examined but nothing tangible has been extracted out of them during cross-examination.

The defendant No. 01 produced only one witness as the record keeper of NADRA, Orakzai who appeared as DW-01, who stated that the plaintiff processed his CNIC on 18.09.2017 according to SSC Certificate and mentioned his place of birth as Tehsil Ismail Zai, District Orakzai and attested from elder of the locality. Further, produced the Family Tree, RTS record, CNIC Processing Form and Secondary School Certificate of the


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plaintiff, which are Ex.DW-1/1 to Ex.DW-1/4 respectively. But admitted in his cross examination that he does not know either the date of birth of the plaintiff is correct according to Birth Certificate Ex.PW-1/1. Further, that he does not know the originality of the passport of the mother of the plaintiff.

The defendant No. 02 produced witness as legal advisor who appeared as DW-02 and stated that he relies on written statement, Secondary School Certificate, Serial No. 254189, Roll No. 67550, Provisional Certificate of Hangu Institute of Science & Technology and Higher Secondary School Certificate, Serial No. 339789, Roll No. 55270.

Arguments heard and record perused.

After hearing of arguments and perusal of record, I am of opinion that the plaintiff mainly relies on his Birth Certificate and Passport, which are earlier in time and bear the presumption of truth unless rebutted. Also, the plaintiff is increasing his age and not decreasing which would not adversely effect the rights of any third person. Thus, the plaintiff established his claim through cogent and reliable evidence; therefore, the issue is decided in positive.

Issue No. 01 & 03:


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Both these issues are interlinked, hence, taken together for discussion.


As sequel to my findings on issue No. 2, the plaintiff has got a cause of action and therefore, entitled to the decree as prayed for. Both these issues are decided in negative.

RELIEF:

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for with costs.


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

Announced
21.12.2022


(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)

CERTIFICATE

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


(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai at (Baber Mela)