

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

Suit No.....181/1 Neem.

Date of Original Institution..... 03.11.2021.

Date of Restoration..... 12.09.2022.

Date of decision.....19.09.2022.

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Rafi Ullah S/O Yahya Khan, R/O Qoum Sheikhan, Tappa Samozai, Mian Chan, Raisan, Tehsil Central, District Orakzai.

..... (Plaintiff)

Versus

1. Chairman NADRA, Islamabad.
2. Director General NADRA, KPK, Peshawar.
3. Assistant Director NADRA, District Orakzai.

..... (Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION.

JUDGEMENT

19.09.2022

Plaintiff along with counsel present. Representative of defendants also present. Qeemat Khan, SDM, Government High School, Dran Sheikhan present. His statement recorded as CW-01. Further arguments heard and record gone through.

Through this judgement, I am going to dispose of the instant suit filed by plaintiff Rafi Ullah 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

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the effect that as per Secondary School Certificate, true and correct date of birth of plaintiff is 28.02.2005, however, defendants have incorrectly entered date of birth of plaintiff as 01.01.1995 which is wrong, illegal 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 28.02.2005 instead of 01.01.1995? 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 evidence.



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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 himself appeared and deposed as PW-01. He produced Secondary School Certificate according to which, date of birth of plaintiff is recorded as 28.02.2005. Copy of his Secondary School Certificate is Ex. PW-1/1 and CNIC is Ex. PW-1/2. Provisional Certificate is Ex. PW-1/3. 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 PW.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced CNIC processing Form, Computerized Birth Registration Certificate and FRC which are Ex. DW-1/1 to Ex. DW-1/3. He stated that plaintiff has been issued CNICs 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.

Record Keeper/Head Teacher of Government High School, Drand, Sheikhan was summoned as court witness. Qeemat Khan SDM, appeared and was examined as CW-01. He produced admission and withdrawal register. The extract of admission and withdrawal register is Ex. CW-1/1 and copy of his CNIC is Ex. CW-1/2. Original admission and withdrawal register seen and returned. As per CW-1/1, date of birth of plaintiff is recorded as 28.02.2005.


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

ISSUE NO.2:

Plaintiff has been issued CNIC on 06.02.2014 while suit in hand was filed on 03.11.2021 with the expiry date as 06.02.2024. Every wrong entry will accrue fresh cause of action, therefore, suit of plaintiff is held to be within time. Issue decided in positive.

ISSUE NO.3:

Claim of plaintiff is that his true and correct date of birth is **28.02.2005** but defendants have incorrectly recorded date of birth of plaintiff as **01.01.1995** in their record, which is wrong and liable to be rectified. He produced documentary evidence in support of his claim in shape of SSC as Ex. PW-1/1 and Provisional Certificate as Ex. PW-1/3 as per which date of birth of plaintiff is recorded as 28.02.2005. The same carries weight as presumption of correctness is attached to it. Similarly, as per Ex. CW-1/1 (admission and withdrawal register), date of birth of plaintiff is recorded as 28.02.2005.

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 28.02.2005 which is correctly recorded in his Secondary School Certificate and Provisional Certificate. Date of birth of plaintiff


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to be rectified/modified from **01.01.1995** to **28.02.2005**. Issue decided accordingly.

ISSUES NO.1 & 4.

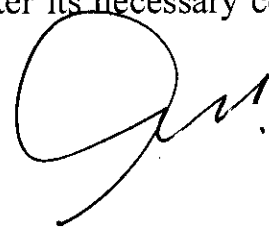
In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided accordingly.

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
19.09.2022



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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