

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

Suit No.....11/1 of 2024.

Date of Institution.....02.05.2024.

Date of Decision.....30.05.2024.

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Muhammad Shareen S/O Badshah R/O Qoam Mishti Tappa Darway
Khel, Tehsil Central, District Orakzai.....Plaintiff)

Versus

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

..... (Defendants)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION

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JUDGMENT
30.05.2024

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

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Brief facts in the backdrop 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 01.01.2001 however,
defendants have incorrectly entered the same as 19.09.1995 which
entry is wrong, illegal and ineffective upon the rights of plaintiff and
liable to be rectified. It is further averred that due to this wrong entry,

there is unnatural age difference of about 13 and 11 years between plaintiff and his real parents whose date of birth, as per their CNICs are 01.01.1982 and 01.01.1984. 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. The controversial pleadings of the parties were reduced into the following issues:

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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 01.01.2001 and defendants have wrongly and incorrectly entered the same as 19.09.1995 in their record? 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 counsels for the parties were heard and record of the case file was gone through with their valuable assistance.

Plaintiff produced two witnesses in support of his claim while defendants also produced one witness in defense. Badshah, father of plaintiff, appeared as PW-01. He reiterated the averments of plaint. Copy of his CNIC is Ex.PW-1/1, copy of service card is Ex.PW-1/2, copy of CNIC of mother of plaintiff is Ex.PW-1/3 and affidavit regarding marital status is Ex.PW-1/4. Plaintiff Muhammad Shareen himself appeared as PW-02. Copy of his CNIC is Ex.PW-2/1. Nothing contradictory could be brought on record from PWs. Thereafter, evidence of plaintiff was closed.

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Irfan Hussain (Representative of NADRA, Orakzai) appeared DW-01. He produced Family Trees of plaintiff which are Ex. DW-1/1 & Ex.DW-1/2. He stated that there is unnatural difference of 13 years and 09 months, 11 year and 09 months between plaintiff and his parents. He lastly requested for dismissal of suit of plaintiff. Thereafter, evidence of defendants was closed.

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

ISSUE NO.2

Plaintiff has been issued CNIC on 10.03.2014 with expiry date as 10.03.2024. Suit in hand was filed on 02.05.2024. Every wrong

entry will accrue fresh cause of action. Period of limitation for filing declaratory suit under Article 120 of Limitation Act is six years, therefore, suit of plaintiff is held to be within time. Issue No. 2 decided in positive.

ISSUE NO.3

Claim and contention of plaintiff is that his true and correct date of birth is 01.01.2001 however, defendants have incorrectly entered the same as 19.09.1995 which entry is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. It is further averred that due to this wrong entry, there is unnatural age difference of about 13 and 11 years between plaintiff and his parents.

Although, there is no documentary proof which could establish that correct date of birth of plaintiff is 01.01.2001, however, there is unnatural age difference of about 13 and 11 years between plaintiff and his parents which is evident from Ex.PW-1/1 to Ex.PW-1/3. Affidavit regarding marital status is Ex.PW-1/4 as per which marriage of plaintiff's parents was solemnized on 01.01.1999 and plaintiff is the elder among the siblings. Representative of defendants did not cross examine PW-01 when his re-examination was recorded; hence, Ex.PW-1/4 remains un-rebutted. Plaintiff, as per record, is an illiterate person having no government service.

DW-01, in his cross examination, admitted unnatural age difference between plaintiff and his parents. If date of birth of plaintiff

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is not modified, it will result into inconvenience to plaintiff and his family members. Oral evidence produced by plaintiff is also supportive to the averments of plaintiff.

Keeping in view the above discussion, documentary as well as oral evidence available on file and admission of DW-01, issue No.3 is decided in favor of plaintiff and against the defendants.

ISSUE NO.1 & 4.

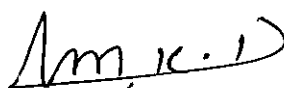
In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided in positive in favor of plaintiff.

RELIEF:

Crux of my issue wise discussion is that suit of the plaintiff is hereby decreed in his favor against the defendants as prayed for. No order as to cost. This decree shall not affect the rights of other persons interested, if any and their service record, if any.

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

ANNOUNCED
30.05.2024

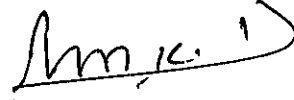


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CERTIFICATE

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



Zahir Khan

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