

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

Suit No.....14/1 of 2024.

Date of Institution.....04.05.2024.

Date of Decision.....14.05.2024.

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Mamoor Khan S/O Fazal Akbar R/O Qaum Feroz Khel, Tappa Qeemat Khel,
Lerri, Tehsil Lower, District Orakzai.

.....(*Plaintiff*)

VERSUS

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

..... (*Defendants*)

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SUIT FOR DECLARATION & PERMANENT INJUNCTION


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JUDGMENT

14.05.2024

Through this judgement, I am going to dispose of the instant suit filed by plaintiff namely Mamoor Khan 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 the effect that as per Secondary School Certificate & DMC, correct date of birth of plaintiff is, 01.02.2002, however, defendants have incorrectly entered the same as 01.01.1991 which entry is wrong, illegal and liable to be rectified. That defendants


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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 of plaintiff is within time? OPP
3. Whether correct date of birth of plaintiff is 01.02.2002 and defendants have incorrectly and wrongly entered the same as 01.01.1991? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief?


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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.

During course of recording evidence, plaintiff produced two witnesses while defendants produced one witness in defense.

Muhammad Nawaz/brother and special attorney of plaintiff appeared and deposed as PW-01. Special power of attorney is Ex.PW-1/1, copy of his CNIC is Ex.PW-1/2, copy of DMC of plaintiff is Ex.PW-1/3, copy of secondary school certificate is Ex.PW-1/4 and copy of CNIC of plaintiff is Ex.PW-1/5. Noor Muhammad/cousin of plaintiff appeared and deposed as PW-02. Copy of his CNIC is Ex.PW-2/1. Thereafter, evidence of plaintiff was closed. Nothing contradictory could be brought on record from PWs.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. Authority letter is Ex.DW-1/1. He stated that date of birth of plaintiff may be modified on the basis of matric certificate after its verification as per NADRA SOPs. Thereafter, evidence of defendants was closed.

My issue wise findings are as under: -

ISSUE NO.2:

Plaintiff has been issued CNIC on **01.10.2023** with expiry date as 01.10.2033 while suit in hand was filed on **04.05.2024**. As period of limitation under Article 120 of Limitation Act for filing declarative suit is six years, therefore, suit of plaintiff is within time. Issue No. 2 decided in positive.

ISSUE NO.3:

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Claim of plaintiff is that as per Secondary School Certificate, correct date of birth of plaintiff is, 01.02.2002, however, defendants have incorrectly entered the same as 01.01.1991 which entry is wrong, illegal and liable to be rectified. Plaintiff produced documentary evidence in support of his claim in shape of Matric DMC and Provisional Certificate as Ex. PW-1/3 and Ex.PW-1/4 as per which, date of birth of plaintiff is recoded as 01.02.2002. The same carries weight as presumption of correctness is attached to it. Oral evidence is also supportive to the averments of plaint. Nothing in rebuttal is produced by defendants rather DW-01 stated that date of birth of plaintiff may be rectified/modified on the strength of matriculation certificate after due process.

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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 01.02.2002 which is correctly recorded in his Matric Detail Marks and Provisional Certificates. Date of birth of plaintiff be rectified/modified from *01.01.1991* to *01.02.2002*. Defendants may verify the certificates of plaintiff from authority concerned. Issue No. 3 decided in favour of plaintiff and against the defendants.

ISSUE NO.1 & 4.

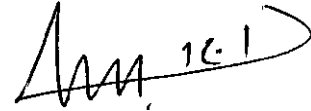
In the light of foregoing discussion, it is held that plaintiff has got cause of action and is entitled to the decree, as prayed for. Both these issues are decided accordingly.

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 others interested, if any or service record of plaintiff, if any.

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

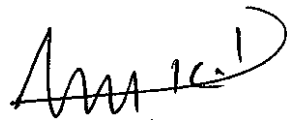
ANNOUNCED
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CERTIFICATE

It is certified that this judgment consists of 05 pages. Each page has been dictated, read, corrected and signed by me.



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