

IN THE COURT OF ZAHIR KHAN

Civil Judge-I, Kalaya, Orakzai

Suit No.....28/1 of 2024.

Date of Institution.....27.07.2024.

Date of Decision.....21.08.2024.

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Amin Khan S/O Amir Muhammad R/O Qaum Utman Khel, Tappa
Fateh Khan Khel, PO Feroz Khel, 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

21.08.2024

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


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
21/08/2024

Brief facts in the backdrop are that plaintiff has filed the
instant suit for declaration cum-permanent injunction to the effect that,
as per matric DMC issued by B.I.S.E Kohat, his true and correct date of
birth is 05.05.2001, however, defendants have wrongly and incorrectly
entered the same as 01.01.1987 in their record which entry is wrong,

illegal and ineffective upon the rights of plaintiff 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. The controversial pleadings of the parties were reduced into the following issues:

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 05.05.2001 and defendants have incorrectly and wrongly entered the same as 01.01.1987 in their official record? OPP
4. Whether plaintiff is entitled to the decree as prayed for? OPP
5. Relief.


ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

21/08/024

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.

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

Amin Khan, himself appeared and recorded his statement as PW-01. He reiterated the averments of plaintiff. He produced copy of

Detailed Marks Certificate issued by B.I.S.E Kohat as Ex.PW-1/1, copy of his CNIC is Ex. PW-1/2. Rehman Said, cousin of plaintiff appeared and deposed as PW-02. He supported the claim of plaintiff. Copy of his CNIC is Ex. PW-2/1. Thereafter, evidence of plaintiff was closed.

Irfan Hussain (Representative of NADRA, Orakzai) appeared as DW-01. He produced authority letter as Ex.DW-1/1. He stated that modification in date of birth of a person is possible on the strength of matric certificate subject to verification. Thereafter, evidence of defendants was closed. This court vide order dated 05.08.2024 summoned record keeper of Shaheen Islamia Public School (primary section) and Orakzai Model School & College, Karghan Saam, Feroz Khel branch, Orakzai as CWs. Najeeb Ullah, school teacher of Orakzai Model School & College appeared and deposed as CW-01. He produced admission and withdrawal register extract whereof is Ex.CW-1/1. The principal Shaheen Model School (primary section) submitted his report to the effect that there is no record of plaintiff in the said school and that plaintiff never remained a student in the said school. 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.

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

ISSUE NO.2

ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
21/08/24

Plaintiff has been issued CNIC on 16.12.2020 with expiry date as 16.12.2030 while suit in hand was filed on 27.07.2024. As period of limitation 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

As mentioned above, claim and contention of plaintiff is that, as per matric DMC, his true and correct date of birth is 05.05.2001, however, defendants have incorrectly entered the same as 01.01.1987 which entry is wrong, illegal and ineffective upon the rights of plaintiff and liable to be rectified. Burdon of proof was on plaintiff to establish that defendants have wrongly and incorrectly entered his date of birth as 01.01.1987 instead of 05.05.2001. Plaintiff has placed reliance on Detailed Marks Certificate allegedly issued by B.I.S.E Kohat; copy of the same is Ex.PW-1/1. Evidence on record transpires that plaintiff failed to produce primary, middle and high school record in order to substantiate his claim. On 05.08.2024, plaintiff apprised the court that he studied upto 5th class in Shaheen Islamia Public School (primary section). The record keeper/principal of the said primary school was summoned as CW and report to this effect was submitted as per which there is no record of plaintiff in the said school and that plaintiff never remained a student in the alleged school. No school leaving certificate was produced in support of his claim. Although, Ex.PW-1/1 supports the claim of plaintiff, however, the same was not

21/08/24
ZAHIR KHAN
CIVIL Judge/JM
Kalaya Orakzai

produced by Kohat board official or record keeper. Mere exhibition of a document does not mean that the document is proved. As far as Ex.CW-1/1 is concerned, the same does not bear signatures/attestation of principal and education officer concerned. No record was produced which could show date of admission of plaintiff in the said school and no middle school leaving certificate, on the strength of which date of birth of plaintiff was entered as 05.05.2001, was produced with the admission and withdrawal register. No Secondary School Certificate was produced as proof to substantiate claim of plaintiff. No NADRA record/family tree of siblings was produced by plaintiff. Oral evidence produced by plaintiff is also insufficient to substantiate his claim. None from parents and siblings were produced as witness by plaintiff. Furthermore, the plaintiff, from his physical appearance does not seem to be a person of 23 years old. No medical certificate was produced which could show that he is 23 years old. Plaintiff failed to produce cogent, convincing and reliable documentary and oral evidence to substantiate his claim. Plaintiff failed to establish any error or malice on the part of defendants.

Keeping in view the above discussion, documentary as well as oral evidence available on file, issue No. 3 is decided in negative and against the plaintiff.

ISSUE NO.1 & 4.

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 valid cause of

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ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai
21/08/02-9

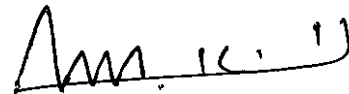
action and is not entitled to the decree, as prayed for. Both these issues are decided in negative and against the plaintiff.

RELIEF.

Crux of my issue wise discussion is that as plaintiff failed to prove his claim through cogent, convincing and reliable documentary and oral evidence, therefore, suit of the plaintiff is hereby dismissed. Parties have to bear costs of their proceedings because none of the parties have specifically proved the costs incurred on the case.

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

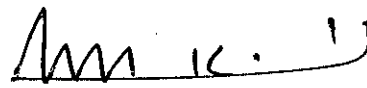
ANNOUNCED
21.08.2024



Zahir Khan
Civil Judge-I, Kalaya, Orakzai

CERTIFICATE

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



Zahir Khan
Civil Judge-I, Kalaya, Orakzai