

IN THE COURT OF BAKHT ZADA,
ADDL: DISTRICT JUDGE-I, ORAKZAI (AT BABER MELA)

CIVIL APPEAL NO. : 01/13 OF 2024
DATE OF INSTITUTION : 02.01.2025
DATE OF DECISION : 16.01.2025

1. MUHAMMAD SULAIMAN S/O SHAMIM GUL
R/O CASTE ALI KHEL, TAPA IMAL KHEL, P/O GHILJO,
TEHSIL UPPER, DISTRICT ORAKZAI.
.....(Appellant)

-VERSUS-

1. CHAIRMAN NADRA, ISLAMABAD
2. DIRECTOR GENERAL NADRA KPK HAYATABAD
3. ASSISTANT DIRECTOR NADRA DISTRICT ORAKZAI

..... (RESPONDENTS)

JUDGEMENT
16.01.2025

Impugned herein is the judgement and decree dated 25.11.2024 rendered by the learned Senior Civil Judge, Orakzai vide which the said court has dismissed the suit of the appellant/plaintiff.

(2). Brief facts of the case are that the appellant/plaintiff filed suit for declaration permanent and mandatory injunctions to the effect that his correct date of birth according to his school record is 16.09.1996, but the same is wrongly entered as 05.10.1988 in his record with the respondent/defendant. He has alleged that he being twin child with his sister namely, Sabiha Noor, her date of birth is 16.09.1996. He prayed for correction of the same.

(3). After submission of written statement, the learned trial court framed issues, whereafter the appellant/plaintiff produced and recorded his own statement as PW-1, the statement of his mother Mst. Noor Sahib Jan as PW-2 and the statement of Abdul Jaleel s/o Sultan Muhammad SST government Middle School Barr Abbas Khel, District Hangu as PW-3, while on the other hand the

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respondent/defendant relied upon the solitary statement of Irfan Hussain representative for the respondent/defendant as DW-1.

- (4). After hearing arguments, the learned trial court dismissed the suit of appellant/plaintiff and hence the instant appeal.
- (5). Learned counsel for the appellant/plaintiff has averred that the judgment and order dated 25.11.2024 of the learned trial court is not based on the real facts and evidence on record, rather the learned SCJ, Orakzai has preferred to decide the case on the bare appearance of the register which is against the law and facts. He prayed for setting aside the decree/judgment dated 25.11.2024 and issuance of his decree for correction of date of birth as prayed for in the plaint.
- (6). After hearing arguments available record perused which shows that the appellant/plaintiff has recorded his own statement as PW-1 in support of his plaint and during cross examination nothing contradictory is brought on record from him. The statement of PW-2 being mother of the appellant/plaintiff is of paramount importance being natural witness of the birth of the appellant/plaintiff and after recording her statement there remains no space for doubt regarding the date of birth of the appellant/plaintiff. She has categorically stated in her statement as PW-2 that the correct date of birth of appellant/plaintiff is 16.09.1996 and that appellant/plaintiff is twin brother of his sister namely Mst. Sabiha Noor. The Family Tree Ex. DW-1/1 although does not show the name of Mst. Sabiha Noor, but her CNIC is available on the case file as Ex. PW-1/2 which correctly shows that her dated of birth is 16.09.1996. The statement of mother of

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the appellant/plaintiff recorded as PW-2 has remained unshattered during cross examination and being natural witness of the birth of appellant/plaintiff her statement has got preference over all the other evidences. As for as, the register for withdrawal and admission of government Middle School Barr Abbas Khel District Hangu is concerned, the same has been produced by the Senior Science Teacher namely Abdul Jaleel and the same also complement the statement of PW-2 and stance of the appellant/plaintiff as alleged in his plaint.

- (7). Keeping in view the above discussion the instant appeal is hereby accepted. Impugned order/judgment dated 25.11.2024 of the learned trial court is hereby set aside and suit of the appellant/plaintiff is decreed as prayed for. Requisitioned record be sent back to the quarter concerned
- (8). Copy of this order be sent to the trial court, while copy of this order be consigned to the record room after its necessary completion and compilation.

Pronounced:
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CERTIFICATE

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 16.01.2025

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