

(2)

**IN THE COURT OF MUHAMMAD AYAZ KHAN,**  
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 192/1 of 2019  
Date of Institution: 17/10/2019  
Date of Decision: 03/01/2019

**Ameer Hussain s/o Abdullah Jan**

Resident of Village Mandatay Sepoy, PO Tazi Khel, Tehsil Lower Orakzai & 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:**

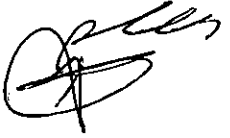
Plaintiff, **Ameer Hussain s/o Said Rehman**, has brought the instant suit for declaration-cum-permanent injunction against the defendants, referred hereinabove, seeking declaration therein that his correct date of birth is **01.01.1970** while it has been wrongly mentioned as **1974** by the defendants, which is incorrect and against the facts, so, liable to be corrected. Hence, the instant suit.

Defendants were summoned, who appeared through attorney namely **Syed Farhat Abbas** and submitted written statement, which is placed on file.

Divergent pleadings of the parties were reduced into the following issues;

**Issues:**


1. Whether the plaintiff has got any cause of action?
2. Whether suit of the plaintiff is within time?

  
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3. Whether the correct date of birth of the plaintiff is **01.01.1970**, while the date 1974 as mentioned in CNIC of the plaintiff is incorrect.
4. Whether the plaintiff is entitled to the decree as prayed for?
5. Relief.

Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses.

1. PW-1, Ameer Hussain, is the plaintiff himself. He stated that his correct date of birth is **01.01.1970**, which is correctly entered in his 8<sup>th</sup> class school certificate, and in his birth certificate, while the date of birth in his CNIC has been wrongly mentioned as **1974** by the defendants. He produced and exhibited the copy of his CNIC as Ex.PW-1/1, copy of his school certificate as Ex.PW-1/2 and copy of his birth certificate as Ex.PW-1/3. He requested for decree as prayed for. He is cross examined by the attorney of the defendants.
2. PW-2, Muntazir Ali, is relative of the plaintiff, who appeared and recorded his statement. Wherein he supported the contention of the plaintiff and stated that the real date of birth of the plaintiff is **01.01.1970**. He produced and exhibited copy of his CNIC as Ex.PW-2/1. He is cross examined by the attorney of the defendants.
3. PW-3, Syed Hussain Ali Shah, is friend of the plaintiff, who appeared and recorded his statement. He stated that the real date

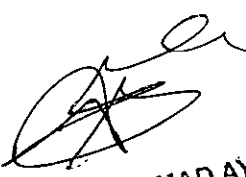
  
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of birth of the plaintiff is **01.01.1970** while date of birth entered as 1974 in his CNIC is incorrect. He produced and exhibited copy of his CNIC as Ex.PW-3/1. He is cross examined by the attorney of the defendants.

4. In rebuttal defendants produced an examined sole witness namely Syed Farhat Abbas, representative, as DW-1 and recorded his statement as DW-1. He produced and exhibited processing form of the plaintiff as EX. DW-1/1 and Ex.PW-1/2, Form-B as Ex. DW-1/3 and family tree of the plaintiff as Ex. DW-1/4. He is cross examined by the plaintiff.

After conclusion of the evidence arguments pro and contra heard. Case file is gone through.

My issues wise findings are as under:

  
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**Issue No. 02:**

The instant suit is for declaration and the limitation for the instant suit is 06 years. As per the available record, suit of the plaintiff is within time. Onus of proof was upon the defendants to establish that suit is barred by time. However, nothing is produced by the defendants in this regard and the onus has not been discharged by the defendants. Resultantly, the issues in hand is decided in negative.

**Issue No.03:**

Perusal of record and evidence present on file reveals that plaintiff claims that his correct date of birth is **01.01.1970**, and

he relied upon the school 8<sup>th</sup> class certificate, exhibited as Ex. PW-1/2. It is settled law that whenever there is clash between the CNIC and the school certificate, in respect of date of birth, the school certificate shall prevail. Interestingly, it is in the policy of the NADRA that for educated person the date of birth is mentioned as per certificate of that person. So, as per the school certificate, correct date of birth of the plaintiff is **01.01.1970**. Secondly, the same is even evident from the birth certificate of the plaintiff, which is exhibited as Ex.PW-1/3. Nothing is produced by the defendants to rebut the said documents. This factum is admitted by the attorney of the defendants at the time of arguments. Facts admitted need not to be proved as per article 113 of Qanun-e-Shahadat. Even otherwise, it is the fundamental right of the plaintiff to correct his date of birth in the CNIC, which cannot be denied to him. Moreover, it is even in the interest of NADRA to have correct database of the citizens of Pakistan including the present plaintiff. If the date of birth of the plaintiff is not corrected, it would serve no purpose. In addition to, there is no legal bar on such correction and if the date of birth is corrected it would not affect the right of any third person. Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said factum is admissible in evidence, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. The issue in hand is decided in affirmative.

  
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**Issue No. 04:**

For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action and he is entitled to the decree as prayed for.

The issue is decided in affirmative.

**Relief:**

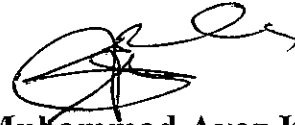
Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct his date of birth as **01.01.1970** forthwith.

Parties are left to bear their own costs.

File be consigned to the record room after its completion.

**Announced**

03/01/2020



**(Muhammad Ayaz Khan)**  
Senior Civil Judge,  
Orakzai at Baber Mela

**CERTIFICATE**

Certified that this judgment of mine consists **05** (five) pages, each has been checked, corrected where necessary and signed by me.



**(MUHAMMAD AYAZ KHAN)**  
Senior Civil Judge,  
Orakzai (at Baber Mela).