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

Civil Suit No. 200/1 of 2019
Date of Institution: 04/11/2019
Date of Decision: 23/01/2020

Abdul Ghani s/o Habib Khan

Resident of Village Mir Ghara, PO Ghiljo, Tehsil Upper & District Orakzai.....
(Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Registrar, General NADRA Islamabad.**
3. **District Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION & PERMANENT INJUNCTION

JUDGEMENT:

Plaintiff, **Abdul Ghani s/o Habib Khan**, 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 **10.01.2000** and correct name is **Abdul Ghani**, while it has been wrongly mentioned, date of birth as **01.01.1992** and name as **Ghani Rehman** by the defendants, which is incorrect and liable to be corrected. Hence, the present 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;

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Issues:

1. Whether plaintiff has got cause of action.
2. Whether suit of plaintiff is within time.
3. Whether the correct name of the plaintiff is Abdul Ghani while it has been wrongly entered in his CNIC as Ghani Rehman and the correct date of birth of the plaintiff is 10.01.2000 while it has been wrongly entered in the CNIC as 01.01.1992.
4. Plaintiff is entitled to the decree as prayed for.
5. Relief.
6. Parties were directed to produce evidence of their own choice, which they did. Plaintiff produced three (03) witnesses including himself.
7. PW-1, Abdul Ghani, is plaintiff himself, who recorded his statement. He stated that correct his correct name is **Abdul Ghani**, which is wrongly mentioned in his CNIC as Ghani Rehman. Secondly, his correct date of birth is **10.01.2000**, while it has been wrongly mentioned in his CNIC as 01.01.1992 by the defendants. He produced and exhibited the copy of his CNIC as Ex.PW-1/1, his Domicile Certificate as Ex.PW-1/2, copy of SSC DMC as Ex.PW-1/3. He requested for grant of decree as prayed for. He was cross examined by the defendants.
8. PW-2, Abdul Badshah, is uncle of the plaintiff. He stated that the correct name of the plaintiff is Abdul Ghani and correct date of birth is 10.01.2000. He exhibited copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.



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9. PW-3, Wazir Akbar, is second cousin of the plaintiff. He produced and exhibited his CNIC as Ex.PW-3/1. He supported the contention of the plaintiff. He is cross examined by the defendants through attorney.

10. 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 the registration form of the plaintiff and exhibited the same as Ex. DW-1/1, family tree as Ex. DW-1/2. He is cross examined by the plaintiff.

11. 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:

12. 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 the plaintiff claims his correct date of birth as 10.01.2000 and

correct name as **Abdul Ghani**, and he relied upon the SSC Certificate, which is exhibited as Ex.PW-1/3. It is settled law that whenever there is clash between the CNIC and SSC certificate, in respect of date of birth of educated person, the SSC certificate shall prevail in evidence. In present case, as per Ex. PW-1/3, the correct date of the birth of the plaintiff is **10.01.2000** and correct name of the plaintiff is **Abdul Ghani**, which is not even objected by the defendants in the evidence. The real uncle of the plaintiff namely Abdul Badshah appeared and recorded his statement as PW-2. The real uncle of the plaintiff is in good position having personal knowledge to tell the real name and correct date of birth of the plaintiff. Reliance is placed on the case law reported in **PLD 2003 Supreme Court page 849**, *“wherein it has been mentioned by the honorable Supreme Court of Pakistan that, “the best evidence to prove this fact (age or date of birth) was of those person who would have an ordinary course of life having personal knowledge. Statement of mother is at high pedestal as compared to other as she has given birth to him.”* Hence, in circumstances, the evidence of uncle is relied upon in present case to the extent of correct date of birth and name.


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The said factum has not been shattered by the defendants in evidence. The same are not rebutted by any documents by the

defendants, hence, the said evidence is admissible, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. 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 and name 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 and name is corrected it would not affect the right of any third person.


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 Qazal at Hangu

Even otherwise, the same is not rebutted by any documents by the defendants, hence, the said document is admissible in evidence, which is relied upon in present circumstances. Nothing is produced in rebuttal by the defendants. Hence, the said document is admissible in evidence, which is relied upon in present circumstances.

Hence, the issue in hand is decided in affirmative.

Issue No.1&04:

Both issues are taken together. 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 issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for. Defendants are directed to correct their record and issue CNIC to the plaintiff with correct name as **Abdul Ghani** and correct the date of birth as **10.01.2000**. Parties are left to bear their own costs. Plaintiff shall pay all the fee for correction as required by the NADRA.

File be consigned to the record room after its completion.

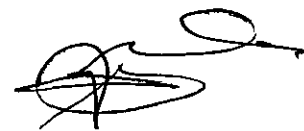
Announced
23/01/2020



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

CERTIFICATE

Certified that this judgment of mine consists **06** (six) pages, each has been checked, corrected where necessary and signed by me.



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