

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

Civil Suit No. 217/1 of 2019
Date of Institution: 03/12/2019
Date of Decision: 28/01/2020

Syed Shah Raza Hussain s/o Syed Zakir Hussain
Resident of Village Amboo Dag, PO Kurez, Tehsil Lower & 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, **Syed Shah Raza Hussain s/o Syed Zakir Hussain**, 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 **01.01.1989** and correct father name is **Syed Zakir Hussain**, while it has been wrongly mentioned, date of birth as **01.01.1988** and father name as **Syed Muhammad Anjan** by the defendants, which is incorrect and liable to be corrected. Hence, the present suit.

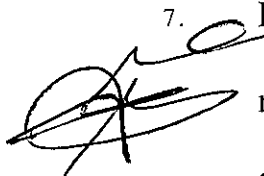
Defendants were summoned, who appeared through attorney namely Syed Farhat Abbas and submitted written statement, which is placed on file.

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 father name of the plaintiff is Syed Zakir Hussain while it has been wrongly entered in his CNIC as Syed Muhammad Anjan and the correct date of birth of the plaintiff is 01.01.1989 while it has been wrongly entered in the CNIC as 01.01.1988.
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, Syed Shah Raza Hussain, is plaintiff himself, who recorded his statement. He stated that his correct father name is **Syed Zakir Hussain**, which is wrongly mentioned in his CNIC as Syed Muhammad Anjan. Secondly, his correct date of birth is **01.01.1989**, while it has been wrongly mentioned in his CNIC as 01.01.1988 by the defendants. He produced and exhibited the copy of his CNIC as Ex.PW-1/1, his school Certificate as Ex.PW-1/2, copy of mother's CNIC as Ex.PW-1/3, copy domicile certificate as Ex.PW-1/4 and Form-B of siblings of the plaintiff as Ex.PW-1/5. He requested for grant of decree as prayed for. He was cross examined by the defendants.
8. PW-2, Syed Hussain Anwar, is uncle of the plaintiff. He stated that the correct name of the father of the plaintiff is Syed Zakir Hussain and correct date of birth is 01.01.1989. He exhibited


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copy of his CNIC as Ex. PW-2/1. He is cross examined by the defendants through attorney.

9. PW-3, Syed Ghalib Hussain, is maternal uncle 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.


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District of Muzaffargarh

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

My issues wise findings are as under:

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.

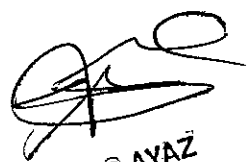
Issue No.03:

Perusal of record and evidence present on file reveals that the plaintiff claims his correct date of birth as **01.01.1989** and correct father name as **Syed Zakir Hussain**, and he relied upon the school certificate and CNIC of his sister, which are exhibited as Ex.PW-1/1 and Ex.PW-1/2 respectively. In present case, as per Ex. PW-1/2, the date of the birth of the plaintiff is **01.01.1989**, the school leaving certificate, exhibited as Ex.PW-1/2 is not authentic document as compare to Matric certificate, which is maintained by the BISE and has got precedence over other documents. The date of birth mentioned in the school leaving certificate is not correct, so, no reliance can be placed on said certificate.

As far as the father name of the plaintiff is concerned, the representative of the defendants has exhibited the family tree of the plaintiff as Ex. DW-1/3, where the father name of the plaintiff is Syed Muhammad Anjan and mother name is Bibi Fatima. As per the record Ex. DW-1/4, plaintiff wants correction in the father name, which means changing of family tree. However, neither mother of the plaintiff nor father are produced to verify the factum. It is in the NADRA Rules that if a person wants to change the family tree, then the elder or other member of the new family tree must be produced for verification. However, nothing is produced by the plaintiff to

verify the said factum. Plaintiff appeared himself as witness PW-1 and produced single witness namely Syed Hussain Anwar, who recorded his statement as PW-2 but his name is not mentioned anywhere in the family tree of the plaintiff, so, the evidence of PW-2 is not considered, being irrelevant to the facts of the case.

Hence, plaintiff failed to convince the court regarding his claim, so, the claim of the plaintiff is rejected in the circumstances.



Hence, the issue in hand is decided in negative.

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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 as per the facts and averments mentioned in the plaint duly verified by the affidavit of the plaintiff. However, plaintiff is not entitled to the decree as prayed for keeping in view my discussion above.

The issues are decided accordingly.

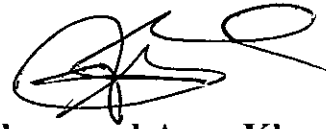
Relief:

Consequently, suit of the plaintiff is rejected, being not proved. Parties are left to bear their own costs.

File be consigned to the record room after its completion.

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Announced
28/01/2020



(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).