

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

23

Civil Suit No. 242/1 of 2019
Date of Institution: 21/01/2020
Date of Decision: 22/02/2020

Asif Ali s/o Gulbaz Ali

Resident of Village Trhangi, PO Kadda Bazar, 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, **Asif Ali s/o Gulbaz Ali**, 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 **15.12.1996** while it has been wrongly mentioned as **15.12.1991** 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?
- 3. Whether the correct date of birth of the plaintiff is **15.12.1996**, while the date 15.12.1991 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, Asif Ali, is the plaintiff himself. He stated that his correct date of birth is **15.12.1996**, which is correctly entered in his 8th class school certificate, while the date of birth in his CNIC has been wrongly mentioned as **15.12.1991** by the defendants. He produced and exhibited the copy of his CNIC as Ex.PW-1/1, produced 8th class school certificate and copy of his school certificate as Ex.PW-1/2. He requested for grant of decree as prayed for. He is cross examined by the attorney of the defendants.

Muhammad Ayaz
MUHAMMAD AYAZ
 Senior Civil Judge,
 Orakzai at Hand

2. PW-2, Gulbaz Ali, is father 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 **15.12.1996**. 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, Shehbaz Khan, is uncle of the plaintiff, who appeared and recorded his statement. He stated that the real date of birth of the plaintiff is **15.12.1996** while date of birth entered as 15.12.1991 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 family tree of the plaintiff as Ex. DW-1/2. 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:

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 affirmative.

Issue No.03:

Perusal of record and evidence present on file reveals that plaintiff claims that his correct date of birth is **15.12.1996**, and he relied upon the school 8th class certificate, exhibited as Ex. PW-1/2. Interestingly, it is in the policy of the NADRA that for educated person the date of birth is mentioned as per Matric certificate of that person. However, no Matric certificate is produced by the plaintiff to show that his correct date of birth as 15.12.1996. Though, father of the plaintiff appeared as a witness but his statement is not corroborated by any documentary proof like Matric certificate etc. Plaintiff was required to establish his case as per the requirement of Qanoon-e-shahadat but he failed to discharge his onus. Consequently, the claim of the plaintiff, referred hereinabove, is not proved, so, rejected. The issue in hand is decided in negative.


MUHAMMAD AYAZ
Senior Civil Judge,
(Orakzai at Hangu)

Issue No. 01 & 04:

For what has been held in issue No. 3, this court is of the opinion that plaintiff has got cause of action to file the present suit but he is not entitled to the decree as prayed for.

The issue No.1 is decided in affirmative while issue No.4 is decided in negative.

Relief:

Consequently, suit of the plaintiff is rejected, being devoid of merit.

Parties are left to bear their own costs.

File be consigned to the record room after its completion.

Announced

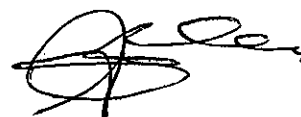
22/02/2020



(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].