

36

IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No. 210/1 of 2020
Date of Institution: 23/11/2019
Date of Decision: 19/11/2020

Khial Zad Khan s/o Mughal Shah

Section Darra Dar Mamizai, Sub Section Machi Khel, Ghiljo, Tehsil Ismail Zai &
District Orakzai..... (Plaintiff)

VERSUS

1. **Chairman, NADRA, Islamabad.**
2. **Director, General NADRA Hayatabad KP.**
3. **Assistant Director, Registration NADRA District Orakzai.**

(Defendants)

SUIT FOR DECLARATION, PERMANENT & MANDATORY INJUNCTION

JUDGEMENT:

19.11.2020

Brief facts of case in hand are that the plaintiff, **Khial zad Khan s/o Mughal Shah**, has brought the instant suit for declaration, permanent and mandatory injunction against the defendants, referred hereinabove, seeking declaration, therein, that his correct date of birth is **27.03.1955** and correct father's name is **Mughal Shah** while defendants have wrongly mentioned his date of birth as **1957** and father's name as **Fazal Shah** in their record, 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, wherein they contested the suit of plaintiff on various grounds.

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

Issues:

1. Whether plaintiff has got cause of action?
2. Whether suit of the plaintiff is within time?
3. Whether the correct date of birth of the plaintiff is **27.03.1955** and correct father's name is "**Mughal Shah**" while defendants have wrongly mentioned his date of birth as **1957** and father's name as "**Fazal Shah**" in their record?
4. Whether plaintiff is entitled to the decree as prayed for?

Relief.

Parties were provided opportunity to produce evidence in support of their respective contention, which they did. Plaintiff produced his witnesses as PW-1 to PW-3.

7. In rebuttal defendants produced their sole witness namely Syed Farhat Abbas, representative, as DW-1. He produced the record form of plaintiff and exhibited the same as Ex. DW-1/1.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:

Issue No. 02:

Perusal of record reveals that CNIC was issued to the plaintiff on 19.01.2017 while plaintiff filed instant suit on 23.11.2019 by challenging his date of birth and father's name mentioned in his

CNIC. Period provided for filing declaratory suit under Article 120 of Limitation Act is 06 years. So, the suit in hand has been instituted within time, hence, issue is decided in positive.

Issue No.03:

Plaintiff contended in his plaint that his correct date of birth is **27.03.1955** and father's name is "**Mughal Shah**" but inadvertently the same were erroneously recorded as **1957** and **Fazal Shah** in NADRA record. Hence, the record is liable to be corrected.

Plaintiff in support of his contention has appeared as PW-1 and he repeated the contents of plaint in his examination in chief. He also produced his Service record as Ex.PW-1/2 to 1/3 while PW-2, Khan Gul, who is cousin of plaintiff stated in his examination in chief that correct date of birth of the plaintiff is **27.03.1955** and correct father name is **Mughal Shah**. PW-3, Izzat Khan, who is brother of the plaintiff, also supported the contention of the plaintiff. PW-1 to PW-3 were subjected to cross examination but nothing substantial was brought on record which could have shattered their testimony rather they remained consistent regarding the facts uttered by them in their examination in chief. Their testimony is also corroborated by the Service record of plaintiff produced by PW-1 as Ex.PW-1/2 and Ex.PW-1/3, wherein, the date of birth

FARHANULLAH
Senior Civil Judge
Orakzai at Baber Meta

19.11.2020

of plaintiff has been recorded as **27.03.1955** and father name as **Mughal Shah**. So, the oral and documentary evidence produced by the plaintiff clearly establishing that the correct date of birth of the plaintiff is **27.03.1955** and correct father's name is **Mughal Shah**. The incorporation of date of birth of the plaintiff as **1957** and father's name as **Fazal Shah** in the record of NADRA appears to be a mistake. Hence, the issue No. 3 is decided in positive.

Issue No. 01 & 04:

These 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.

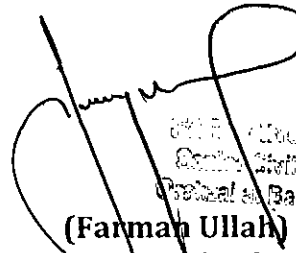
The issues are decided in positive.

Relief:

Consequently, suit of the plaintiff succeeds and is hereby decreed as prayed for and defendants are directed to correct the date of birth and father's name of the plaintiff. Parties are left to bear their own costs.

10. File be consigned to the record room after its completion and compilation.

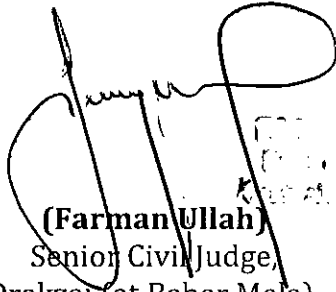
Announced
19/11/2020


FARMAN ULLAH
Senior Civil Judge
Orakzai (at Baber Mela)
(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).

40

CERTIFICATE

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


(Farman Ullah)
Senior Civil Judge,
Orakzai (at Baber Mela).