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

Civil Suit No. 219/1 of 2020
Date of Institution: 03/12/2019
Date of Decision: 09/12/2020

Abdul Kareem s/o Mazhar Shah

Section Mishti, Sub Section Haider Khel, PO Raisan, Tehsil lower & 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:

09.12.2020

Brief facts of case in hand are that the plaintiff, **Abdul Kareem s/o Mazhar 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 as per service record is **1967** while defendants have wrongly mentioned the same in their record as **1955**, which is incorrect and liable to be corrected. That Abdul Yaseen is the elder brother of the plaintiff, whose date of birth has been correctly mentioned in his CNIC as 1963. Similarly, date of birth of his elder sisters have also been correctly mentioned in their CNICs as 01.01.1960 and 01.01.1965. That

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plaintiff repeatedly asked defendants for correction of his date of birth but they refused, hence, instant 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 "1967" while defendants have wrongly mentioned the same as 1955 in their record?
4. Whether plaintiff is entitled to the decree as prayed for?
5. Relief.
6. 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 CNIC processing form as Ex. DW-1/1 and family tree as Ex. DW-1/2 and Ex. DW-1/3.
8. After conclusion of the evidence arguments pro and contra heard. Case file is gone through.
9. My issues wise findings are as under:

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Issue No. 03:

Plaintiff contended in his plaint that his correct date of birth is 1967, but inadvertently his date of birth has been recorded as 1955 in NADRA record, hence, the record is liable to be corrected.

Plaintiff in support of his contention appeared as PW-1 and repeated the contents of plaint in his examination in chief. He produced his service record as Ex. PW-1/2 to Ex.PW-1/4, and CNICs of his parents, brothers and sisters as Ex.PW-1/5 to Ex.PW-1/10. During cross examination PW-1 stated that Manual ID card was issued to him and on the basis of which CNIC was issued to him in year 2006.

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PW-2 stated that he is the cousin of plaintiff and is 14/15 years older than plaintiff. He also produced his CNIC as Ex.PW-1/2. PW-2 also stated that date of birth of plaintiff has wrongly been mentioned in his CNIC as he was born after two years of 1965 war.

PW-3 is record keeper of Police department orakzai who produced service record and medical certificate of plaintiff as Ex.PW-3/1 to Ex.PW-3/4.

On other hand, representative of NADRA appeared as DW-1, who stated in his examination in chief that CNIC for the first time was issued to the plaintiff in year, 2006. He produced the CNIC processing form of the plaintiff as Ex. DW-1/1 while

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birth family tree of the plaintiff as Ex. DW-1/2 and family tree of plaintiff by marriage as Ex. DW-1/3.

From the CNIC processing form of plaintiff Ex. DW-1/1 coupled with admission of PW-1, it is evident prior to CNIC, a manual ID card was already issued to plaintiff and he applied first time for CNIC in year 2006, which was issued to him in the same year. Ex. DW-1/1 reflects that date of birth of plaintiff has been recorded as 1955. Ex. DW-1/1 also depicts the number of manual card of plaintiff as 144-55-191512. The Digit 55 in card number refers to the year of birth of the plaintiff, which manifest that year of birth of plaintiff in his manual ID card was also 1955 and on the basis of which CNIC was issued to the plaintiff with the same date of birth. It is also evident from Ex. DW-1/1 that plaintiff applied for renewal of his CNIC in year 2016 and thus CNIC Ex.PW-1/1 was issued to him, wherein, his date of birth has been mentioned as 1995. Nothing is available on record, which could show that plaintiff has either objected and applied for correction of his date of birth as 1955 in his manual ID card or later on when CNIC was issued to him in year 2006 or when he applied for renewal of CNIC in year 2016. No objection on the part of plaintiff in year 2006 and 2016 make his claim doubtful. Furthermore, plaintiff has alleged in the plaint that Abdul Yaseen is his elder brother, whose date of birth has been correctly recorded as 1963 in his CNIC while

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Rashida Jan and Nishal Begam are his elder sisters, whose date of births have been correctly recorded as 01.01.1960 and 01.01.1965 in their CNICs but in support of this contention no witness was produced by the plaintiff to establish that they are his elder brother and sisters. Rather during course of arguments, when plaintiff was inquired, he categorically stated that he is elder than Abdul Yaseen as well as of his sisters mentioned above, if the date of birth of younger brother and sisters are of year 1960, 1963 and 1965 then how date of birth of elder brother (plaintiff) could be of year 1967? This fact alone also negates the stance of plaintiff regarding his date of birth as

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1967.


Though, as per service record of plaintiff Ex.PW-3/1 and Ex.PW-3/2 the date of birth of plaintiff has been recorded as 1967 yet record depicts that such entry is neither based on any document nor it was recorded on the basis of National Identity Card of plaintiff rather such date of birth of plaintiff is based on medical certificate of plaintiff Ex.PW-3/2. However, perusal of Ex.PW-3/2 reveals that such entry regarding date of birth is not based on any medical test, required for determination of age rather Ex.PW-3/2 clearly shows that such entry regarding the age of plaintiff in the certificate was recorded on the basis of statement of plaintiff. Being such a position, the medical certificate Ex. DW-3/2 cannot be held as reliable piece of

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inspiring evidence. Similarly, suit of plaintiff is also time barred. Hence, suit is dismissed. No order as to cost.

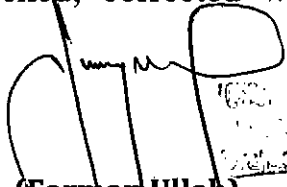
10. File be consigned to the record room after its completion and compilation.

Announced
09/12/2020


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

CERTIFICATE

Certified that this judgment of mine consists of 07 (seven) pages (including this page), each page has been checked, corrected where necessary and signed by me.


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