

COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Case Title: Mohib Ali Vs BISE Kohat etc

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Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order No. 10	18.03.2025	<p>Presence as before.</p> <p>This order shall decide the matter of jurisdiction in the instant case filed by Mr. Mohib Ali against Al Asr School Kohat, and BISE Kohat.</p> <p><u>Brief Account:</u></p> <p>Plaintiff has filed the suit for correction of a variance in the name of his father Mr. Sher Rahman. In his academic documents, and the National Citizen Registration records of the latter, the name is recorded with a minor spelling variance. Plaintiff seeks its correction.</p> <p>Defense, in their reply, has objected to the territorial jurisdiction of the court for the trial of the suit. They contend that since both the defendants are based in Kohat, and, naturally, the alleged cause of action arose in district Kohat, therefore, civil courts at Kohat are competent to try the case.</p> <p>Arguments heard and record perused.</p> <p><u>Reasoning:</u></p> <p>Jurisdiction, plainly stated, is the court's competence to try a matter. Any order passed without jurisdiction is at best a misuse of judicial power. The</p>

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Order No. 10 continued	18.03.2025	<p>foremost question before a tribunal in any matter is whether it possesses sufficient competence to try the matter committed to it.</p> <p>The recent amendment to the Civil Procedure Code, more specifically its section 26, has made it mandatory for the court to ascertain its legal competence for a suit before it decides to proceed with it.</p> <p>Sections 15 to 20 of the Civil Procedure Code deal with the question of 'place of suing'. The law, as a matter of policy and operational convenience, provides for the local jurisdiction in certain classes of cases. For instance, in matters of immovable property, generally, the court in whose local jurisdiction the land is situated is empowered to try disputes regarding the land. Understandably so, for it is easy to procure witnesses, records, and executed orders if the property is situated locally.</p> <p>Similarly, where wrong to person or moveable is complained, the option lies with the plaintiff to pick between the place where the event occurred and where the defendant resides.</p> <p>Section 20 is a residuary provision which provides that any other matter not falling in those previously covered shall lie with the court in whose local jurisdiction the defendant resides or works. If such defendants reside in two different districts, the option lies with the plaintiff.</p>
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Order No. 10 continued	18.03.2025	<p>Having explained the law at length, the court now returns to its application to the matter in hand. Section 20, the residuary provision, is applicable to the matter under consideration.</p> <p>Both of the defendants namely Al-Asr School and Kohat BISE are based in Kohat. The exercise of option is not available to the plaintiff as just one district contains both the defendants.</p> <p>Secondly, no legal justification exists to try the suit at District Orakzai, when all of the defendants are based in Kohat. The law, considering the ease in trial, and execution, mandated under section 20 to file suits in the local jurisdiction where the defendants reside.</p> <p>The court understands that engaging the defendants in the suit at another district will not only unnecessarily inconvenience them but also frustrate proceedings in trial and execution.</p> <p><u>Ruling:</u></p> <p>In view of the foregoing, plaint is returned under Order 07 Rule 10 for filing before the competent forum. Office shall return the plaint and its essential annexures in original, and return their copies for record. File be consigned. ③</p> <p><u>Announced</u> 18.03.2025</p> <p> Ijaz Mahsood Senior Civil Judge, Orakzai (at Baber Mela)</p>
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