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COURT OF SENIOR CIVIL JUDGE/JM, ORAKZAI AT BABER MELA


Case Title: **Saad Khan Vs Shahzad Khan etc.**

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. 05	23.10.2025	<p>Parties along with their counsel present.</p> <p>This order is to decide instant application filed by petitioner/defendant for setting aside an ex-parte decree passed against him case no 82/1 of 2024 on 28-07-25.</p> <p>Brief Account:</p> <p>Petitioner pleads that the date on which he was proceeded against was one adjourned through note reader, and it was for submission of list of witnesses, and not a date of hearing. His counsel argued that a date adjourned through note reader cannot be utilized to take penal action, especially when it is not a date of hearing. He further adds that his client filed for setting aside promptly within the period fixed by law.</p> <p>Respondent's counsel argues the contents of the petition do not fall within the ambit provided for by Order 09 rule 13. He argues that petitioner willfully absented himself from the court and remained absent on multiple dates of hearings before the decree was pronounced.</p> <p>Arguments heard and record perused.</p> <p>Reasons:</p> <p>Perusal of record reveals that the date on which ex-parte proceedings were ordered against the petitioner was one adjourned through note by reader of the court. Further,</p> <p style="text-align: right;"><i>continued...</i></p>

Senior Civil Judge
Orakzai at Baber Mela
27 OCT 2025

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08 — 05 Continued...	23.10.2025	<p>the case was fixed for submission of list of witness, which, per dominant view, is not a date of hearing.</p> <p>Petitioner has offered himself for imposition of costs for any convenience the delay might have caused the other side, but he pleads and pray for a chance to defend his rights.</p> <p>In view of the record highlighted above, the penal action was taken against the defendant on a date not fixed for hearing, and that too when it was adjourned through note of the reader. In these circumstances, the court is inclined to afford the defendant the opportunity to defend his rights in a contested trial. However, for the delay in moving the court for setting aside the decree, the court deems it fair to impose costs of Rs. 10,000/- to be paid to the plaintiff.</p> <p>Application is accepted. Decree is set aside.</p> <p>File be consigned to record room after its necessary completion and compilation while copy of this order be placed on main file.</p> <p><u>Announced:</u> 23.10.2025.</p> <p style="text-align: right;"> Ijaz Mahsood Senior Civil Judge, Orakzai (at Baber Mela)</p>
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