

IN THE COURT OF HAQ NAWAZ,
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL REVISION NO. : 8/12 OF 2025
DATE OF INSTITUTION : 05.06.2025
DATE OF DECISION : 03.11.2025

MALAK MARWAR HUSSAIN S/O SADAT ALI, CASTE STORI
KHEL, TAPA ANDKHEL BALA, TEHSIL LOWER, DISTRICT
ORAKZAI

.....(PETITIONER)

-VERSUS-

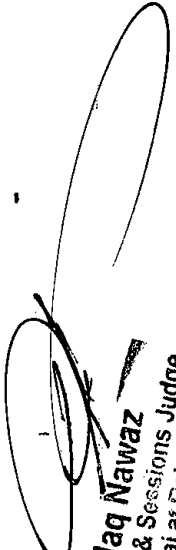
BAHAR HUSSAIN S/O MALAK MARWAR HUSSAIN, CASTE
STORI KHEL, TAPA ANDKHEL BALA, TEHSIL LOWER,
DISTRICT ORAKZAI AND OTHERS

.....(RESPONDENTS)

JUDGEMENT
03.11.2025

This civil revision was preferred by the petitioner against the
Order Dated 16.05.2024 passed by the Court of learned Civil
Judge, Tehsil Courts Kalaya, District Orakzai, whereby Civil
Suit No. 80/1 of 2023 was dismissed in default for non-
prosecution.

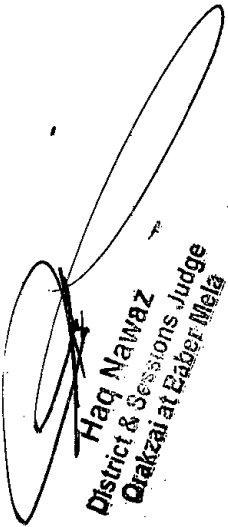
2. The suit was brought by the father of respondents No. 1 to 7
for declaration to the effect that he had convened a jirga for
partition of their joint properties with other respondents on
20.04.2020 without consent of the petitioner/plaintiff;
therefore, the jirga proceedings are illegal and ineffective
upon his rights. He also sought permanent and mandatory
injunction to restrain the respondents from acting upon the
said jirga proceedings.
3. The respondents No. 1 to 7 submitted their cognovit in favour
of the plaintiff before the trial Court and the suit was pending
for submission of written statement on behalf of the


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contesting defendants, when it was clubbed by the order of this Court passed on 04.01.2024 in Misc. Civil Appeal No. 11/14 of 2023 against the order dated 26.10.2023 passed by the Court of Civil Judge, Tehsil Courts Kalaya in Civil Suit No. 60/1 of 2023.

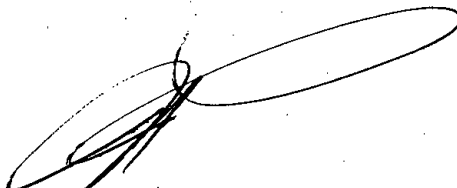
4. The suit was dismissed in default for prosecution on 16.05.2024 when no one on behalf of the plaintiffs appeared before the trial Court. The learned counsel for the petitioner submitted that the case in hand was clubbed with Civil Suit No. 60/1 of 2023 and he was present before the Court in the said suit; therefore, his presence in the present suit should have been marked. But the perusal of order 16.05.2024 in Civil Suit No. 60/1 of 2023 shows the attendance of attorneys for the parties only with specific reference to absence of the plaintiff in the present suit.

5. Further that the suit was dismissed in default on 16.05.2024 whereas the present revision petition was preferred on 19.07.2025. No application for restoration of the suit was preferred before the trial Court nor any application for condonation of delay under Section 5 of the Limitation Act, 1908, was moved with the present petition. In a similar situation in which application for restoration was filed with the delay of 05 months, the Hon'ble Peshawar High Court, Peshawar, in its judgment reported in 2013 CLC 597 held that the plaintiff's application for restoration was brought after a


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lapse of about 05 months whereas limitation provided for restoration of suit and for setting aside order of dismissal for default was 30 days from date of dismissal under Article 163 of the Limitation Act, 1908. Hence, the petition was hopelessly time barred. It is, therefore, dismissed. File of this Court be consigned to record room after its necessary completion and compilation.


Announced:
03.11.2025


(HAQ NAWAZ)
District Judge, Orakzai
at Baber Mela

CERTIFICATE

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 03.11.2025


(HAQ NAWAZ)
District Judge, Orakzai
at Baber Mela