

**IN THE COURT OF MUHAMMAD JUNAID ALAM
CIVIL JUDGE-II, KALAYA, ORAKZAI**

Suit No. : 136/1 of 2025.

Date of Institution : 19.08.2025.

Date of Decision : 25.11.2025.

Wazir Badshah S/O Jalat Shah resident of Qoum Feroz Khel, Tappa Qimat Khel, Tehsil Lower, District Orakzai.....(Plaintiff)

VERSUS

Shal Muhammad Son of Mehmood Khan resident of Qoum Bezot Tehsil Lower District Orakzai.....(Defendant)

Mr. Sana Ullah Khan Advocate for plaintiff

Ex-Parte Order/Judgment:

25.11.2025

Plaintiff alongwith counsel present. Ex-parte evidence already recorded. Ex-parte arguments heard today and record perused.

Plaintiff has invoked the jurisdiction of this Court against the defendants praying for:

P R A Y E R S:

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 Civil Judge / JM-II
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- i. *Recovery of Five million rupees in cash, which was lying in the plaintiff vehicle bearing number BCA-146-ICT while seized being illegally U/S 523/550 Cr. PC.*
- ii. *Claim of return of goods containing one Umbrella worth of Three Hundred Riyals, Two earphones worth of Three hundred Riyals, Three perfumes worth of 1200 Riyaks, One pot + spoon, one small carpet, one bed sheet, one umbrella, two scissors worth of 70 riyals, which the defendant took from the plaintiff's car bearing number BCA-146-ICT after illegally taking it u/s 523/550 Cr. PC from the Hujra of Abdul Qadeem and defendant illegally and dishonestly took the above mentioned goods.*

F A C T S:

Brief facts of the instant recovery suit are that plaintiff belongs to Qoum Feroz Khel, Tappa Qimat Khel Soongrani, Lower Orakazai. The plaintiff is a well-known businessman and doing business in Pakistan and Saudi Arabia simultaneously and have a shoes company in Lahore, Pakistan. That the plaintiff was arrested by defendant/SHO Shal Muhammad in case FIR No. 50 dated: 17.05.2025 u/s 324,436,427,148,149,3/5/11, 7-ATA and 5- Explosive Police Station Kalaya from the Hujra of Abdul Qadeem Khan during the Jirga between Abdul Qadeem and Amir Ihsan. The vehicle/car bearing number BCA-146-ICT, Engine number L152G1001757, Chassis number NFBRV3854PR001694, White Color HRV- Honda Model 2023 was parked inside the Hujra and all goods mentioned and five million cash was lying inside the car. Defendant forcefully took the vehicle to the PS and later on unlawfully held it at the police station by taking illegal action under Section 523/550 Cr.PC. That from the arrest of plaintiff till release in case FIR No. 50/2025 above mentioned vehicle was illegally held in the PS by SHO/present defendant. That after the release, plaintiff filed Superdari petition alongwith list of goods/articles before the Court of Magistrate. Court issued direction to SHO for production of list of goods. List of goods so submitted before the court had five million cash and some others goods where were disappearing. That there are witnesses regarding the occurrence. That there were 5

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million rupees laying in the plaintiff's vehicle at the time of Jirga and the witnesses had also seen it. That defendant/SHO was asked time and again to returned the above mentioned cash and goods/articles but in vain, hence the present suit.

Upon institution of the recovery suit in hand, defendant was summoned, who remained absent despite proper services, therefore, placed and proceeded ex-parte and thereafter, plaintiff was allowed to produce their ex-parte evidence.

After submission of list of witnesses, plaintiffs produced four witnesses in support of his claim.

During the ex-parte evidence, one Ameer Nawaz (Moharrir of PS Kalaya) appeared and recorded his statements as PW-01. He produced Original Roznamcha (DD register). Naqal Mad 12 dated: 17.05.2025 is Ex.PW-1/1. List of goods is Ex.PW-1/2. Similarly, return of vehicle under Mad No.13 dated: 30.06.2025 produced before the court which is Ex.PW-1/3. FIR No.50 dated: 17.05.2025 u/s 324,436,427,148,149 PPC is Ex.PW-1/4. Similarly, he had not any list of items removed from the vehicle in his records.

Plaintiff himself appeared and recorded his statement as PW-02. He stated that he is the owner of "Badshah Shoes" company and businessmen. He further stated that he supplies labor to Saudi Arabia for the purpose to work in company. On 17.05.2025, local police SHO Shal Muhammad was arrested me from the Hujra of Abdul Qadeem Khan during Jirga between Abdul Qadeem and

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Amir Ihsan. SHO forcibly snatched the key of vehicle bearing number BCA-146-ICT, Engine number L152G1001757, Chassis number NFBRV3854PR001694, White Color HRV- Honda Model 2023 and locked the vehicle in the PS. There were five million cash lying in the vehicle which was taken away by SHO and similarly there were some other goods containing one Umbrella worth of Three Hundred Riyals, two earphones worth of Three Hundred Riyals, three perfumes worth of 1200 Riyaks, one pot + spoon, one small carpet, one bed sheet, one umbrella, two scissors worth of 70 riyals were also lying in the vehicle. Moreover, vehicle of plaintiff was locked in the PS u/s 523/550 Cr. PC without any inquiry and all the goods lying inside the vehicle were removed. (List of goods

is annexed in prayer Alf). Police had not taken into possession the recovered articles through recovery memo but when the plaintiff filed a request for the return of the goods, the SHO provided the list to the court which is already exhibited as Ex.PW-1/2 which support the stance/version of plaintiff. Application for Superdari is Ex.PW-2/1 consisting of 5 pages; Company NTN is Ex.PW-2/2 consisting of 02 pages. Plaintiff was also unlawfully locked in the PS Kalaya in case 50/2025. Copy of his CNIC is Ex.PW-2/3. He lastly requested to decree the suit in his favor against the defendant.

During the ex-parte evidence, one Jan Muhammad appeared and recorded his statements as PW-03. During his evidence he stated that plaintiff proceeded to his house, On 17.05.2025 for the,

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Jirga between the Abdul Qadeem etc and Amir Ihsan etc. Plaintiff vehicle was standing in his house during Jirga. During the Jirga I and plaintiff was arrested from the Hujra and were locked in the jail. Early in the morning when plaintiff arrived to my Hujra, there were five million cash and other goods were lying in the car of plaintiff which I had personally seen. He further stated that vehicle of plaintiff was locked by SHO/present defendant in the PS and removed goods from the vehicle. He lastly requested to decree the suit in favor of plaintiff. Copy of his CNIC is Ex.PW-3/1.

One Sultan Muhammad appeared and deposed as PW-04. He stated that he knows the plaintiff since his childhood. Plaintiff is a businessman. On 17.05.2025, Jirga was going between the Abdul Qadeem etc and Amir Ihsan etc. Plaintiff vehicle was standing in his house/Jirga. During the Jirga I and plaintiff was arrested from the Hujra and were locked in the lockup. Early in that morning when plaintiff arrived in his Hujra for Jirga, there were five million cash (which were all 5000 notes) and other goods were lying in the car of plaintiff which I had personally seen. He further stated that vehicle of plaintiff was held by SHO/present defendant in the PS and removed goods from the vehicle. He lastly requested to decree the suit in favor of plaintiff. Copy of his CNIC is Ex.PW-4/1.

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Thereafter, plaintiff closed its evidence.

In light of the unrebutted evidence placed on record by the plaintiff, it stands proved that the defendant is liable to return the

amount of Five Million Rupees taken by defendant from the car of the plaintiff. The plaintiff has produced satisfactory and credible documentary as well as oral evidence, which remained unchallenged due to the absence and continuous non-appearance of the defendant. The defendant, despite service of summons, failed to contest the matter, and was accordingly proceeded against ex-parte. As a result, the plaintiff's stance has gone wholly uncontested and is deemed to be correct for all legal purposes.

Furthermore, the plaintiff has also successfully established his claim regarding the recovery of the goods wrongfully retained by the defendant. The said items include: one umbrella valued at 300 Riyals, two earphones collectively valued at 300 Riyals, three perfumes worth 1,200 Riyals, one pot with spoon, one small carpet, one bed sheet, one additional umbrella, and two scissors valued at 70 Riyals. The plaintiff's evidence regarding the quantity, nature, and value of these goods has remained unimpeached in the absence of any rebuttal from the defendant. There is nothing on record to disbelieve the plaintiff's version or to contradict the valuation of the items claimed.

Accordingly, the suit of the plaintiff stands decreed ex-parte.

The plaintiff is entitled to recovery of Five Million Rupees in cash from the defendant, along with the return of all the aforesaid goods.

In the event the goods are not returned in their original and usable

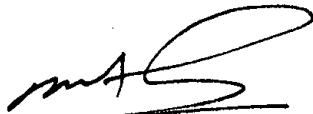
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condition, the defendant shall be liable to pay their assessed monetary value as stated in the plaint and supported by evidence.

Let ex-parte decree be drawn accordingly. The plaintiff may initiate execution proceedings in case of non-compliance. Plaintiff shall bear his own costs.

File be consigned to the record room after due completion.

Announced
25.11.2025


(Muhammad Junaid Alam)
Civil Judge-II, Tehsil Court
Kalaya, Orakzai