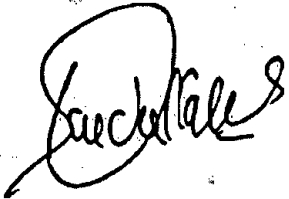


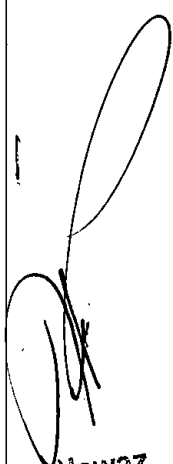
(3)

IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA

Case Title: Muhib Ali vs Chairman B&E Kohat etc.

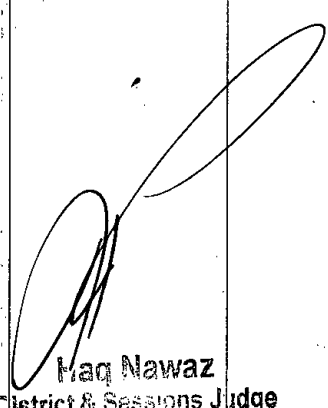
Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
Order No.05	06.05.2025	Mr. Insaf Ali Advocate, the counsel for the appellant present. Legal Advisor of respondent no. 2 present through his representative. Parties seek time for arguments. Allowed. Adjourned for arguments on 14.05.2025.  (SYED OBAIDULLAH SHAH) District Judge, Orakzai at Baber Mela
Order No. 06	14.05.2025	Mr. Insaf Ali Advocate for appellant is present. Respondent no. 2 through clerk of counsel present. Counsel for appellant requested for adjournment being not prepared. Adjournment granted. File be put up for arguments on 20.05.2025.  HAQ NAWAZ, Sessions Judge, Orakzai at Baber Mela
Order No.07	20.05.2025	Mr. Insaf Ali Advocate, counsel for the appellant present. Mr. Shaheen Muhammad Advocate, the legal advisor present on behalf of respondent No. 2. Arguments heard. This appeal was preferred on 08.04.2025 against the Order Dated 18.03.2024 passed by the Court of Senior Civil Judge, Orakzai in civil suit No. 114/1 of 2024,

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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
Contin. Order No.07	 Haq Nawaz District & Sessions Judge Orakzai at Bader Mela	whereby the plaint was returned to the plaintiff for want of jurisdiction and presentation before a proper forum. Since, the Order was revisable; therefore, the appeal is <u>converted into revision which is well within time. The Moharrir is directed to re-enter it in the relevant register.</u> The suit was brought by the petitioner, Muhib Ali, for declaration and permanent as well as mandatory injunction to the effect that the name of his father be corrected in the record of respondents as “Sher Rahman”, as entered in his CNIC and Domicile Certificate, instead of “Sher Rehman” entered in the record of respondents. The respondent No. 1 was proceeded against ex-parte whereas the respondent No. 2 contested the suit by submitting written statement along with an application for return of the plaint under Order 7 Rule 10 CPC. The learned trial court, after hearing both the parties, accepted the application through his impugned order; hence, this revision petition was filed. After hearing both the parties and perusal of the record, it was found that though the respondent No. 1 works in Kohat district, but the area of work of the respondent No. 2 is expanded to the whole of Kohat Division including District Orakzai. In such a situation, when one of the respondents works for gain within the

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IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA

Case Title: Muhib Ali vs Chairman BISE Kohat etc

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1	2	3
Contin. Order No.07	 Maq Nawaz District & Sessions Judge Orakzai at Baber Mela	jurisdiction of Civil Court at District Orakzai and the other works outside the jurisdiction of such court, the matter falls within the purview of Sub-Section (b) of Section 20 CPC. The said Section is reproduced as below; <i>“20. Other suits to be instituted where defendants reside or cause of action rises. Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction –</i> <i>(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution;”</i> The perusal of said Section provides that in such cases either leave of the Court is to be sought or the defendants who do not reside, or carry on business, or personally work for gain, may acquiesce to the institution of the suit. In the present case, the respondent No. 1 was

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1	2	3
Contin. Order No.07		proceeded against ex-parte; hence, no objection was raised by him on jurisdiction of the Court. Whereas the Legal Advisor for respondent No. 2 admitted the expansion of sphere of work of the respondent No. 2 to the whole of Kohat Division. As such, the respondent No. 2 was having no right to raise the question of jurisdiction before the trial Court. In such circumstances, the revision petition is accepted. The impugned Order is set aside and the case is remanded back to the trial Court with directions to both the parties to appear before the said Court on 27.05.2025 where the petitioner shall seek leave of the Court as provided under Sub-Section (b) of Section 20 CPC, before further proceedings in the case, or produce the respondent No. 1 to submit his acquiescence for institution of the suit. Order announced. File of this Court be consigned to record room after its necessary completion and compilation. Dated: 20.05.2025 (HAQ NAWAZ) District Judge, Orakzai at Baber Mela

