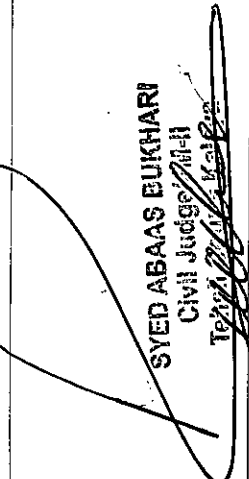
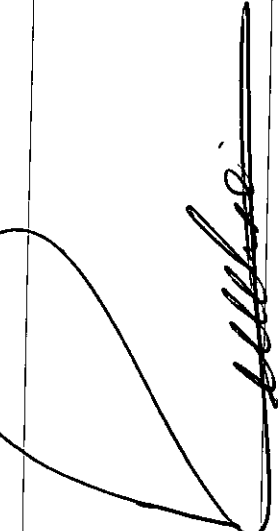
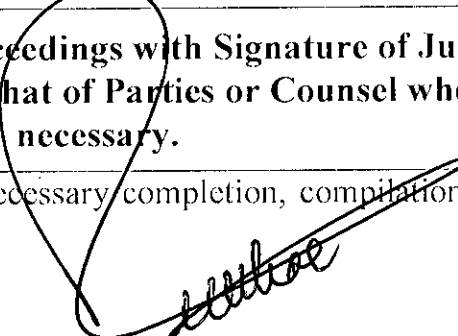


Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
<p>Continued Order---11</p> <p style="text-align: center;">   <b>SYED ABAAS BUKHARI</b>            Civil Judge, M-II            Tehsil Muzaffargarh, District Muzaffargarh         </p>	<p>22.05.2023</p> <p style="text-align: center;">20-05-2023</p>	<p>went to Lahore for Tableegh. Furthermore, said one third amount is yet to clarified with the assistance of this court and thereafter the respondent will deposit the same. Hence the application in hand may kindly be dismissed.</p> <p><b>Court's Observation:</b> Now on perusal of the available record and able assistance of both the learned counsels for the parties, this court is of the considered view that the suit in hand was previously instituted on 25.02.2023 before learned CJ-1 Kalaya Orakzai and said court vide order no.02 dated: 25.02.2023 directed the respondent to deposit one-third of the sale price within 30 days with Civil Nazir but same is not deposited till date. In given circumstances the question pending adjudication before this court is that as to whether after lapse of the time period specified by the court for deposit of one-third sale consideration, the respondent can deposit the same or otherwise.</p> <p>The respondent allege that as previously suit property was purchased by petitioners through an oral agreement, hence the one third sale consideration was not clear to him and for that very reason he failed to deposit the same within the specified time of 30 days. In given circumstances, this court is of the humble view that the respondent was under obligation to have approached this court for specification/clarification of said one-third sale consideration prior to the expiry of said period of 30 days, if in case, he intended to deposit the same. Moreover, in Para no.01 of the plaint, present respondent had alleged that the market value of the suit property is not more than Rs-50000/- and thus the respondent himself determined the probable value of suit property, as provided under first proviso of section 24 of The Khyber Pakhtunkhwa Pre-emption Act, 1987. In given circumstances, the respondent should have</p>

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	09-05-2023 <b>SYED ABAAS BUKHARI</b> Civil Judge/JM-II Tehsil Courts Kalaya	<p>deposited one-third amount by considering Rs-50000/- as probable value/sale consideration of the suit property. It is also pertinent to mention here that in pre-emption cases, as there always exist dispute regarding the sale price of property in question, hence courts as a matter of routine frame issue in this respect to ascertain the market value of suit property and thereafter at later stage, if the suit is decreed, courts direct the plaintiff to deposit the remaining amount as determined by court in issue relating to market value. Hence the plea of respondent for non-deposit of one-third sale consideration is not genuine and thus not appealable to prudent mind.</p> <p>As for as the question that whether this court has got any discretionary powers to allow the respondent to deposit one-third sale consideration after the expiry of the time period specified by the court, is concerned, it is pertinent to mention here that perusal of section 24 sub-section 2 of The Khyber Pakhtunkhwa Pre-emption Act, 1987, would reveal that it has been specifically mentioned therein that if "<i>the plaintiff fails to deposit one-third of sale price or the probable value of the property within the period fixed by the court, his suit shall be dismissed</i>". In given circumstances no discretionary powers had been provided to the court by legislature to this effect rather the use of word "Shall" make it mandatory for the court to dismiss the suit of plaintiff, if he fails to deposit the one-third of sale price within the specified period.</p> <p><b>Ruling:</b> In light of the above discussion, as plaintiff failed to deposit one-third of sale price within a period of 30 days. specified by the court for such deposit, without any valid reason or sufficient cause, hence accordingly the application in hand is hereby allowed and suit in hand is hereby dismissed. No order as to costs. File be consigned to the</p>

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		<p>record room after its necessary completion, compilation and scanning.</p> <p><b>Announced</b> <b>22.05.2023</b></p> <p> <b>Syed Abbas Bukhari</b> Civil Judge-II Kalaya Orakzai</p>