

Order-12
16/01/2021

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Petitioner present through counsel Shaheen Muhmmad Advocate.


Respondent present through counsel.

Counsel for the petitioner submitted copy of authority letter.

My this order is aimed at disposal of petition for setting aside ex-parte decree dated: 12-12-2020 against Chairman Board of BISE, Kohat (petitioner).

Petitioner filed instant petition for setting aside ex-parte decree dated: 12.12.2020 in case titled Jahanzeb Khan vs Chairman BISE Kohat etc bearing No. 206/1 of year, 2019 by contending therein, that ex-parte decree was passed in absence and without the knowledge of petitioner as petitioner was not served with the notice in the said case. That valuable rights of petitioners are attached in the case, hence, the ex-parte decree against petitioner/defendant No.1 be set aside and opportunity be provided to petitioner to defend his rights.


Respondent/plaintiff was summoned, who appeared and contested the petition by filing his written reply, wherein, he objected the application on various grounds.


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Orakzai at Baber Mela

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Learned counsel for the parties heard and record gone through.

Perusal of the record reveals that plaintiff/respondent brought a suit for declaration, permanent and mandatory injunction to the effect that his correct date of birth is 01.01.1994 but defendants have wrongly mentioned the same as 25.01.1997 in his education record and CNIC, hence, the record is liable to be corrected. Defendants were summoned, on which defendant No.2, 3 and 4 appeared through representative and submitted their written statement while defendant No.1/petitioner was proceeded ex-parte on 16.12.2019. Thereafter, recorded evidence of plaintiff and defendants No.2 to 4, suit of plaintiff was decreed vide judgement dated: 20.02.2020.



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Record reflects that though petitioner/defendant was summoned through post and AD card returned yet the report on AD card is ambiguous and it does not clearly establish that the summon was properly served. Record also shows that relief was also sought against the petitioner/defendant No.1 and decree has been passed against him without providing him opportunity of hearing. It is well settled principle of law that no one should be condemned. The superior Courts in plethora of judgements have held that cases be decided on merit and reasonable

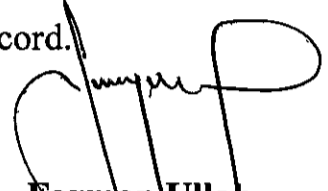
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opportunity be provided to the parties to defend their rights.

In view of above discussion, the request of petitioner/defendant No.1 seems genuine, hence, by accepting petition in hand the ex-parte decree dated: 29.11.2019 is set aside. No order as to cost.

This file be consigned to record room after necessary completion and compilation while copy of this order be placed on original record.

Order announced
16-01-2021.



Farman Ullah
Senior Civil Judge,
Orakzai at Baber Mela

FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela