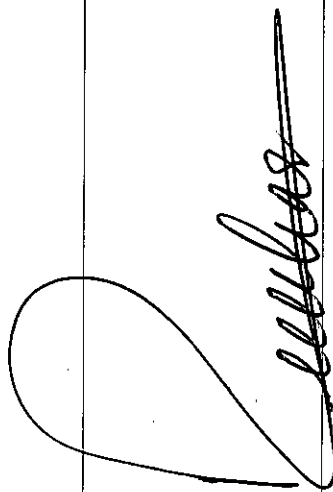


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FORM "A"
FORM OF ORDER SHEET

IN THE COURT OF SYED ABBAS BUKHARI, CIVIL JUDGE/JUDICIAL MAGISTRATE/CJ-II, KALAYA ORAKZAI

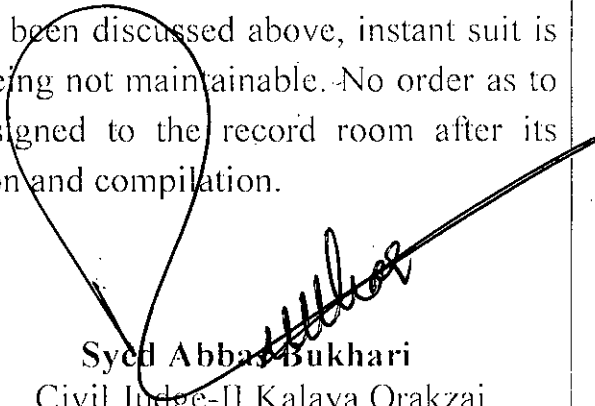
Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3
Order No. 06	28.08.2024	<p>Parties present.</p> <p>Vide this order I intend to dispose of the question with regard to maintainability of instant suit. Replication to application for impleading necessary parties to the instant suit not submitted by defendants.</p> <p>Now on perusal of the record and valuable assistance of the learned counsel for the parties, this court is of the humble view that plaintiff filed instant suit on the basis of agreement deed 02.06.2015 and subsequent agreement of the year 2022, in continuation of the prior agreement. However, defendants no.1 and no.02, hereinafter referred as defendants, allege that said agreement deed was previously cancelled by this court vide ex-parte Judgment and decree dated: 22.03.2024. They further allege that plaintiff has also filed an application for setting aside ex-parte decree before this court and unless and until decree dated: 22.03.2024 is not set aside by this court, plaintiff cannot institute suit on the basis of said agreement, as after passing of ex-parte decree dated: 22.03.2024, agreement deed dated: 02.06.2015 has got no value in the eyes of law as same has been cancelled.</p> <p>In given circumstances, this court is of the humble view that perusal of record would transpire that admittedly previously an ex-parte decree dated: 22.03.2024 was passed by this court in favour of present defendant no.01 in suit no. 61/1 of 2023. Furthermore, defendant no.01 had also filed an execution petition for execution of said decree, which has now been adjourned sine die after institution of setting aside ex-parte application by present plaintiff and eight other persons. It is also pertinent to mention here that during course of arguments learned counsel for plaintiff did not denied the stance of defendants with regard to cancellation of agreement deed dated: 02.06.2015 rather have deposed that the said agreement deed was cancelled only to the extent of defendants in suit no.61/1 of 2023 and not to the extent</p>



28.08.2024

SYED ABBAS BUKHARI
Civil Judge (CJ-II)
Tehsil Courts Kalaya

(2)

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.
Contind.... Order No. 06	28.08.2024	<p>of other persons to the deed and thus in this regard he also submitted an application for impleading those persons as necessary party to the suit. In given circumstances this court is of the view that once a deed has been declared void by court of competent jurisdiction and has been cancelled, then it would be deemed to be cancelled to the extent of all the parties to the said deed irrespective of the fact that as to whether all parties to the deed were made party to the suit or otherwise. Furthermore, if an interested/necessary party was not impleaded in the suit, in circumstances, that party has got remedy to file an application under section 12(2) C.P.C. It is also pertinent to mention here that instant suit has been filed by one Jalabat Khan who was previously impleaded as defendant no.08 in suit no.61/1 of 2023 and thus present plaintiff cannot institute instant suit on the basis of agreement deed dated: 02.06.2015, which has been cancelled by this court vide judgment dated: 22.03.2024.</p> <p>In light of what has been discussed above, instant suit is hereby dismissed being not maintainable. No order as to costs. File be consigned to the record room after its necessary completion and compilation.</p> <p><u>Announced</u> 28.08.2024</p> <p style="text-align: right;"> Syed Abbas Bukhari Civil Judge-II Kalaya Orakzai</p>