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**COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

**Case Title:** Chairman BISE Kohat VS Imad Ali


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. 11	10.02.2025	<p>Petitioner through legal advisor present. Respondent absent.</p> <p>This order decides instant application filed for setting aside an ex-parte decree passed against the petitioner. Respondent has already been placed and proceeded ex-parte vide order dated: 18.01.2025, and arguments have been heard.</p> <p><b><u>Brief Account:</u></b></p> <p>A suit for correction of date of birth was decreed ex-parte on 26.07.2024 for the respondent against the present petitioner i.e. Chairman Kohat Board. The petitioner was proceeded against as ex-parte when despite knowledge and attendance in the suit, and having filed a written statement, he failed to appear on date of hearing vide order dated: 11.07.2024 till final order/judgment of the suit.</p> <p>Timeline of the matter runs as follows: suit was decreed on 26.07.2024; present petitioner applied for copies of the judgment on 31.07.2024 and duly received it on 02.08.2024. Thereafter, he applied for setting aside of the decree on 02/09/2024. Apparently, the petition was filed beyond the 30 days period set by article 164 of the Limitation Act.</p> <p><b><u>Reasons/Merits:</u></b></p> <p>Firstly, limitation prescribes a period of one month for filing an application to set aside an ex-parte decree when the proceedings is in the knowledge of the party. In the instant matter, petitioner filed instant application after 34 days, clearly beyond the period.</p> <p>The explanation provided for the delay was that contract was being negotiated for extension between the</p>

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<p><b>Order No. 11</b> <b>continued</b></p>	<p>10.02.2025</p>	<p>legal representative and the defendant.</p> <p>This justification is barely acceptable, as the court is not concerned with extra judicial engagements or affairs of the defendants with its agents or attorneys. Law of limitation only accepts circumstances as valid excuse which are beyond the natural or legal power of the party. In the circumstances, defendant could have appeared through an authorized agent to avoid ex-parte proceedings.</p> <p>Finally, the decree, technically considered is not an ex-parte one as the learned predecessor disposed it through issue wise findings. Clearly, written statement had been filed and issues were distilled from the mutually opposed pleadings.</p> <p><b><u>Rulings:</u></b></p> <p>In view of the foregone, the court was not supplied with sufficient reasons to indulge the plea for setting aside the decree. Application is dismissed. Costs shall follow the event.</p> <p>File be consigned to the record room after its necessary completion and compilation.</p> <p><b><u>Announced</u></b> 10.02.2025</p> <p style="text-align: right;"> <b>Ijaz Mahsood</b> Senior Civil Judge, Orakzai (at Baber Mela)</p>
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