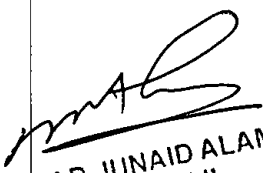


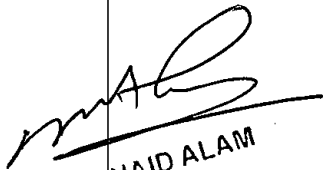
FORM "A"
FORM OF ORDER SHEET

IN THE COURT OF MUHAMMAD JUNAID ALAM, CIVIL JUDGE/JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI

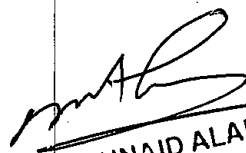
Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3
Order No. 42	14.04.2025	<p>Parties alongwith counsel present.</p> <p>Today the case was fixed for arguments on maintainability. Arguments on behalf of plaintiffs counsel heard at length. During the course of proceedings, it was revealed that the present suit is not maintainable in its present form and this court lacks the jurisdiction to try this case.</p> <p>Vide this Court intends to dispose of the question with regard to maintainability of instant suit.</p> <p>Perusal of the record would reveal that plaintiffs filed instant suit for declaration cum permanent injunction in respect of suit property consists of vast area of mountains situated at different areas of District Orakzai claiming that they are owners in possession of their legal shares. Plaintiffs have further stated in their plaint that the suit mountains are joint ownership of the parties to the suit and no private partition has been made between the parties. Moreover, plaintiffs stated in their plaint that the suit mountains are the ownerships of four tribes i.e. Qasim Khel, Qeemat Khel, Ghairat Khel and Jaisal Khel of Qom Feroz Khel. Furthermore, plaintiffs stated that</p>

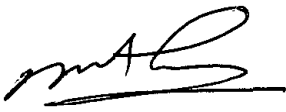

MUHAMMAD JUNAID ALAM
Civil Judge / JM-II
Orakzai at Kalaya

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.
Continued.... Order No. 42	14.04.2025	<p>the above mentioned four tribes have legal shares in the suit mountain. Furthermore, and lastly stated that defendants have no right to claim ownership and possession of the suit property. On the other hand, the contesting defendants stated in their written statement that the suit property is the joint property of Qom Feroz Khel and plaintiffs have failed to made party every shareholder in the suit property. Furthermore, contesting defendants stated that there is a dispute going on over the Krrapa Mountain and Samalli Mountain (suit mountain) between Qom Feroz Khel and other Qom Bezot and Qom Stori Khel. Similarly, other dispute is also going on in Chapri Feroz Khel (suit mountain) between Qom Feroz Khel and Qom Mishti. Therefore, they requested that the suit in hand be dismissed. However, during the course of reconciliation and conferencing it was revealed that there are many legal lacunas in the suit which are as follows: -</p> <ol style="list-style-type: none"> 1. Plaintiffs intend to seek official partition of the suit mountains, however, no relief to that extent has been sought in the plaint. Furthermore, some dispute is going on over the suit mountains between section Feroz Khel (parties to the suit)


 MUHAMMAD JUNAID ALAM
 Civil Judge / JM-II
 Orakzai at Kalaya

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.
Continued.... Order No. 42	14.04.2025	<p>and other sections, while this fact has been concealed from the Court. Prayer A of the plaint is not clear that what kind of decree the plaintiffs are demanding from the Court. Similarly, Prayer B of the plaint is also incomplete and un-specified. Therefore, an ambiguous decree cannot be granted.</p> <p>2. All the co-sharers in the suit property have not been impleaded in the plaint. As the suit mountains are joint property of entire section Feroz Khel. The suit is bad for non-joinder of the all the necessary parties.</p> <p>3. Full description of the suit property has not been mentioned in the plaint in order to properly identify it. Presence of any structure in the shape of houses, shops and roads has not been given in the description of the property. Para no. III of the plaint, plaintiffs claimed that Lerri Mountain is the joint property of the parties to the suit and sought partition of the same. It is pertinent to mention here that some of the portion of the same mountain is occupied by the Army and constructed Fort.</p> <p>4. As the disputes over the suit mountains are going</p>


 MUHAMMAD JUNAID ALAM
 Civil Judge / JM-II
 Orakzai at Kalaya

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.
Continued.... Order No. 42	14.04.2025	<p>on between different tribes of District Orakzai, therefore, cannot pass an ambiguous decree in favor of plaintiffs in violation of right of other tribes/sections of Orakzai.</p> <p>5. The suit property consists of mountains and shamilat-e-deh. According to the Land Revenue Act the Civil Court lacks of jurisdiction to entertain such cases.</p> <p>6. In light of what has been discussed above, instant suit is hereby dismissed being not maintainable. While, the Civil Courts also lacks the jurisdiction to try the instant case. No order as to costs. File be consigned to the record room after its necessary completion and compilation.</p> <p><u>Announced</u> 14.04.2025</p> <p style="text-align: right;">  Muhammad Junaid Alam, Civil Judge-II Tehsil Courts, Kalaya Orakzai </p>