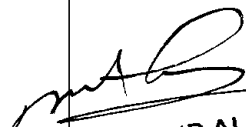


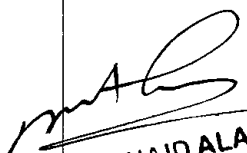
FORM "A"  
FORM OF ORDER SHEET

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

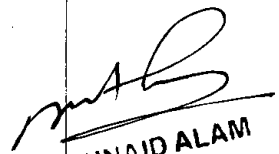
Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3
Order No. 17	14.04.2025	<p>Parties alongwith counsel present.</p> <p>Today the case was fixed for discovery management and scheduling conference &amp; reconciliation between the parties. Both the parties were heard at length during the conferencing and reconciliation proceedings. 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 of maintainability of instant suit during the discovery management and scheduling conference &amp; reconciliation.</p> <p>In the light of perusal of the record it is clear that plaintiffs filed instant suit for declaration cum permanent injunction in respect of suit property. According to the plaint the suit property was ownership of one Utman Shah, the grandfather of parties to the suit. After his demise suit property devolved upon his four sons, which is yet to be partitioned and thus it is joint ownership of parties to the suit, as parties to the suit are legal heirs of the four late sons of late Utman Shah. Plaintiffs further</p>


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

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Continued.... Order No. 17	14.04.2025	<p>stated in their plaint that defendants have got no right to interfere with the suit property and to dispossess the plaintiffs from their legal shares in the joint/undivided suit property.</p> <p>On the other hand the defendant No.1 stated in his written statement that the suit property has been partitioned by the legal heirs of five late sons of Utman Khel, and each and every legal heirs is enjoying his ownership-in-possession. Even some of the legal heirs have sold their property and some have made construction over it. 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"> <li>1. Plaintiffs sought declaration in respect of suit property and had not arrayed the women folk of defendants who are also concerned with the suit property. Therefore, the suit is bad for non-joinder of the necessary parties.</li> <li>2. All the interested/necessary parties have not been impleaded in the suit. As fathers of some of the parties are alive and but not made parties to the suit, hence, suit is bad for non-joinder of the all the necessary parties.</li> <li>3. Full description of the suit property has not been</li> </ol>

  
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Continued.... Order No. 17	14.04.2025	<p>mentioned in the plaint in order to properly identify it.</p> <p>Presence of any possession of any other party except defendant No.1 has not been given in the description of the property.</p> <p>4. According to the plaint, the major portion of the suit property is agricultural in nature. Therefore, this court does not have the jurisdiction to entertain the suit to the extent of agricultural land as the case in hand comes under the jurisdiction of Revenue Courts as per Land Revenue Act.</p> <p>5. During the course of reconciliation and conferencing proceedings both the parties stated categorically that each and every party to the suit is in possession of their ownership and enjoying the same through devolution of inheritance so it means that their fore-father never objected over the existing partition between the parties. It also means that partition has been made between the parties and their no-objection over the possession held by the parties is the acknowledgement and endorsement of the partition. The court is of the firm view that once a partition is made by predecessors and possession is also handed over to each party without any objection, then after the demise of the predecessors the</p>

  
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		<p>legal heirs cannot make any objection over that partition.</p> <p>In the present case the legal heirs are objecting the partition made by their predecessors without any locus standi. Therefore, on this score alone the suit in hand is not maintainable.</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><b><u>Announced</u></b> <b>14.04.2025</b></p> <div style="text-align: right;">   <b><u>Muhammad Junaid Alam,</u></b>          Civil Judge-II          Tehsil Courts, Kalaya Orakzai       </div>