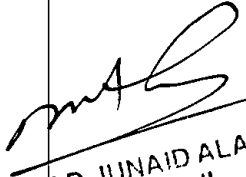


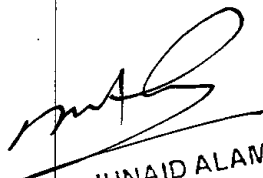
FORM "A"
FORM OF ORDER SHEET

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

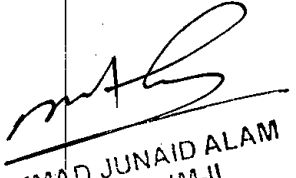
Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3
Order No. 36	18.03.2025	<p>Parties present. Counsel for defendants present.</p> <p>Today the case was fixed for plaintiff evidence. During the course of proceedings, it was revealed that the present suit is not maintainable in its present form.</p> <p>Vide this Court intends to dispose of the question with regard to maintainability of instant suit.</p> <p>Brief facts of the case are that plaintiff has filed the instant civil suit, wherein, contended that the landed property detailed through boundaries in the head note of the plaint was ownership of plaintiff; that defendants have secretly purchased the suit property from his cousins Mumtaz son of Lal Bat Khan etc through oral sale on 12.04.2023 without prior notice and information to him through an excessive amount so as to defeat his right of pre-emption despite the fact that value of the suit property is not more than one hundred thousand rupees; that plaintiff has superior right of pre-emption in comparison to defendants on the strength of co-ownership and contiguity vis-a-vis other easement and appendages rights etc attached with the suit property; that they have come to know about suit transaction in his</p>


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

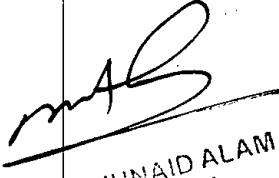
Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
Continued Order No. 36	18.03.2025	<p>house at Orakzai on 25.05.2023 at 11:00 am from his cousin Abdullah Majeed, whereupon, he has declared his intention of pre-emption of the suit property then and thereby performing Talb-i-Muwathibat, where after, he had assembled elders of locality and his cousins and informed them too; that thereafter, he has performed second demand of Talb-i-Ishhad by issuing notice to defendants on 25.05.2023 in presence of witnesses namely Khana Gul and Muhammad Ayaz, where after, they were asked time and again to deliver possession of suit property on receipt of actual amount but they refused, and finally, he opted for Talb-i-Khasumat, therefore, plaintiff has prayed for decree for possession of suit property through exercise of his right of pre-emption and decree for permanent and mandatory injunction as per prayer.</p> <p>With due process of law and procedure, defendants were summoned, who marked their attendance and contested the suit by filing written statement and reply.</p> <p>Defendant has raised several legal and factual objections in his written statement. Defendants has contended that the suit of plaintiff is time barred. The same is not maintainable and liable to be dismissed. It is also alleged</p>

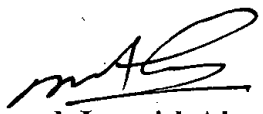

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Continued Order No. 36	18.03.2025	<p>that plaintiff or their Tarbooran have no concern with the suit property. They further contended that suit property was not purchased by defendants from Tarboran of plaintiff vide dated: 12.04.2023, but the same was purchased from the father of defendants in lieu of Rs:43000/- about 30 years ago. They further contended that the suit property is now inherited from their father. Plaintiff or Tarboran have no concern whatsoever with the suit property. In written statement, defendants stated that previously one Muhammad Yousaf have filed pre-emption suit against Taj Wali in respect of the same subject matter, wherein Dost Muhammad (present plaintiff) was declared as informer. The same pre-emption suit was dismissed by the Court. They further contended that now Dost Muhammad have filed pre-emption suit against the defendants Taj Wali with malafide intentions.</p> <p>In the light of perusal of the record and during conferencing of the parties to the suit, this court is of the view that plaintiff filed pre-emption suit against defendants in respect of barren land measuring about one and half kanal vide agreement deed dated 12.04.2023. But however, perusal of the record further reveal that</p>


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Continued Order No. 36	18.03.2025	<p>prior to this pre-emption suit, the plaintiff had filed other pre-emption suit titled as "Muhammad Yousaf Vs Taj Wali etc with the same subject matter, it was dismissed by the Court.</p> <p>Furthermore, it is pertinent to mention here that defendants raised objection in their written statement that the suit property is their ancestral ownership and they purchased the same from father of plaintiff about thirty years ago. It is also worth mentioning here that plaintiff contended in his plaint that defendants have purchased the suit property from Mumtaz son of Lal Bat Khan secretly.</p> <p>In given circumstances, Court of the view that if defendants have purchased the suit property from Mumtaz Khan, then plaintiff should have filed a fresh suit against Mumtaz Khan rather he filed pre-emption suit against defendants, who have purchased the suit property from the father of plaintiff. Furthermore, it was revealed that prior pre-emption suit titled as "Muhammad Yousaf Vs Taj Wali and other" was dismissed as non-maintainable. On that very reason plaintiff filed the same pre-emption suit with the same subject matter. It is also worth mentioning here that the</p>


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 Orakzai at Kalaya

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<i>Continued</i> <i>Order No. 36</i>	18.03.2025	<p>present pre-emption suit is in the form of recovery suit. Plaintiff should have filed separate recovery suit. Therefore, the mix of pre-emption and recovery suit 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><u>Announced</u> 18.03.2025</p> <p style="text-align: right;">  Muhammad Junaaid Alam, Civil Judge-II Tehsil Courts, Kalaya Orakzai </p>