

IN THE COURT OF MUHAMMAD JUNAID ALAM
CIVIL JUDGE-II, TEHSIL COURTS, KALAYA, ORAKZAI

Suit No.....31/1 of 2023.

Date of Original Institution.....27.04.2023.

Date of Decision.....10.02.2025.

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TAJ MUHAMMAD SON OF AJAB KHAN, RESIDENT
OF QOM FERAZ KHEL, TAPPA GHAIKAT KHEL,
TEHSIL LOWER, DISTRICT ORAKZAI

.....(PLAINTIFF)

VERSUS

1. ABDUL MANAN SON OF GULISTAN, RESIDENT OF
QOM FERAZ KHEL, TAPPA GAHIRAT KHEL, TEHSIL
LOWER DISTRICT ORAKZAI.

2. DISTRICT POLICE OFFICER, DISTRICT ORAKZAI.

.....(DEFENDANTS)

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SUIT FOR DECLARATION CUM-PERMANENT INJUNCTION

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SUMMARY JUDGMENT

10.02.2025

Plaintiff alongwith counsel present and defendant

No.1 in person present. Defendant no. 02 have already
been placed and proceeded ex-parte. Court has decided
the instant case through summary judgment on the basis
of evidence of plaintiff and available record.

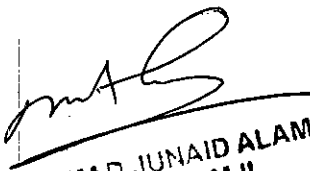
Brief facts of the case in hand are that plaintiff has
filed the instant suit against the defendants for
declaration cum-permanent injunction and possession to
the effect that plaintiff is owner in possession of the suit
property in the shape of agricultural land and barren land


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since the time of their predecessors. That previously a Jirga was conducted between the parties regarding the suit property situated adjacent to the plaintiff's house on 23.12.2017, wherein plaintiff was declared as owner of the suit property by Jirga members. Defendant no. 01 has illegally occupied the suit property. That defendant no. 01 has no concern whatsoever with the suit property and that defendant no. 01 was asked time and again to admit the legal claim of plaintiff but in vain, hence, the present suit.

Defendants were summoned. Defendant no. 01 appeared before the court and contested the suit by submitting written statement, wherein he raised many legal and factual objections. Defendant no. 02 was absent despite proper service was placed and proceeded ex-parte.

Issues were framed. The case was fixed for arguments on behalf of plaintiff's counsel on application for declaring PWs as hostile. Counsel for the plaintiff argued that the PW-02 & PW-03 be termed as hostile witnesses as they have negated the stance of the plaintiff during the cross examination. The application was dismissed by the Court as a witness cannot be termed as hostile for anything he states in the cross examination.


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During course of arguments and perusal of the PWs statement it was revealed that all the PWs admitted in their respective cross examinations that the suit property is ownership in possession of defendant no. 01 for last 50/60 years. PW no. 01 & 02 further admitted in their respective cross examination that defendant no. 01 is also in possession of one garden of walnut trees in the suit property. Furthermore, PWs in their respective cross examination are not denying ownership of defendant no. 01 and plaintiff is not in possession of the suit garden. Moreover, the plaintiff appeared in the witness box and stated in his examination in chief that a Jirga was conducted with defendant no. 01 in the year 2017 and Jirga member declared defendant no. 01 as *Parr*, but during cross examination he stated that neither he has written proof or any scribe of the said Jirga nor any Jirga member came to the Court for evidence.

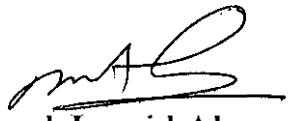

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As mentioned above, plaintiff and his witnesses are not denying the ownership and possession of defendant no. 01 and also admits that plaintiff is not owner in possession of the suit property, Therefore, the Court is of the view the recording of defendants evidence is no more necessary.

Resultantly, suit in hand is hereby dismissed on summary basis. No order as to cost.

File be consigned to record room after its
necessary completion and compilation.

Announced
10.02.2025


Muhammad Junaid Alam,
Civil Judge-II,
Tehsil Court Kalaya, Orakzai