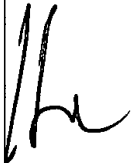


Case Title: Muhammad Salim etc VS Khizar Hayat etc

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. 24	06.03.2025	<p>Presence as before.</p> <p>This order shall decide an application filed by the defendant under Order 07 Rule 11 of the CPC for rejection of plaint on the grounds mentioned therein. Plaintiffs have already filed their written response.</p> <p><u>Brief Account:</u></p> <p>The claim as stated in the plaint is that plaintiffs, being heirs of Abdul Aziz Khan, are owners of suit land measuring 50 thousand Kanals to the extent of their shares that is partially constructed upon, and is fully described in the headnote of the plaint. It is alleged that defendants have been using, disposing, and exploiting the land. Plaintiffs now seek recovery of their title, possession, and mesne profits etc.</p> <p>Petitioner has challenged the validity of the plaint on the grounds provided for under Order 07 Rule 11. The petition states that the plaint lacks an actionable cause of action. That it fails to provide details of both the subject matter and the claim sufficient to enable the court to take the matter to trial. That it lacks any valid reference to a reliable source of title on which the claim is based. Petitioners term the suit an exercise in futility and have prayed for its rejection.</p> <p>Arguments heard and record perused.</p> <p><u>Reasoning:</u></p> <p>The law stands for earliest and quick disposal of a dispute. However, speedy justice is not to be confused with hurried disposal. The law mandates that a civil suit should first be scrutinized at a pre-trial stage for its legal frame and content, and only when found fit on that score should it be</p>


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Order No. 24 continued	06.03.2025	<p>given the privilege of trial on factual merits of the claim.</p> <p>The Civil Procedure Code provides a range of tools for examination of a plaint for the purpose of trial. It attempts to describe defects in a plaint, their consequences, and where feasible, the ways to cure or remove such defects. However, when a defect is fatal, and incurable, the code mandates that the plaint should be rejected. Order 07 Rule 11 provides for some of the grounds on which a plaint might be rejected.</p> <p>In addition to these fatal defects, the Code further provides ‘essentials’ of a plaint in Order 06. These essentials are necessary constituents of a valid plaint, which, if missing, might incur dismissal of the suit for being not maintainable. Broadly, a plaint must contain accurate details of the parties involved, of the subject matter, a concise statement of the cause of action, and the relief prayed for.</p> <p>After this brief but necessary digression, the court shall now examine the merits of the petition presently contested.</p> <ul style="list-style-type: none">• It is essential for a plaint to supply a clear statement of the nature and measure of the subject matter as closely as possible. The subject matter of the suit as described in the plaint is more than 40 thousand kanals, including markets, spread over some 12 villages. Firstly, the measure of the land is not known; second, its nature, as to what proportion of it is constructed, plain, or cultivated is unknown. Third, what measurement of it falls in which village is not known. Essentially, the plaint controverts the title and possession of the entire land mass of the tehsil that is humanly administered.• Next key essential for a valid plaint is the legal
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Order No. 24 continued	06.03.2025	<p>standing of the claimants. The rights or interests vested in the plaintiff which he complains were violated form his legal standing for a suit. In the present plaint, it is claimed that suit land was a grant by Mughal emperor Shah Jehan to the ancestors of the plaintiffs who were killed for it during the Sikh Rule by their cousins, ancestors of the defendants.</p> <ul style="list-style-type: none">• There is no deed or documents alluded to or annexed with the plaint that is legally admissible as a title deed. Witnesses, naturally, cannot be expected to be forthcoming for a grant made 3 centuries back. The allegations of defendants having murdered the ancestors of plaintiffs are also not amenable to judicial determination.• There are no particulars as to when and how possession was taken from the plaintiffs during the Sikh Period. However, it is conceded that defendants have been in possession of the suit land for over a century now.• No ancestors of the plaintiffs in the recent past have made any attempt to claim recovery of title and possession of the suit land. The time of arousal of cause of action as required by Order 06 Rule 04 is also not mentioned. From the plaint, the court is at loss as to when exactly did the cause of action accrue to the plaintiffs.• About mesne profits, the plaint is as vague as it is about the rest of the matters. How much land has been unlawfully held by the defendants and for how long, is not explained. Similar is the situation of illegal alienations. Who sold how much to whom and when, all these essentials are unknown.• In a merged district, where no revenue record exists,
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COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Case Title: Muhammad Salim etc VS Khizar Hayat etc

Order No. 24 continued	06.03.2025	<p>and where possession is received as the only reliable token of title, the plaintiffs concede that suit land has been in possession of the defendants for over a century.</p> <ul style="list-style-type: none">• Even if the matter is taken to trial, the court cannot expect evidence to elaborate and prove what has not been averred in the plaint. For instance, no witness can testify to the measure of the land that was allegedly received three centuries back, or to the extent of possession of the plaintiffs then, or to when it was taken from them. <p><u>Ruling:</u></p> <p>In view of the foregoing, the court deems the plaint lacking in an actionable cause of action, and in necessary essentials that would be required in trial to positively establish a claim through evidence. The parties, the subject matter, and the cause of action are all too vague to be taken to trial. Plaint is rejected.</p> <p>File be consigned to the record room after its necessary completion and compilation.</p> <p><u>Announced</u> 06.03.2025</p> <div> Ijaz Mahsood Senior Civil Judge, Orakzai (at Baber Mela)</div>
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