


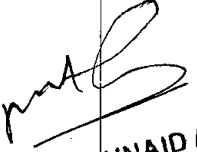
FORM "A"
FORM OF ORDER SHEET

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

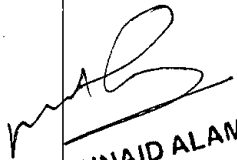
Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3
Order No. 10	03.06.2025	<p>Parties alongwith counsel present. Counsel for plaintiff submitted an application for submission of sketch the suit property, which is placed on file.</p> <p>Perusal of sketch of the suit property would reveals that the sketch of the suit property seems unclear and ambiguous, hence, the application is turned down.</p> <p>Arguments heard on the point of maintainability.</p> <p>Vide this order the Court intends to dispose of the question of maintainability of instant suit.</p> <p>In the light of perusal of the record it is clear that plaintiffs filed instant suit for declaration cum permanent injunction to the effect that parties to the suit are relative inter se and each have equal ownership in the suit property. Plaintiffs further stated that the fathers of the parties to the suit are real brothers. While, defendants possess all the ancestral joint property. Similarly, plaintiffs are also in possession in some portion of suit property/mountain situated at Mishti. Plaintiffs further stated the defendants also in possession of suit property situated at Tanbi, Orakzai, Shabozar and Shahu Khel. Since, plaintiffs being co-owners in the suit property,</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. 10	03.06.2025	<p>therefore, the defendants have got no right to dispossess the plaintiffs from their legal shares in the joint/undivided suit property. On the other hand, the defendants stated in their written statement that neither parties to the suit are cousin/relative nor the suit property is joint and ancestral ownership of the parties. They further stated that the suit property is their exclusive ownership in possession since their fore-fathers. Furthermore, plaintiffs have no concern with the suit property, being ancestral property of defendants. Plaintiffs have got no right to claim partition of the ancestral property of defendants. During the course of arguments, it was revealed that there are many legal lacunas in the suit which are as follows: -</p> <p>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. Similarly, the form of land e.g. agricultural land, residential land and commercial land etc has not been given in the description of the property. Prayer A of the plaint supposes that the suit land is a single piece and square in shape as only four boundaries are mentioned in</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. 10	03.06.2025	<p>the plaint. But during the arguments it was revealed that the suit land consists of many fields, houses, pathways and water channels etc. since, proper description of the suit property has not been given in the plaint, therefore, the suit is not maintainable in the present form. Presence of any possession of any other party or persons except defendants, has not been given in the description of the property.</p> <p>Plaintiffs sought declaration in respect of suit property and have not been arrayed interested/necessary parties i.e. other possession holders, women folk and other persons from the Tappa and Khel etc in the suit. Therefore, the suit is bad for non-joinder of the necessary parties.</p> <p>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. The share of the parties has not been determined. That how much share each plaintiff is claiming. Similarly, it is also not mentioned that how much shares of the suit property devolved upon them</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.
	 MUHAMMAD JUNAID ALAM Civil Judge / JM-II Orakzai at Kalaya	<p>from their predecessors. Hence, suit for possession through partition i.e. Prayer B of plaint is not maintainable. It is also pertinent to mention here that the absence of a proper and specific description of the suit property renders the plaint vague and ambiguous. A suit pertaining to immovable property must necessarily contain a clear and complete description in terms of measurement, boundaries, demarcation and share of parties etc, so that the subject matter is identifiable for the purpose of adjudication and enforcement of any decree that may be passed. In the absence of such material particulars, the suit does not disclose a cause of action that can be entertained by this Court. Therefore, as it fails to disclose a cause of action and is barred by the mandatory legal requirement of specification in property-related claims.</p> <p>Hence, 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> 03.06.2025</p> <p style="text-align: right;">  Muhammad Junaid Alam, Civil Judge-II Tehsil Courts, Kalaya Orakzai </p>