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IN THE COURT OF HAQ NAWAZ,
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL APPEAL NO. : 19/13 OF 2025
DATE OF INSTITUTION : 07.04.2025
DATE OF TRANSFER-IN : 29.05.2025
DATE OF DECISION : 27.06.2025

1. SADDAM KHAN S/O TAZA GUL
2. ARAB GUL S/O ALAM GUL
BOTH R/O CASTE MISHTI, TAPA DARWI KHEL, VILLAGE
BADGOR, TEHSIL CENTRAL, DISTRICT ORAKZAI

.....(APPELLANTS)

-VERSUS-

1. KHANA MIR GUL
2. GHUNCHA GUL
3. MEWA GUL
4. RAZMEEN GUL
ALL SONS OF KHAISTA GUL, CASTE MISHTI, TAPA DAWRI
KHEL VILLAGE BADGOR, TEHSIL CENTRAL, DISTRICT
ORAKZAI
5. FAZAL HAMEED (DECEASED) S/O DILBAR KHAN
6. MURAD KHAN S/O ALAM GUL
7. NADARO S/O TAZA KHAN
ALL RESIDENTS OF CASTE MISHTI, TAPA DARO KHEL,
CENTRAL ORAKZAI

..... (RESPONDENTS)

Present : Mr. Sana Ullah Khan Advocate for appellants.
: Abid Ali Advocate for respondents No. 1 and 3.

JUDGEMENT
27.06.2025

This civil appeal was preferred by the appellants/defendants against the judgment and decree dated 18.02.2025 passed by the Court of learned Civil Judge-II, Tehsil Kalaya, District Orakzai, in Civil Suit No. 85/1 of 2020.

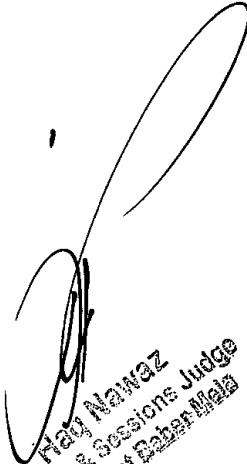
The suit was brought by the respondents/plaintiffs for declaration and permanent as well as mandatory injunction to the effect that they are owners of the suit property consisting upon three fields, measuring two jarib and two fields, measuring about three jarib and 20 Marla, situated at Badgor, described with four boundaries in headnote of the plaint, since

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their forefathers. The appellants/defendants have got no concern with the suit property and they are bent upon making interference in the suit property by restraining the respondents/plaintiffs from cultivation of the suit property.

3. The appellants/defendants contested the suit by submitting their written statement. They alleged that they are owners in possession of the suit property and the claim of the respondents/plaintiffs is baseless. Pleadings of the parties were reduced to the following issues;

- I. *Whether the plaintiffs have got a cause of action?*
- II. *Whether the plaintiffs are estopped to sue?*
- III. *Whether the suit of the plaintiffs is time barred?*
- IV. *Whether the suit property consisting of 03 fields detailed in the headnote of the plaint are ownership in possession of the plaintiffs since their predecessors and the defendants have nothing to do with the suit property?*
- V. *Whether the suit property is the ownership in possession of the plaintiffs and the defendants have forcefully stopped cultivation in the suit property?*
- VI. *Whether the suit property is the ownership in possession of the defendants and the plaintiffs have nothing to do with the suit property?*
- VII. *Whether the plaintiffs are entitled to the decree as prayed for?*
- VIII. *Relief.*


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4. After recording pro and contra evidence and hearing both the parties, the learned trial Court decreed the suit through his impugned judgment and decree; hence, this appeal was filed.
5. I have heard learned counsels for the parties and perused the record.

6. The respondents/plaintiffs No. 1 himself appeared before the Court as PW-3. He also produced two witnesses in support of claim of the respondents. They deposed in favour of the respondents and submitted that the suit property is ancestral ownership of the respondents and they have a residential house in one of the fields. Both the witnesses were cross examined through sufficient length but no material in contradiction could be brought on record.
7. On the other hand, the appellant No. 2 (defendant No. 3) only appeared before the Court as DW-1 and no witness was produced to support the appellants in respect of their contention about the suit land.
8. In such circumstances, the learned trial Court has rightly decreed the suit in favour of the respondents. This appeal, being devoid of merits, is dismissed. File of this Court be consigned to record room after its necessary completion and compilation.

Announced:

27.06.2025



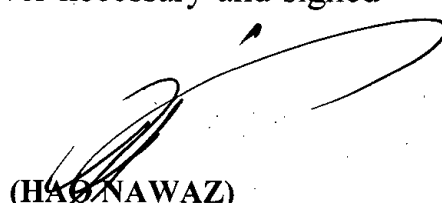
(HAQ NAWAZ)

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CERTIFICATE

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 27.06.2025



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