

(66)

RAZIM SHAH ETC. VS RAFIQ KHAN ETC.
CIVIL REVISION NO. 6/12 OF 2025

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

CIVIL REVISION NO. : 6/12 OF 2025
DATE OF INSTITUTION : 01.03.2025
DATE OF DECISION : 23.08.2025

RAZIM SHAH S/O KHAISTA ALI SHAH AND ONE OTHER, R/O
DABORI DISTRICT ORAKZAI
.....(PETITIONERS)

-VERSUS-

RAFIQUE KHAN AND OTHERS, CASTE MULLA KHEL, TAPA
AZIZ KHEL, DABORI, DISTRICT ORAKZAI
.....(RESPONDENTS)

Present: Nazir Azam Advocate for petitioners.
: Fazal Malik Kaka Khel Advocate for respondents.

JUDGEMENT
23.08.2025

This Civil Revision was preferred by the petitioners against the order Dated 06.01.2025 passed by the Court of learned Senior Civil Judge, Orakzai, whereby application for submission of better statement under Order 6 Rule 5 read with section 151 of the Code of Civil Procedure (CPC), was dismissed.

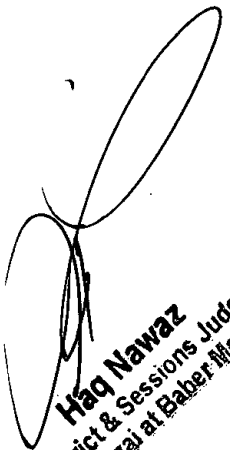
2. The suit was filed by the respondents/plaintiffs for declaration, permanent injunction and possession to the effect that the suit property, described with four boundaries in headnote of the plaint, situated at Moza Dabori, District Orakzai is ancestral ownership of the plaintiff and defendants No. 4 to 21 which was devolved upon them from their forefathers. The defendants No. 1 to 3, having got no concern whatsoever with the suit property, are bent upon to make interference by claiming its ownership. The plaintiff asked the defendants to refrain from their illegal acts, but they refused; therefore, the suit was filed.

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District & Sessions Judge
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3. The suit was contested by the petitioners by filing their written statement. Pleadings of the parties were reduced to issues. During the course of plaintiffs' evidence, the petitioners submitted their application for submission of better statement under Order 6 Rule 5 CPC.
4. The petitioners have alleged in their application that previously the plaintiff filed a Civil Suit bearing No. 23/1 of 2021 in respect of the same subject matter in which he alleged that the suit property was given to Kandi Langar Khel by the contesting defendants, in lieu of Badl-e-Sulah in a murder case about hundred years ago. It was further alleged in the said suit that subsequently the predecessor of the plaintiff, namely Bahadar Khan purchased it from Langar Khel. The said suit was ultimately withdrawn for filing a fresh suit. Resultantly, the present plaint was submitted in which the said facts were not mentioned. The contesting defendants could also not mention these facts in their written statement; therefore, the circumstances of the case require the submission of a better statement for just conclusion of the case.
5. The application was contested by the respondents. The learned trial Court, after hearing both the parties, dismissed the application. Hence, this Revision Petition was preferred.
6. After hearing both the parties and perusal of the record, it was found that the respondent/plaintiff, in his earlier suit No. 23/1 of 2021, has narrated the facts in question in Para 3 of the


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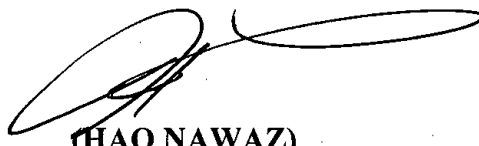
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plaint as narrated by the petitioners in their application under Order 6 Rule 5 CPC. This fact was also admitted by counsel for the respondents who also shown his willingness for framing of additional issue in this respect. Similarly, the learned trial Court has also allowed the petitioners to lead evidence in this respect. But framing of an additional issue and leading evidence beyond pleadings may lead to further complications.

7. In such circumstances, the Revision Petition is accepted. The impugned order is set aside and the petitioners are allowed to submit better statement under Order 6 Rule 5 CPC which will be considered as part of the pleadings. Reliance is placed on ***PLD 1974 Lahore 458***. The trial Court shall, thereafter, frame an additional issue and allow the parties to adduce evidence. Copy of this judgment be sent to the trial Court for information and compliance. File of this Court be consigned to record room after its necessary completion and compilation.

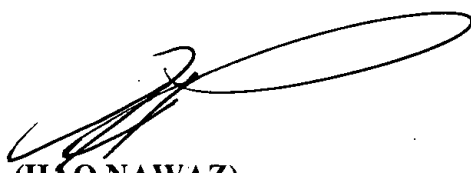
Announced:
23.08.2025


(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: 23.08.2025


(HAQ NAWAZ)
District Judge, Orakzai
at Baber Mela