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TAJ MUHAMMAD VS ABDUL MANAN ETC.

Civil Appeal No. 16/13 of 2025

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

CIVIL APPEAL NO. : 16/13 OF 2025
DATE OF ORIGINAL INSTITUTION : 27.02.2025
DATE OF TRANSFER-IN : 29.05.2025
DATE OF DECISION : 26.08.2025

TAJ MUHAMMAD S/O MAJAB KHAN, CASTE FEROZ KHEL,
TAPA GHAIKAT KHEL, PO FEROZ KHEL, TEHSIL LOWER,
DISTRICT ORAKZAI

.....(APPELLANT)

-VERSUS-

ABDUL MANAN S/O GULISTAN, CASTE FEROZ KHEL, TAPA
GHAIKAT KHEL, PO FEROZ KHEL, TEHSIL LOWER, DISTRICT
ORAKZAI AND ANOTHER

..... (RESPONDENTS)

Present : Mr. Haroon Khan Advocate for appellant.
: Mr. Basit Hafeez Advocate for respondent No. 1.

JUDGEMENT

26.08.2025

This civil appeal was preferred against the order dated 10.02.2025 passed by the Court of learned Civil Judge-II, Tehsil Court Kalaya, whereby plaint in Civil Suit No. 70/1 of 2023 was rejected under Order VII, Rule 11 CPC.

2. The suit was brought by the plaintiff for cancellation of Iqar Namas dated 30.01.2019 and 15.11.2020. The plaintiff also sought permanent and mandatory injunction against the defendant to restrain him from causing interference in the suit land situated at Feroz Khel adjacent to the residential house of the plaintiff. He also sought recovery of possession in prayer "jeem" of the plaint.

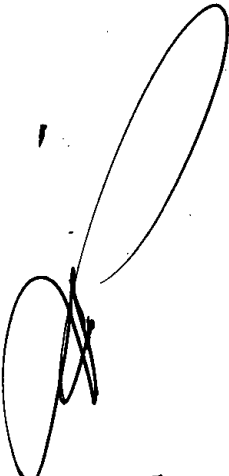
3. According to averments of the plaint, the suit property is the ancestral ownership in possession of the plaintiff. A jirga was taken place between the parties on 23.12.2017 which was decided in favour of the plaintiff. However, the defendant, with the connivance of government officials, convened other jirgas

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and obtained ex-parte verdicts/iqrar-namas in dispute in his favour which are ineffective upon the rights of the plaintiff and liable to cancellation. The defendant was asked time and again to refrain from claiming ownership of the suit property on the basis of said iqrar-namas, but he refused; therefore, the suit was filed.

4. The defendant contested the suit by filing his written statement and an application under Order VII, Rule 11 CPC was submitted for rejection of the plaint, which was replied by the appellant. The case was fixed for Scheduling Conference time and again, but the plaintiff was not prepared to participate in the conference; therefore, the suit was dismissed under Order IX-A Rule 6 with cost of Rs. 10,000/-. The said order was set aside by the court of ADJ-II, Orakzai, vide order dated 11.10.2024 passed in Civil Appeal No. 19/13 of 2024 and the case was remanded to the trial Court for further proceedings. The learned trial Court, after remand of the case, heard arguments on the application under Order VII Rule 11 and accepted the same through his impugned order. Hence, this appeal was preferred.

5. I have heard learned counsel for the parties and perused the record.
6. The perusal of plaint discloses that except the prayer for cancellation of jirga verdicts/iqrar-namas dated 30.01.2019 and 15.11.2020, the other two reliefs with regard to permanent and mandatory injunction and recovery of possession of the suit land were also sought for in Civil Suit No. 31/1 of 2023.



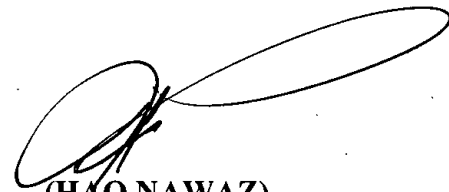
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The said suit was dismissed by the trial Court through his summary judgment dated 10.02.2025, after recording plaintiff's evidence. The appellant has not annexed copies of jirga verdicts/iqrar-namas dated 30.01.2019 and 15.11.2020 with the plaint but alleged the same to be pertaining to the same dispute between the parties with respect to the same subject matter. The appellant, instead of amendment in the plaint in Civil Suit No. 31/1 of 2023, brought another suit which was barred under the law as a similar suit, with regard to main reliefs of the plaint, was already pending before the competent Court. An appeal against the summary judgment and decree dated 10.02.2025 bearing No. 12/13 of 2025 has also been dismissed by this Court by today.

7. In such circumstances, the appellant was having no cause of action to bring his second suit in respect of the similar dispute between the same parties and the plaint was rightly rejected under Order VII, Rule 11 CPC. This appeal, being devoid of merits, is dismissed. File of this court be consigned to record room after its necessary completion and compilation.

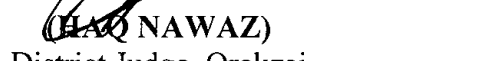
Announced:
26.08.2025


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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: 26.08.2025


(HAQ NAWAZ)
District Judge, Orakzai
at Baber Mela