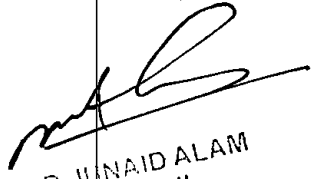


**FORM "A"**  
**FORM OF ORDER SHEET**

IN THE COURT OF MUHAMMAD JUNAID ALAM, CIVIL JUDGE/JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI  
Case Title: \_\_\_\_\_ Vs \_\_\_\_\_

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 10	26.07.2025	<p>Parties present alongwith their counsels.</p> <p>Vide this order the Court intends to dispose of the instant complaint filed u/s 145 Cr.P.C filed by complainant/plaintiff.</p> <p>Arguments heard and record perused.</p> <p>Perusal of the record would reveal that complainant through instant complaint had stated that he is lawful owner of the suit property consisting of three fields measuring about 03 kanal situated at Mishti Mela, Orakzai. Respondent/accused has illegally dispossessed the complainant and are cutting the crops from the suit property. Furthermore, respondent/accused is ploughing it through tractor in the suit property. Also, stated that respondent/accused had fraudulently obtained the complainant thumb impression on the sale/ijara deed dated 17.08.2024 of the suit property as the complainant is an old age and illiterate person. Neither he has not got any price of the suit property nor he handed over the possession of the suit property. Moreover, complainant stated that in his absence respondent/accused cut the crops over the suit property. Complainant time and again asked the respondent to give lawful right but respondent/accused refused to give the complainant his due right. He therefore, stated that due</p>

  
MUHAMMAD JUNAID ALAM  
Civil Judge / JM-II  
Orakzai at Kalaya

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FORM "A"  
FORM OF ORDER SHEET

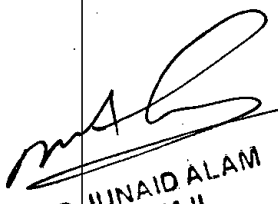
IN THE COURT OF MUHAMMAD JUNAID ALAM, CIVIL JUDGE/JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI  
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to this act and conduct of respondent/accused there exist apprehension of breach of peace between the parties. Accordingly, his statement was recorded u/s 200 Cr.P.C. and respondent was summoned, who appeared in person and marked his attendance. Consequently, SHO concerned was directed to record statements of the parties, prepare site plan and also collect connected/relevant material and submit inquiry report. Accordingly, SHO concerned visited the spot recorded statements of the parties, prepared site plan and also submitted final report before the Court.

Perusal of the SHO concerned report would reveal that the SHO report do not indicate and refer anywhere in the statements that there exists any imminent threat to the breach of peace. The report reveals that the matter between the parties is purely civil in nature.

Provision of s. 145 Cr. PC envisaged an apprehension regarding breach of peace as a jurisdictional requirement and the matter of possession was to be gone into by a magistrate only after such a jurisdictional requirement was satisfied.

In given circumstances, this court is of the view that one of the prime and necessary ingredient of complaint under section 145 Cr.P.C. is dispossession, prior to two months of filing of complaint but in present case no allegations

  
MUHAMMAD JUNAID ALAM  
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Orakzai at Kalaya

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FORM "A"  
FORM OF ORDER SHEET

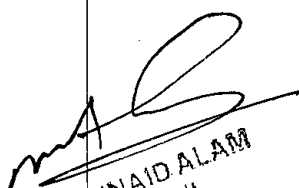
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regarding dispossession have been reported by the SHO concerned.

It is also settled principle of law that where the civil litigation is pending and the subject matter is regulated by stay order, then complaint also becomes defective and could not be proceeded further in absence of imminent breach of peace.

If the report of Inquiry officer is taken into account, wherein dispute between the parties over the land in question was alleged and breach of peace was also alleged however, no incident resulting into breach of peace has ever been contended but parties could have been bounded down under section 107/151 C.P.C.

Furthermore, as for as question of breach of peace is concerned, neither any such incident has taken place between the parties till date nor any such proof has been annexed with the instant complaint by the complainant. Moreover, in case of apprehension of breach of peace, SHO concerned has got the powers to bound the parties u/s 107 and 151 Cr.P.C. It is also pertinent to mention here that both the parties to the instant complaint claim their ownership over the disputed property and thus a title dispute exist between the parties and in this respect civil court has got the ultimate jurisdiction to decide the issue of

  
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title between the parties.

In light of above discussion, instant complaint filed u/s 145 Cr.P.C is hereby dismissed. File be consigned to the record room after its necessary completion and compilation.

Announced  
26.07.2025

  
Muhammad Junaid Alam,  
Judicial Magistrate-II,  
Tehsil Court Kalaya, Orakzai