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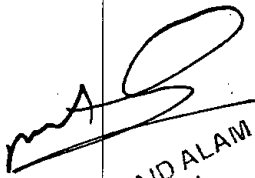
FORM "A"

FORM OF ORDER SHEET


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

Case Title: _____ Vs _____

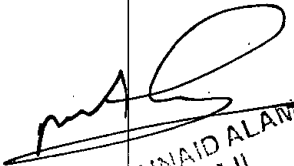
No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order 03	24.11.2025	<p>Complainant in person present. Respondent No.1 to 03 and 05 in person present. Wakalat Nama in favour of Mr. Sana Ullah Khan advocate on behalf of Abdul Zari, Muqarab, Khan Wazir and Gul Nawaz submitted. Report of SHO received, which is placed on file.</p> <p>The instant order disposes of a complaint filed under Section 145 of the Code of Criminal Procedure, submitted by the complainant through the local police, wherein it is alleged that a dispute regarding possession of certain immovable property has arisen between the parties and due to such dispute, there is an apprehension of breach of peace. The police, while forwarding the said complaint, requested the Court to initiate proceedings under Section 145 Cr.P.C.</p> <p>Both the complainant and respondents in the instant complaint were heard at length, the police report was examined under the relevant situation and law.</p> <p>Brief Facts of the Complaint</p> <p>The complaint, as forwarded by the police, states that the parties are allegedly in dispute over possession of a certain plot/land/house (details mentioned in the police report). The police submitted that the situation between the parties is</p>


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Civil Judge / JM-II
Orakzai at Kalaya

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	 MUHAMMAD JUNAID ALAM Civil Judge / JM-II Orakzai, Kalaya	<p>tense and may cause breach of peace. It is further stated that civil litigation is pending between the parties regarding the same property. The police prayed that proceedings under Section 145 Cr.P.C. be initiated so that the law and order situation may remain intact. Several persons as respondents in the complaint.</p> <p>Points for Determination:</p> <p>After hearing the parties and examining the complaint, the following questions arise:</p> <ol style="list-style-type: none">1. Whether the police itself can initiate or file a complaint under Section 145 Cr.P.C. before the Court?2. Whether the complaint discloses sufficient grounds for invocation of Section 145 Cr.P.C.?3. Whether the matter in question is the essence of a civil dispute, and thus outside the scope of Section 145 Cr.P.C.?4. Whether unnecessary and irrelevant parties have been impleaded? <p>Legal Position:</p> <p>Section 145 Cr.P.C. is a special preventive provision designed to empower the Executive Magistrate to intervene where a dispute concerning actual possession of immovable property exists, and such dispute is likely to cause breach of</p>
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	 MUHAMMAD JUNAID ALAM Civil Judge / JM-II Orakzai at Kalaya	<p>peace. The purpose of the section is preventive, not punitive, and it seeks to maintain public order pending adjudication of civil rights by competent civil courts.</p> <p>The law is settled on the following aspects:</p> <p>(a) Police cannot be a complainant under Section 145 Cr.PC.</p> <p>The role of the police under Chapter X of the Cr.PC. is limited to reporting a law-and-order situation to the Magistrate. It is the duty of the Court/Magistrate to evaluate the circumstances, apply judicial mind, and determine whether a preliminary order under Section 145(1) should be issued.</p> <p>The police is not an aggrieved party and therefore cannot “file” or “initiate” a complaint as if it were a litigant before the Court. At most, the police may submit a report or intimation for consideration of the Court, which then must independently assess the matter.</p> <p>(b) Court must independently ascertain the existence of a dispute likely to cause breach of peace:</p> <p>Even if a police report is received, the Court must judicially satisfy itself that:</p> <ol style="list-style-type: none">1. A dispute regarding actual possession exists,2. Such dispute is immediate,3. There is real likelihood of breach of peace, and
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4. Civil rights are not being adjudicated through the proceedings.

(c) Existence of civil dispute

Where the real controversy concerns title, ownership, easement, or civil rights, the proper forum is the civil court, not Section 145 Cr.P.C. proceedings. Courts have repeatedly held that when parties are already litigating before a civil court or when the dispute is purely civil in nature, the Magistrate must avoid invoking Section 145 Cr.P.C.

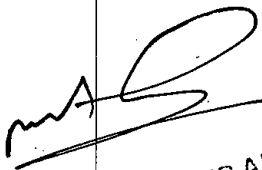
(d) Improper and unnecessary parties:

It is observed that several persons have been arrayed as respondents who have no nexus, possession, interest, or involvement in the alleged property dispute. Section 145 Cr.PC requires only those parties who claim actual possession or whose possession is in dispute. Adding irrelevant persons shows lack of proper investigation and lack of application of legal mind.

Findings of the Court:

After hearing the arguments and considering the record, the court is of the considered view that:

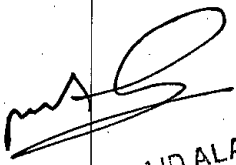
1. The police has improperly assumed the role of complainant, which is not permissible under Section 145 Cr.PC. Their duty is limited to reporting, and not


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	<p>litigating.</p> <p>2. No specific or immediate ground has been shown that indicates likelihood of breach of peace. The allegations are general, vague, and unsupported by any material or independent evidence.</p> <p>3. The dispute is essentially civil in nature, and even the police acknowledges ongoing civil proceedings. When civil litigation exists, the extraordinary jurisdiction under Section 145 Cr.P.C. cannot be invoked merely to influence or supplement civil proceedings.</p> <p>4. Unnecessary parties have been added, which indicates lack of proper inquiry and renders the complaint defective.</p> <p>5. The complaint fails to fulfill the mandatory legal requirements of Section 145 Cr.P.C., and therefore no preliminary order can be passed under Section 145(1) Cr.P.C.</p> <p>Conclusion:</p> <p>In light of the above discussion, legal position, and findings, the court holds that the present complaint is legally incompetent, factually insufficient, and not maintainable under Section 145 Cr.P.C. The Court would not initiate any proceedings upon such a defective complaint nor can it substitute the role of civil courts in</p>
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		<p>determining civil rights.</p> <p>The complaint under Section 145 Cr.PC is hereby <i>dismissed</i>.</p> <p>The parties are at liberty to seek remedy before the competent civil court, if so advised. The police is directed to maintain law and order strictly in accordance with law, without exceeding its authority under the Code.</p> <p>File be consigned to record rooms after its necessary completion and compilation.</p> <p><u>Announced:</u> 24.11.2025</p> <div> <u>Muhammad Junaid Alam</u> Civil Judge-II, Tehsil Courts, Kalaya, Orakzai</div>
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