

**IN THE COURT OF IJAZ MAHSOOD,**  
**SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

Civil Suit No.	01/10 of 2023
Date of Institution:	10.01.2023
Date of Decision:	22.12.2025

1. Malak Bahadar Khan s/o Kamal Khan
2. Palos Khan s/o Musharaf Khan
3. Zameen Khan s/o Musharaf Khan
4. Muhammad Yasir s/o Rustam Khan
5. Tehsil Khan s/o Malak Bahadar Khan

**All residents of Laghonai, Qoam Mandra Khel, Tappa Madad Khel, Tehsil Lower District Orakzai.**

.....(Petitioners)(DHS)

**VERSUS**

1. Zayarat Gul s/o Ghani Khan
2. Jahangir Khan s/o Ghani Khan
3. Dawlat Khan s/o Ghani Khan
4. Member Khan s/o Ghani Khan
5. Sajid s/o Ghani Khan
6. Asamt Ullah s/o Zareef Khan

**All residents of Laghonai, Qoam Mandra Khel, Tappa Madad Khel, Tehsil Lower District Orakzai.**

7. Provincial Government through District Education Officer Orakzai.
8. Main Khel s/o Zari Bat Khan
9. Tehsildar Orakzai.

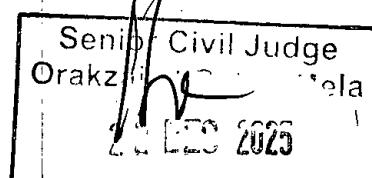
.....(Respondents)(JDs)

**SUIT FOR GRANT OF FINAL DECREE.**

**JUDGEMENT:**

22.12.2025

This order decides instant petition filed by Mr. Malik Bahadur and others for grant of a final decree in suit 43/1 of 20/03/21.



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**Brief Account:**

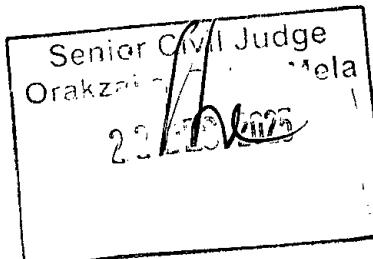
Mr. Malik Bahadur and 04 others previously filed a suit for declaration and possession through partition of suit land against Mr. Ziarat Gul and 07 others. The suit was decreed through a preliminary decree for the plaintiffs in the terms prayed for in the plaint.

Instantly, the plaintiffs/decree-holders of the suit ibid have approached the court for a petition for a final decree for partition of the suit in terms of the preliminary decree. Respondents, except no 08 who submitted cognovits, failed to make appearance despite service, hence they were placed as ex parte.

The court, on 20/02/24 appointed Mr. Abid Ali as local commissioner with the mandate to suggest a viable and fair mode for partition of the suit land. The LC was replaced with Mr. Sana Ullah Advocate, when the former recused on the ground that he had already been counsel for plaintiffs in the matter, so his appointment as LC is conflict of interest.

Mr. Sana Ullah Advocate was tasked to report on the following points:

1. The local commissioner is duty bound to prepare authentic list of the legal heirs of the predecessor in interest of the parties including the names of women folk if any, who are entitled to "shari" shares in the



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suit property and attest the same from the local "Mashran/elders".

2. The local commissioner shall determine that whether the decretal property is partitionable.
3. If the suit property is partitionable, suggest the most suitable mood of partition.
4. If the suit property cannot be partitioned, then determine the market value of the decretal property.
5. In case the suit property is partitionable, then to partition the decretal property by metes and bounds as per share of each co-sharer/party to the dispute, which must include the female co-sharers pertaining to each family and allot each co-sharer his due share as per his shari entitlement in the suit property and submit detailed report in respect of the above question.

The local Commissioner discharged his mandate accordingly and submitted his findings on 24/07/25. Attending parties were invited to submit their objections if any. The plaintiffs filed their objections and were subsequently given an opportunity to cross-examine the Local Commissioner.

Senior Civil J.	<b>Reasoning:</b>
Orakzai	At the outset, it is advised to mention that the only
22 DEC 2025	objection the plaintiffs put to the report was that they are

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entitled to 2/3rd of the suit land. Clearly, the extent of share of each side is for the preliminary decree to determine, and not for the local commissioner. The objection is therefore misplaced and mistimed.

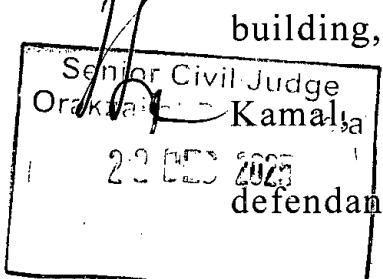
The local commissioner reports the suit land to be 409 Marlas including the government school constructed upon and existing on the suit land. He further reports that suit land is a plain field along the Qalaya to Kohat road, so there is not particular complication in dividing it equally and equitably among the heirs of Mr. Madad Khan, the original owner.

About the pedigree of the parties, he reports, after inquiry from the parties, that they are children of Mr. Madad Khan through his three children Mr. Abid, Mr. Kamal Khan, and Mr. Jalat Khan. Their details have been provided in his report.

About the claim to larger share, the court could not find any actionable details in the preliminary decree. Given that suit land is the property of Mr. Madad Khan, and his living heirs are the children of his three sons, the court is inclined to decree equal and equitable partition.

#### Ruling:

Suit land, excluding the area occupied by the school's building, shall be divided among the children of Mr. Abid, Mr. Kamal Khan, and Mr. Jalat Khan, including the plaintiffs and defendants. Executing Court shall ensure that each heir gets



his/her due Shari Share. The partition shall be equal and equitable, with each share-holder receiving equal benefits per his/her share. The executing court may determine an appropriate partition plan for discharge of the decree.

Case file be consigned to the record room after its necessary completion and compilation.

Announced  
22.12.2025

  
(Ijaz Mahsood)  
Senior Civil Judge,  
Orakzai (at Baber Mela)

### CERTIFICATE

Certified that this judgment of mine consists of 05 pages, each has been checked, corrected where necessary and signed by me.

  
(Ijaz Mahsood)  
Senior Civil Judge,  
Orakzai at (Baber Mela)