

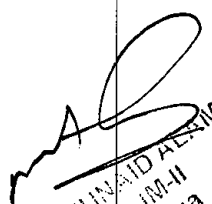
FORM "A"

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 19	28.11.2025	<p>Parties through their special attorney alongwith counsels present. Arguments on maintainability heard and record perused.</p> <p>Brief facts of the case are that parties to the suit belong to Qoum Sheikhan, Tappa Umarzai Central Orakzai. The Qoum Sheikhan consists of three tribes i.e. Umarzai, Bazid Khel and Samozai while, plaintiffs belong to tribe/tappa Umarzai which consists of two sub tribes/Kandi i.e. Qambar Khel and Musa Khel. Suit property is the joint property of Tappa Umarzai. That the elders of the Umarzai tribe handed over the Sara Khona alongwith mountain to the grandfather of defendant No.1 to 03 and defendant No.21 to 31 for settlement and they had also to protect the land and for the purpose they were allowed building house on it. The landlords are also settled in the suit property but the suit property is neither in possession of the defendants mentioned above nor anyone else. That the defendant No.4 to 20, 31 to 34, 1 to 03 and 21 to 30 are their tenants. Defendants have no concerned with the suit property and neither the suit property is the ownership of defendants. Defendant No.1 to 03 and 21 to 30 did not claim the ownership of the suit property as Qoum Sheikhan have also</p>


 MUHAMMAD JUNAID ALAM
 Civil Judge / JM-II
 Orakzai Kalaya

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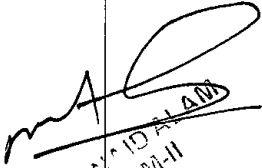
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some other joint property i.e. Meerzara, Tanbay, Gaz Dara, Ghanda Kay, Shaho, Wampanraa. Similarly, Sara Khona is also joint property which is still undivided. That the property has extensive and fertile agricultural land on one side, cultivated, barren agricultural/land, and extensive mountainous area where the house of defendants is situated on the other side however, the defendants had never filed a claim on personal property. But now, out of greed, they are bent on dividing the property among themselves. Therefore, the plaintiffs' have filed their claim. As the defendants are denying the rights of plaintiffs. That plaintiffs had also filed an application in PS Mishti Mela regarding the suit property which is a joint property. The other complete kandis also stand with the plaintiffs. Due to which the claim of the plaintiffs proved to be correct and true. Because the plaintiffs, and other thousands of people from 22 kandis, are also the owners of this property. That the defendants have absolutely no right to divide the undivided land of Tapa Umarzai among themselves. Rather, the lands should be divided with the plaintiffs according to Sharia/customary custom. And in the future other joint properties will be divided amongst the families. That defendants were ask time and again but in vain, hence the present suit.

After hearing learned counsel for the parties and perusing


MUHAMMAD JUNAID ALAM
Civil Judge/JM-II
Orakzai Kalaya

18

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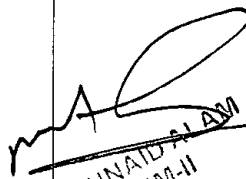
the record, the following points were put for determination:

1. **Whether the plaint contains a clear description and specific shares of the suit property?**
2. **Whether the plaintiffs have taken a clear, consistent, and legally sustainable stance regarding their status in the suit property?**
3. **Whether the plaint as framed discloses a cause of action and is maintainable in its present form?**
4. **Whether the plaintiff is entitled to the reliefs claimed?**

The primary requirement for a civil suit involving immovable property is that the property must be described with sufficient clarity so that it can be easily identified, measured, verified and demarcated. Order VII Rule 3 CPC lays down the mandatory legal requirement regarding detailed description of the property.

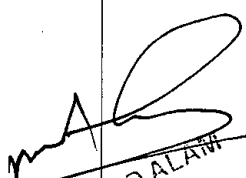
In the present suit, the plaintiffs have not provided any complete, specific or identifiable description of the suit property. The plaint only contains a vague and incomplete narrative. No measurements, boundaries, nor any demarcation plan/map has been provided. The alleged shares of the plaintiffs or the defendants have also not been mentioned anywhere.

The absence of property details renders the plaint


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

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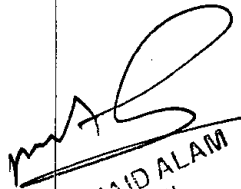
	 MUHAMMAD JUNAID ALAM Civil Judge/JM-II Orakzai Kalaya	<p>defective to its root. Such a suit cannot be adjudicated, nor can any decree be effectively executed without proper description. Courts have repeatedly held that where property description is vague or missing, the plaint becomes liable to rejection or dismissal.</p> <p>Thus, the plaintiffs have failed to determine the precise description and shares of the property, and the suit fails on this ground alone.</p> <p>It is observed that the plaintiffs have taken mutually contradictory pleas regarding the status of the defendants as well as the nature of the suit property. At one place in the plaint, the plaintiffs have categorically stated that the defendants are their <i>tenants</i>, implying that the plaintiffs are the landlord and retains ownership/possession rights over the suit premises. However, at another place in the same plaint, the plaintiff has asserted that the defendants are also the <i>co-owners</i> in the suit property, which contradicts the earlier plea and creates ambiguity as to the actual relationship between the parties.</p> <p>Such inconsistent averments go to the root of the plaintiff's case and cast serious doubt on the correctness and coherence of the pleadings. The plaintiffs are required to present a clear and consistent factual position, as contradictory pleadings weaken the foundation of the claim</p>
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20

FORM "A"

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Case Title: _____ Vs _____

	 MUHAMMAD JUNAID ALAM Civil Judge/JM-II Orakzai at Kalaya	<p>and thus adversely affect the maintainability of the suit.</p> <p>The pleadings of the plaintiffs suffer from inherent contradictions and self-destructive admissions. The law is settled that parties must plead their case with clarity and consistency. A plaint containing mutually contradictory assertions cannot be relied upon.</p> <p>It is fundamental that the burden of establishing their legal status in the suit property lies upon the plaintiffs. However, they have failed to put forth a single coherent narration in the plaint, much less evidence, to explain their claim.</p> <p>Such ambiguity in pleadings goes to the root of the case. A party who is unsure whether it is a tenant or owner cannot be granted declaratory or injunctive reliefs.</p> <p>A plaint must contain clear and specific facts which disclose a cause of action under Order VII Rule 1 CPC. The court cannot proceed on assumptions, suppositions, or unclear pleadings. In the instant case, the plaint is ambiguous, vague, inconsistent and lacking material particulars.</p> <p>Due to contradictory claims, absence of property description, and failure to establish a clear legal relationship with the suit property, the plaint does not disclose a cause of action. Courts are not required to conduct guesswork to</p>
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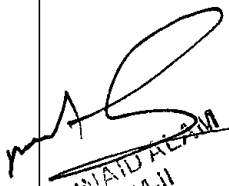
determine what the plaintiffs intended to plead.

Relief of declaration or injunction is discretionary in nature and cannot be granted where the pleadings are unclear or contradictory. A person who is unsure of his title cannot seek declaration of ownership. Similarly, a tenant cannot seek injunction against the true owner unless a valid legal basis exists.

Since the plaintiffs have completely failed to establish their legal right, title, interest or entitlement to the suit property, and the plaint is inherently defective and ambiguous, no relief whether declaratory, injunctive or consequential can be granted.

In light of the findings above, it is established that:

- The plaintiffs have failed to describe the suit property with required legal precision.
- The plaintiffs have taken contradictory and mutually destructive stances (tenant vs. owner).
- The plaint is ambiguous, unclear, and fails to disclose a cause of action.
- The suit is also bed for misjoinder. As all the shareholders of the kandi have not been made party to the suit.
- No relief can be granted on the basis of such defective pleadings.


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Therefore, the plaintiffs have not been able to make out any case for the reliefs prayed for.

The suit of the plaintiffs is hereby dismissed being not maintainable. Parties shall bear their own costs.

File be consigned to record room after its necessary completion and compilation.

Muhammad Junaid Alam

Civil Judge-II,
Tehsil Courts, Kalaya, Orakzai