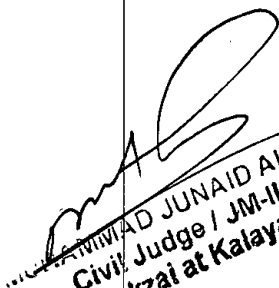


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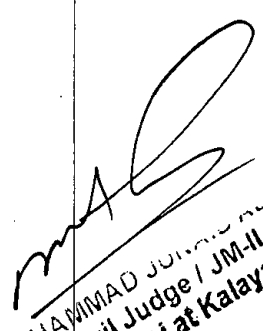
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IN THE COURT OF MUHAMMAD JUNAID ALAM, CIVIL JUDGE/JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI  
Case Title: \_\_\_\_\_ Vs \_\_\_\_\_

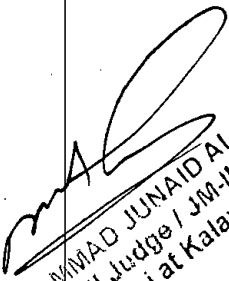
No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order 42	24.11.2025	<p>Parties alongwith their counsels present. Today, the case was fixed for reply and arguments on application under order 6 rule 17. Reply to the application submitted. Arguments heard and record perused.</p> <p>Brief fact of the plaint are that plaintiffs and defendants are residing in District Orakzai. That the plaintiffs and defendants belong to the same tribe, Atman Tapa Bazran Khel. There are four sub-tribes in Tapa Bazran Khel namely Shana Ghari, Khalki Khel, Sheikhan and Bazran Khel. The suit property is the joint property of four Tabars/Kandi. That the suit property is located at Zaridar, consisting of 24 fields and a کچہ house, on the east of which is the Shia village of Zaridar, on the west there is the lands of Abakhel, on the north there were mountains and on the south there are the lands of Kadu Khel. The suit property was partitioned between the parties but now the defendants are trying to occupy more than their share. Out of the 24 fields, 6 fields are in shape of barren land the rest is cultivatable, which would be handed over the each Tabar/kandi through official partition. One کچہ house is also undivided. Therefore, the suit property should be divided between both parties. That defendants have no</p>

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

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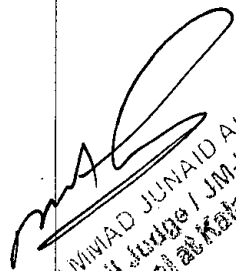
	 <b>MUHAMMAD JUNAID ALAM</b> Civil Judge / JM-II Orakzai at Kalaya	<p>concern whatsoever with the suit property but they are unlawfully interfering and occupying the suit property of plaintiffs. This act of defendants is completely illegal and ineffective upon the rights of the plaintiffs. Therefore, the defendants have no right to try to interfere or occupy the property of the plaintiffs on their own. That if during the trial the defendants illegally or unlawfully occupied the suit property, then as an alternative, a claim of possession through partition is also requested. That defendants have been told and called many times, but they deny hence, the present suit.</p> <p><b>Background of Proceedings:</b></p> <p>The plaintiffs initially filed the present suit seeking declaratory/possessory relief in respect of the suit property. During the pendency of proceedings, the plaintiff moved an application under Order VI Rule 17 CPC for amendment in the plaint. Vide earlier order, the said application was allowed, and accordingly, the plaintiffs submitted an amended plaint on record.</p> <p>Subsequently, the plaintiffs have again filed the present application under Order VI Rule 17 CPC seeking <i>further amendment</i> in the already amended plaint, mainly to insert a plea of representative suit in Para "Jeem", along with some additional corrections.</p>
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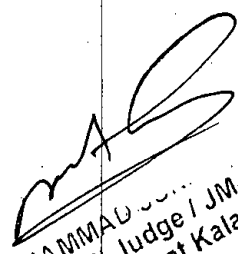
	 MUHAMMAD JUNAID ALAM Civil Judge / JM-II Orakzai at Kalaya	<p>The defendants have opposed the application, arguing that the plaintiffs cannot be permitted to repeatedly amend the plaint, especially when essential particulars relating to the property have not been provided from the very beginning.</p> <p>Counsel for the plaintiffs contended that the proposed amendment is necessary for effectively determining the real question in controversy. He submitted that insertion of representative capacity in Para Jeem is essential, as the plaintiffs claims to be representing other alleged co-sharers. It was argued that no prejudice would be caused to the defendants, and that the amendment is merely procedural.</p> <p>On the other hand, counsel for the defendants argued that the plaintiffs despite multiple opportunities, have failed to describe the suit property with required clarity and requested for dismissal of the application.</p> <p><b>Points for Determination:</b></p> <p>After hearing both parties and perusing the entire record, the following issues arise:</p> <ol style="list-style-type: none"><li>1. Whether the plaintiffs have shown sufficient cause for seeking a second amendment under Order VI Rule 17 CPC?</li><li>2. Whether the proposed amendment changes the nature,</li></ol>
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	<p>character, or scope of the suit?</p> <p>3. Whether the suit, as framed, contains essential particulars regarding the suit property and share of the plaintiff?</p> <p>4. Whether the suit is maintainable in its present form?</p> <p><b>Court's Consideration &amp; Findings:</b></p> <p>It is an admitted position on record that an amended plaint has already been submitted by the plaintiff pursuant to the earlier order of this Court. The present application seeks to amend even that amended plaint, specifically to add a plea of representative suit in Para "Jeem". The Court has carefully reviewed the original plaint, the amended plaint, and the proposed amendment.</p> <p>It is apparent that the plaintiffs have repeatedly failed to specify the description of the suit property, including its boundaries, details, measurement, or location. Similarly, the share allegedly owned and possessed by the plaintiff has never been disclosed. These are mandatory elements in any suit involving immovable property. A plaint lacking such particulars is defective and incapable of judicial adjudication.</p> <p>The Court further finds that acceptance of the proposed amendment would substantially alter the nature and complexion of the suit. Introduction of a representative</p>
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MUHAMMAD JUNAID ALAM  
Civil Judge / JM-II  
Orakzai Kalaya

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	 MUHAMMAD JUNAID ALAM Civil Judge / JM-II Orakzai at Kalaya	<p>capacity at this stage is not a minor or technical correction but amounts to introducing an entirely different way for cause of action, thereby enlarging the scope of the litigation beyond what was originally pleaded.</p> <p>Order VI Rule 17 empowers the Court to allow amendment for determining the real questions in controversy; however, this discretion cannot be exercised when:</p> <ul style="list-style-type: none"><li>• The amendment introduces a new case,</li><li>• Fundamentally changes the nature of the suit,</li><li>• or is being sought repeatedly after failure to incorporate essential facts earlier.</li></ul> <p>Despite earlier amendment, the plaintiffs have still not provided details of property description or share. Thus, the proposed amendment does not cure the defects of the plaint and instead attempts to widen its scope.</p> <p>The plaintiffs have not furnished any satisfactory explanation for why the supposed representative capacity was not pleaded earlier, including at the time of submitting the amended plaint. This reflects their mindful negligence and lack of due diligence, in fact it amounts to concealment of facts, which is contrary to the proviso of Order VI Rule 17 CPC.</p> <p><b>Maintainability of the Suit:</b></p> <p>The suit in its present form, even after amendment, lacks</p>
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## FORM "A"

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essential ingredients required under Order VII CPC. A plaintiff must describe the property sufficiently and must disclose the precise interest claimed by the plaintiff. The continued failure of the plaintiff to state even the basic particulars of the suit property renders the suit not maintainable.

**Conclusion & Order:**

In view of the above discussion and legal reasoning, this Court holds that:

- *The application under Order VI Rule 17 CPC seeking second amendment in the amended plaint is misconceived and not sustainable.*
- *The proposed amendment would change the nature of the suit and is thus impermissible.*
- *The plaint, even in its amended form, lacks mandatory particulars regarding the property and the plaintiff's share.*
- *Therefore, the suit itself is not maintainable.*

Accordingly, the application under Order VI Rule 17 CPC is dismissed.

Resultantly, the suit is also dismissed as being not maintainable.

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


**Muhammad Junaid Alam**

Civil Judge-II,  
Tehsil Courts, Kalaya, Orakzai