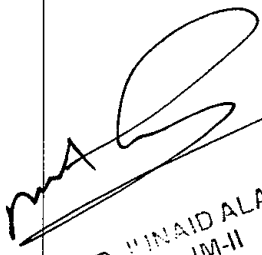


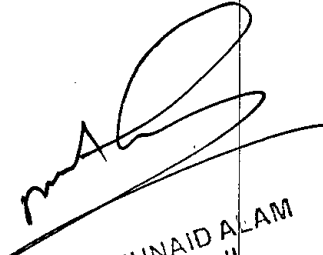
FORM "A"
FORM OF ORDER SHEET

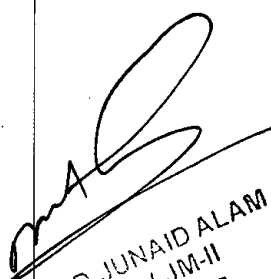
IN THE COURT OF MUHAMMAD JUNAID ALAM, CIVIL JUDGE/JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI

Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3
Order No. 90	08.11.2025	<p>Parties alongwith counsel present.</p> <p>Vide this order the Court intends to dispose of instant application filed by defendants for rejection of plaint under Order VII, Rule 11 C.P.C, hereinafter referred as petitioners. Respondents/plaintiffs submitted reply to the mentioned above application, which is placed on file.</p> <p>Arguments of both the counsels for the parties heard and record perused.</p> <p>Perusal of the record and arguments of both the counsels for the parties would reveal that defendants/petitioners through instant application had stated that respondents/plaintiffs have got no cause of action. Petitioners further stated that respondents/plaintiffs have claimed the legacy of one Ali Ghulam while they sought the partition of property mentioned in para no. 01, 02 & 03 in the plaint. Furthermore, respondents/plaintiffs had not sought partition of the property mentioned in para no. 04 of the plaint, whereas the law does not give any owner the authority to pick and choose any portion of the joint property according to his own will and preference and file a suit for partition. Furthermore, stated that the</p>



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

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	 MUHAMMAD HINAID ALAM Civil Judge / JM-II Orakzai at Kalaya	<p>suit property pertaining to para no. 04 of the plaint reveals that the same is joint ownership of Tappa Abdul Aziz Khel and respondents/plaintiffs failed to made necessary party to the suit, hence, it is bad due to mis-joinder and non-joinder of the parties. Petitioners/defendants further stated that paras mentioned in the plaint are contradictory to each other. Moreover, respondents/plaintiffs have not mentioned the description of the suit property. Lastly requested for acceptance of application.</p> <p>Contrary to this respondents/plaintiffs stated that petitioners/plaintiffs have got a valid cause of action. Respondents/plaintiffs further stated that the present suit is between the legal heirs of Ali Ghulam. Furthermore, stated that almost respondents/plaintiffs evidence has already been recorded in the instant case. Furthermore, stated that the Court has to decide the matter on merit and reach a correct conclusion, the evidence of the petitioners/defendants is yet to be completed. Furthermore, respondents/plaintiffs stated that parties to the suit belong to a same ancestor, thus parties to the suit have legal rights in every inch of the suit property. Lastly, prayed that the application in hand is liable to be</p>

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	 MUHAMMAD JUNAID ALAM Civil Judge / JM-II Orakzai at Kalaya	<p>dismissed.</p> <p>Perusal of the record would reveal that the following lacunas present in the instant suit, which are as under.:</p> <ol style="list-style-type: none"> 1. Respondents/plaintiff stated in para no. 04 of the plaint, that the suit property is the legacy of Ali Ghulam, who he was owner in possession of the same. The same had been partitioned by him amongst his descendants during his life time. But the respondents/plaintiffs have again claimed partition of the suit property through the suit. It shows that there is contradiction in the stance of the plaintiffs. 2. Proper description of the suit property has not been mentioned in the plaint. It is noted that respondents/plaintiffs stated in para no. 09 of the plaint, that the predecessor of the parties Ali Ghulam was the owner of the vast area. But respondents/plaintiffs have not mentioned the full description of the suit property in the plaint. 3. The suit is bad for mis-joinder and non-joinder of the parties as necessary party i.e. Tappa Abdul Aziz Khel have not been impleaded in the instant suit. Whereas, respondents/plaintiffs stated in para

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	 MUHAMMAD JUNAID ALAM Civil Judge / JM-II Drakzai at Kalaya	<p>no. 10 of the plaint that property mentioned in the para no. 10 is the ownership of Tappa Abdul Aziz Khel, but they have excluding the whole Tappa Abdul Aziz Khel.</p> <p>4. It is also noted that respondents/plaintiffs stated in para no. 04 of the plaint that the partition have been made between parties to the suit during the life of Ali Ghulam, while they sought partition in para no. 08 of the plaint.</p> <p>It is also worth mentioning here that bare reading of the plaint reflects that the plaintiffs have simply sought shares in the joint property of late Ali Ghulam, but no foundational facts or legal entitlement have been pleaded to support such claim. The plaint is absolutely silent regarding any co-ownership, inheritance, or title. Thus, the plaint fails to disclose a cause of action, attracting Order VII Rule 11CPC.</p> <p>Moreover, plaint reflects that the plaintiffs have merely asserted that they are legal heirs of late Ali Ghulam and, therefore, entitled to shares in the suit property. However, the plaint contains no averments showing that the disputed property was ever inherited from late Ali Ghulam, or that it was part of his estate. In the absence</p>

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		<p>of such essential facts, the plaint fails to disclose a cause of action, and the relief sought is based on assumptions unsupported by pleadings.</p> <p>In light of the above discussion, the application for rejection of plaint is hereby allowed and suit in hand is hereby rejected under Order VII Rule 11. No order as to costs. File be consigned to the record room after its necessary completion, compilation and scanning.</p> <p><u>Announced</u> 08.11.2025</p> <div data-bbox="1036 1053 1495 1295"> <u>Muhammad Junaid Alam,</u> Judicial Magistrate -II, Tehsil Court Kalaya, Orakzai</div>