

IN THE COURT OF NOOR UL HAQ,
CIVIL JUDGE-II, TEHSIL COURTS KALAYA ORAKZAI

Suit No.21/1 of 2023

ORIGINAL DATE OF INSTITUTION.19.05.2022

DATE OF TRANSFER IN.....08.03.2023

DATE OF DECISION OF THE SUIT.....22.07.2026

IMRAN KHAN SON OF SAMIN GUL, RESIDENT OF
QOM SHIKHAN, TAPA SAMOZAI, VILLAGE PITAO
MELA, DISTRICT ORAKZAI AND 01 OTHER

.....PLAINTIFFS

VERSUS

LAHOR KHAN SON OF LAL BADSHAH, RESIDENT
OF QOM SHIKHAN, TAPPA SAMOZAI, VILLAGE
KINGANAY, DISTRICT ORAKZAI AND 02 OTHERS

.....DEFENDANTS

**SUIT FOR DECLARATION, PERMENENT AND
MANDATORY INJUCTIONS ETC.**

Counsel for plaintiffs: Mr. Khurshid & Mr. Abdul Qayum Khan
Advocates.

Counsel for defendants: Mr. Shoaib Nasrat Khel and Mr. Abid Ali
Advocates

JUDGMENT
22.07.2026

Vide this judgment the Court intends to dispose of suit
captioned above.

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2. It is a suit from the plaintiffs against defendants for declaration, permanent and mandatory injunctions, and possession.
3. Brief facts of the case as narrated in the plaint are, that plaintiffs alongwith their family members are owners in possession of shops, situated at Mishti Mela Bazar, Khatang Road and Daboori Chowk near Ara (chain saw) Machine (hereinafter referred to the "suit property"), for the last 40 years. Defendants no. 01 & 02 are strangers to the suit property and have no concern whatsoever with the same. They also claimed that last night, defendants no. 01 being government contractor and defendant no. 02 serving in police department have forcibly and without any prior approval from the competent authority has started constructing shops in the suit property, out of which one shop was constructed in their property situated on Khatang road, whereas, they were bent upon to construct other nine shops on backside of their shops, due to which not only public thoroughfare was blocked but also caused hindrance in approach to their shops; that defendants have no property situated in the entire bazar of Mishti Mela, whercas, their forefathers had settled in other districts due to enmity. Furthermore, claimed that many jirga verdicts were given in


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their favor as against family members of defendants, wherein, they admitted the possession of plaintiffs over the suit property. They further contended that the dispute/controversy was decided by the competent court under the erstwhile FCR vide judgment dated 24.11.2016, resulting in a decree in their favour, as well as in the Court of learned Senior Civil Judge, Orakzai in respect of suit property, which the contesting defendants did not challenge in the competent forum. They further claimed that private negotiations were also held between them last year but defendants were applying delaying tactics and finally the efforts got failed. Defendants were asked time and again to refrain from interfering in peaceful possession over the suit property and stop raising construction but they refused. They also contacted defendants to remove illegal construction, but all in vain, hence, the instant suit.

After institution of the suit the defendants were summoned, accordingly defendant no. 01 & 02 appeared in person while defendant no. 03 through representative present. Contested defendants submitted their written statement with legal and factual objections, raised therein.


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5. Out of controversies of the parties, as raised in their respective pleadings, the Court framed the following issues on 27.10.2023.

1. Whether plaintiffs have got a cause of action? OPP
2. Whether plaintiff no. 01 is exclusive owner of the suit property and in this respect, decree was also passed in his favor, hence, the defendants are illegally constructing shops over the suit property? OPP
3. Whether the suit property is ownership of defendants? OPD
4. Whether decree was passed against one Shah Munawar by the APA in respect of property other than the instant suit property? OPD
5. Whether plaintiffs are entitled to the decree as prayed for? OPP

Relief.

Both the parties were directed to produce their evidence, which they did accordingly. Plaintiffs produced as many as six (06) witnesses and thereafter closed their evidence. Contrary to this the contesting defendants produced as many as two witnesses and thereafter closed their evidence. Court witness also produced before the Court as CW-01.

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7. Thereafter arguments of both the counsels for the parties were heard at length. Learned counsel for the plaintiffs opened the case and argued that plaintiffs alongwith their family members are owners in possession of shops, situated at Mishti Mela Bazar, Khatang Road and Daboori Chowk near Ara (chain saw) Machine (suit property) for the last 40 years. Defendants no. 01 & 02 are strangers to the suit property and have no concern whatsoever with the same. They also adduced that last night, defendants no. 01, being government contractor and defendant no. 02, a police official, have forcibly and without any prior approval from the competent authority has started constructing shops in the suit property, out of which one shop was constructed in their property situated on Khatang road, whereas, they were bent upon to construct other nine shops on backside of their shops, due to which not only public thoroughfare was blocked but also caused hindrance to approach their shops; that defendants have no property situated in the entire bazar of Mishti Mela, whereas, their forefathers had settled in other districts due to enmity. Furthermore, argued that many jirga verdicts were given in their favor as against family members of defendants, wherein, they admitted the possession of plaintiffs over the suit property. They further


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adduced that the dispute/controversy was decided by the competent court under the erstwhile FCR vide judgment dated 24.11.2016, resulting in a decree in their favor. That the said decision was confirmed in appeal by the proper forum and that the Court of learned Senior Civil Judge, Orakzai has also passed an order in respect of suit property, when approached in a separate suit, which decision was upheld by the Hon'ble Additional District Judge Orakzai. That the said decisions have got finality as not challenged by anyone of defendants. Learned counsel for plaintiffs further argued that, though plaintiffs' complaint under illegal dispossession act was dismissed, yet witnesses appeared in support of ownership of plaintiffs in the concerned learned court. That defendants were given sufficient time by the court to produce evidence in their support, but they failed to produce proper evidence. Lastly the learned counsel requested that the suit of the plaintiffs may be decreed as prayed for.

Contrary to this, learned counsel for the defendants argued that the plaintiffs have got no cause of action. Furthermore, argued that the claim of plaintiffs is false and baseless. He also adduced that the suit property in the shape of shops/Market is the ownership of defendant no. 01 and the

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Market adjacent to the suit property is the ownership of defendant no. 02. He further argued that defendants had constructed shops in their plot and handed over to one Janat Noor on rent through an agreement. He further adduced that defendants have demolished the old shops and constructed new shops. That the decree obtained from the then APA, was against one Shah Mahnoor and the present defendants were not party to that suit. He also adduced that plaintiff remained absent from the ADR Jirga proceedings. Learned counsel further argued that no decision was held between the parties in the Sharia Jirga proceedings. Lastly, he stated that plaintiffs have badly failed to prove their case through cogent, convincing and reliable evidence while on the other hand the defendants succeeded to produce evidence in light and support of their stance stated in the written statement. Hence, prayed that suit of plaintiffs may be dismissed with costs.

Upon perusal of record, available evidence and assistance of both the learned counsels for the parties, the issue wise findings of the court are as under.

ISSUE NO. 02

Whether plaintiff no. 01 is exclusive owner of the suit property and in this respect, decree was also passed in


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his favor, hence, the defendants are illegally constructing shops over the suit property? OPP

Burden of proof of this issue was on plaintiffs. Plaintiffs in their plaint has stated that plaintiffs alongwith their family members are sole owners of the suit property in shape of shops, fully detailed in the headnote of the plaint. Defendants no. 01 & 02 are strangers to the suit property and have no concern with the same. To prove their stance, plaintiffs produced the following witnesses.

Zahir Ali, Record Keeper, District Courts Orakzai as appeared as CW-01. He produced the original decision of learned Senior Civil Judge, Orakzai, passed in case titled as Nazir Jalal Vs Imran, which is Ex. CW-1/1. He also produced the copy of civil appeal consists of 04 pages, which is Ex. CW-1/2. Original returned, while copies of the same retained on the file.

Taimoor Syed, Reader to AC appeared and deposed as PW-02. He produced the decision of Imran and others Vs Shah Mahnoor and others, consisting upon 23 pages, Ex. PW-2/1, which was instituted on 29.02.2016 and decided on 24.11.2016. During cross examination he stated that the record pertains to case titled "Imran Khan Vs Shah Mahnoor".

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Mufti Abdul Jameel son of Nazeer Gul, appeared and deposed as PW-03. He stated that he was appointed as District Khatteeb/jirga member under the supervision of Assistant Commissioner. He also stated that they recorded statements of parties to the suit and inspected the hotels, petrol pumps, vacant plot and Ara Machine in the suit property. He also contended that jirga members were Mufti Yar Muhammad, Hayat Khan, Izat Gul, Haji Sar Khan, Khan Shah and Mufti Tahir, who had come to the spot at the time, however, defendant Lahor Khan sought one week's time. He also stated that defendants were using delaying tactics. Consequently, the jirga members gave decision in favor of plaintiffs and the jirga verdict handed over to AC Orakzai. His copy of CNIC is Ex. PW-3/1. Jirga decision is already Ex. PW-2/1. During cross examination he admitted it is correct that no decision was made by them on pages 49 to 52; rather, Mufti Shafi declined to decide the matter. He volunteered that they had joined with Mufti Shafi for a decision, however, Mufti sahab declined to decide the matter and recorded the reasons for his refusal in writing. The relevant portion of evidence is reproduced below:

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یہ درست ہے کہ صفحہ نمبر 49 تا 52 میں مذکور کارروائی میں ہم نے کوئی فیصلہ نہیں کیا، بلکہ مفتی شفیع صاحب نے فیصلہ کرنے سے معذرت کر لی تھی۔ از خود کہا کہ جرمہ ہمارے حوالے ہوا تھا ہم نے مفتی شفیع کے پاس جا کر فیصلہ کرنے کا کہا اس نے بعد ازاں فیصلہ کرنے سے معذرت کر لی اور وجہ معذرت لکھ دی۔

PW-04 is the statement of Imran Khan/plaintiff. During cross examination he stated that it is correct that the jirga verdict dated 31.12.2000 was regarding land dispute. Self-stated that, the suit shops were mentioned in the statements. Relevant portion reproduced:

یہ درست ہے کہ فیصلہ 31.12.2000 کا جو فیصلہ ہے وہ زمین کی بابت ہے۔ از خود کہا کہ اس وقت بیانات میں دوکانات کا ذکر ہے۔

It is correct that the shops on the suit property were previously made of mud. Self-stated that still some shops are made of mud. Reproduced below:

یہ درست ہے کہ جائیداد متدعوہ پر دوکانات پہلے مٹی کے بنے تھے اور کچے تھے۔ از خود کہا کہ اب بھی کچے دوکانات موجود ہیں۔

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Plaintiff stated in cross-examination that it is correct that he submitted case under illegal dispossession act and he produced 10 witnesses. It is also correct that he neither mentioned the date and time nor mentioned the time since which defendants are in possession. Self-stated that he was charged in 107/151 case.

یہ درست ہے کہ میں نے استغناء میں وقت اور تاریخ کا ذکر نہیں کیا تھا۔ اور نہ ہی میں نے یہ بتایا یا تحریر کیا تھا

کہ مدعا علیہم کب سے جائیداد متدعوہ پر قابضان ہیں۔ از خود کہا کہ اس وقت میں 107/151 میں چالان

تھا۔

Plaintiff stated that it is also correct that the disputed shops were not mentioned in the judgment of the then APA Orakzai. Self-sated that the then APA framed issues in the cited case, wherein disputed shops were mentioned and the decision had followed.

یہ درست ہے کہ اسٹنٹ پولیٹیکل ایجنٹ کے فیصلے میں دوکانات کا ذکر نہ ہے۔ از خود کہا کہ اسٹنٹ

پولیٹیکل ایجنٹ نے باقاعدہ تحقیقات پریم کئے تھے جس میں دوکانات کا ذکر موجود ہے۔ اور اس پر فیصلہ آیا

ہے۔ یہ درست ہے کہ اسٹنٹ پولیٹیکل ایجنٹ کی عدالت میں جو مقدمہ تھا اس میں جائیداد کا حدود واربعہ نہ

تھا۔ از خود کہا کہ حدودات کا ذکر تحقیقات میں موجود ہے۔

PW-05 is the statement of Tahir Ullah son of Muhammad Khaliq, which is reproduced as under;

یہ درست ہے کہ جس پٹروئل پمپ کا میں نے حوالہ دیا ہے وہ مشقی بازار کے شمالاً جنوباً ہے۔ یہ غلط ہے کیونکہ

عمران میرے ساتھ پمپ میں شریک ہے۔ مجھے علم نہ ہے کہ سروس سٹیشن مدعا علیہ لاہور خان کا ہے یا کسی

اور کا۔ میں یہ نہیں کہہ سکتا کہ وہ لاہور خان کی ملکیت ہے۔

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PW-06 is the statement of Shereen Khan son of Meebal Hussain, which is reproduced as under;

یہ درست ہے کہ میں نے اپنے بیان میں رات کے وقت لاہور خان کے قبضہ کی جو بات کی ہے اسکا میں چشم دید

گواہ نہ ہوں۔ ازخو کہا کہ صبح عمران نے مجھے کال کی اور جب میں موقع آیا تو لاہور خان تھانہ گیا تھا اور DPC پر

کرہ تعمیر شدہ تھا۔ یہ بھی درست ہے کہ لاہور خان کے ساتھ متنازعہ جائیداد کے علاوہ عمران خان کی دیگر جا

نیداد مشتقی بازار میں موجود ہے۔ یہ درست ہے کہ گیراج واقع آره مشین میں قابل خان کو میر وزیر ولد لعل با

دشاہ نے کرایہ پر دیا تھا۔ یہ درست ہے کہ قابل خان نے ہی گیراج ادھا جنت نور اور ادھا طاوس خان کو

حوالے کیا تھا۔ مزید گواہ سے مندرجہ ذیل سوال ہوا کہ

س: جائیداد متدعو یہ میں لاہور خان نے کتنے دکانات کرایہ پر دی ہے۔

ج: جائیداد متدعو یہ میں لاہور خان کا ایک دکان بھی کرایہ پر نہ ہے۔

In light of the above evidence produced by plaintiffs to prove the issue in hand, it has been noticed that all the PWs deposed in light and support of the stance of plaintiffs alleged in the plaint and furthermore, during cross examination the opposite party failed to contradict the witnesses in material particular and thus nothing in rebuttal or contradictory has been brought on the record. Moreover, such questions were put to the witnesses which led to

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admissions on the part of defendants. Some of such portion is reproduced below:

یہ درست ہے کہ فیصلہ اسسٹنٹ پولیٹیکل ایجنٹ کی بنیاد پر سول کورٹ اور کرنی میں اجراء داخل کی تھی جو کہ سول جج کے عدالت سے خارج ہوئی اور دوسرا اجراء کوئٹہ نے اسی ڈگری کی بنیاد پر داخل کیا تھا۔ وہ بھی سول کورٹ سے خارج ہوئی تھی۔ از خود کہا کہ سول جج نے اسسٹنٹ پولیٹیکل ایجنٹ کا فیصلہ برقرار رکھا تھا اور مندرجہ جلال بنام عمران کا دعویٰ برخلاف مدعیان بھی خارج کیا تھا جس ڈگری کی بنیاد پر مندرجہ جلال کا دعویٰ خارج ہوا تھا وہ ڈگری (2) 12 میں 12.08.2024 کو سول جج کی عدالت سے ختم ہوئی۔ از خود کہا کہ جملہ فیصلہ حائے کوہا نیکورٹ نے معطل کیے ہیں۔

Putting the above questions by defendants and answers given by plaintiff revealed that defendants have admitted the previous round of litigation before the APA under FCR. Apart from the above extract, some questions were also put upon PW-04 by defendants regarding the decision of APA, where the PW replied that the shops were mentioned in the issues then framed. PW-04 also stated that Civil Courts had maintained the decision of the then Assistant Political Agent.

Defendants have stressed upon the point that execution petition for execution of order of APA had been dismissed by learned civil judge Orakzai, hence the order and

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judgment of APA had become infructuous. However, the learned court of civil judge Orakzai and learned district court judge Orakzai have held that the order of the then APA had gained finality. The only legal point which led to dismissal of execution petition was that the learned APA had not drawn decree sheet.

Moreover, a question was put to PW-6 by defendants regarding ownership of shops, which has led to admission on the part of defendants, which is reproduced as under;

س: جائیداد متدعو یہ میں لاہور خان نے کتنے مکانات کرایہ پر دی ہیں۔

ج: جائیداد متدعو یہ میں لاہور خان کا ایک دکان بھی کرایہ پر نہ ہے۔

As for as the jirga verdict dated 10.04.2022 is concerned, PW-03 had stated in his cross examination that suit property alongwith petrol pump and vacant plot, was mentioned in the said jirga. Further stated that he was appointed as member of the said jirga and that the document contains an opinion, whereas decision was made between the party subsequently.

It is further worth discussion that plaintiff party has remained successful in obtaining in their favour, an order of the then learned APA under the FCR and some jirga verdicts. The said decision of APA was upheld by the upper

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forums. Another suit titled "**Nazir Jalal and others vs Imran Khan and others**" was rejected by the learned senior civil judge Orakzai vide order dated **21.01.2021** holding that the earlier decision of learned APA had gained finality. The said decision of learned civil judge was maintained by the Hon'ble District Judge Orakzai, vide order dated **19.03.2021**. Yet he remained deprived of the fruit of his long litigation, because of non-issuance of decree sheet in his favour, which was not his fault. He could, however, approach the said forum, for a request to draw decree sheet, but he did not opt to do so. This court is of the opinion that, if one has otherwise proved his stance and material is available on file in his favour, then due to mere irregularity by not issuing or drawing decree sheet, should not deprive him of his right.

On the point of previous litigations, decided by the APA, before the merger of newly merged districts and before introduction of the 25th constitutional amendment, the Hon'ble Peshawar High Court, Peshawar vide WP No. 2100-P/2018, in titled "**Najaf Ali Vs Imrant Ali & others**" dated 25.03.2019 has held in the following words:

"Brief facts of the instant writ petition are that there is property dispute among petitioner and respondent


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no. 01 namely Imran Ali. The petitioner had purchased the property from one Inayat Ali on 10.01.2016. The respondent no. 01 moved an application before APA/ADM Upper Kurram Agency for partition regarding his share which was accepted vide order dated 22.09.2016. The petitioner feeling aggrieved from the said order preferred an appeal to the Court of Commissioner FCR, Kohat which was turned down vide order dated 12.01.2017. The petitioner further submitted a review petition before Chairman FATA Tribunal which met the same fate vide order dated 01.06.2017. Thereafter two review petitions were also filed before Chairman FATA Tribunal which were also dismissed vide order dated 09.04.2018, hence this petition.

The petitioner has availed the remedy provided by the erstwhile FCR which was in vogue at that point of time. He exhausted all the remedies provided to him under the FCR. These are past and closed transactions and are prior to the 25th amendment. In other words, at the time of decision of the case of the petitioner, FCR was very much there and it was a valid law governing the erstwhile FATA districts. The


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25th amendment is subsequent to the matter of the instant writ petition. Similar view of these being past and closed transaction had already been taken by this Court in WP No. 1179-P/2018 titled *Muhammad Arif etc Vs Khaista Gul and Muhammad Ayub* decided on 28.11.2018.

According to Article 264 of the Constitution, the amendment shall not affect the previous operation of the law or anything duly done or suffered under the law. It would be worthwhile to reproduce Article 264 which reads as under;

"264. Effect of repeal of law. Where a law is repealed; or is deemed to have been repealed, by, under, or by virtue of the Constitution, the repeal shall not, except as otherwise provided in the Constitution.

- a. Revive anything not in force or existing at the time at which the repeal takes effect;*
- b. Affect the previous operation of the law or anything duly done or suffered under the law;*
- c. Affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;*


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d. Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law, or

e. Affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may impose, as if the law had not been repealed.

Thus, what has been discussed above, this writ petition being devoid of merits, is hereby dismissed.

The above writ petition was dismissed by the Hon'ble Peshawar High Court on the point that the matter has already been decided under the previous law i.e. FCR and it was past and closed transaction.

Now, it is worth discussion here that the decision in favour of the present plaintiff in the year 2016 by the then APA under FCR is past and closed transaction. It shows that the present plaintiff has been declared as owner of the suit property and the previous litigation may operate as res judicata for other parties, yet for the plaintiff it cannot be

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considered as such, because he has not yet received the benefit and fruit of the said decision.

Moreover, the dismissal of the complaint under illegal dispossession act, cannot be taken favour of by defendants, because the said dismissal was solely based on proving and disproving the possession and its illegal dispossession. The complainant in that complaint could not prove to be illegally dispossessed by present defendant, but as to ownership of plaintiff, there were multiple witnesses who deposed in favour of plaintiff.

Accordingly, this Court concludes that while the plaintiffs has satisfactorily established their title and ownership over the suit property.

In light of what has been discussed above, as plaintiffs succeeded to prove the issue in hand through documentary, cogent, convincing and reliable evidence and furthermore, nothing in rebuttal has been brought on the record by the opposite party, hence accordingly the issue in hand is hereby decided in affirmative in favor of plaintiffs and against defendants.

ISSUE NO. 03 & 04:

Whether the suit property is ownership of defendants?

OPD

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Whether decree was passed against one Shah Munawar by the APA in respect of property other than the instant suit property? OPD

Both these issues are interlinked, hence, taken together for discussion. Burden of these issues were on defendants.

Defendants produced as many as two witnesses including himself to prove their stance. Defendants in their written statement stated that the suit property in the shape of shops/Market is the ownership of defendant no. 01 and the Market adjacent to the suit property is the ownership of defendant no. 02. They further contended that defendants had constructed shops in their plot and handed over to one Janat Noor on rent through an agreement.

DW-01 Lahor Khan as defendant no. 01 appeared before the court and deposed on oath in light and support of the stance of defendants as stated in the written statement. His cross examination is reproduced as under;

یہ غلط ہے کہ جواب دعویٰ میں ہم نے قابل شاہ کو جائیداد کرایہ پر دینے کی بات نہیں کی ہے۔ مزید کہا کہ

جائیداد متدعو یہ مشترکہ اس لئے ہے کہ موروثی ہے اور میں نے جواب دعویٰ میں جائیداد متدعو یہ کے مشترکہ

کہ کے بابت ذکر نہیں کیا ہے۔

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میرے پاس دکانات کرایہ دینے کے بابت رسیدات موجود نہ ہے۔ از خود کہا کہ اب جو دکانات کرایہ پر دی

ہیں ان کے کرایہ نامہ موجود ہیں۔ مجھے کرایہ نامہ پیش کرنے کی چونکہ ضرورت نہ تھی۔ اس لئے میں نے

اپنے بیان میں پیش نہیں کی۔

جنت نور نے میرے ساتھ جو کرایہ نامہ تحریر کیا تھا اس بابت منسوخی کے لئے مدعی عمران خان کی ایماء پر غلط

دعویٰ اری منسوخی کی گئی۔

نفید کہا کہ مدعا علیہم نمبر 2 کا والد زندہ ہے اور اس جائیداد میں میرے ساتھ حصہ دار ہے۔

یہ درست ہے کہ دکانات پر تعمیرات اب بند ہے کیونکہ موجودہ دعویٰ زیر تجویز ہونے کی وجہ سے اور

عدالت کے حکم پر میں نے کام بند کیا تھا۔

DW-02 Sultan Gul son of Hazrat Noor appeared, who deposed in light and support of the stance of defendants as stated in the written statement. During cross examination he stated that it is correct that there was enmity between Imran and one Rehman Ullah. It is also correct that the dispute between them pertained to the bridge, the mountain, and the property, and not to the shops.

یہ درست ہے کہ عمران اور رحمان کے درمیان دشمنی تھی۔ یہ درست ہے کہ ان کے مابین تنازعہ پل

اور پہاڑ، جائیداد پر تھا اور دکانات پر نہ تھا۔

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مذید کہا کہ دوکانات میں مدعا علیہان خود موجود ہے۔ کچھ دوکانات کرایہ پر بھی ہے۔ طاوس خان اور جنت نور

لاہور خان کو کرایہ دے رہا ہے۔ مجھے تحریری طور پر کرایہ نامہ کا علم نہ ہے۔ جنت نور میرا بھتیجا ہے اور جنت

نور نے لاہور خان پر کرایہ نامہ کی منسوخی لالچ کے غرض سے دعویٰ کیا ہے۔

Now in light of the above evidence produced by defendants to prove the issue in hand, it has been noticed that all the DWs had supported the stance of defendants in their respective examination in chief, but in their cross examination some material contradiction and admissions were brought on the record by the opposite party. When defendant no. 01 himself stated in his cross examination *that it is incorrect that he had not disclosed the fact in the written statement that the suit property had given to Qabil Shah on rent.* Furthermore, defendants disclosed in their written statement that the suit property is the joint property of parties to the suit and Nazceer Jalal. Moreover, the defendants admitted in cross examination that they do not have any documentary evidence in support of their stance. The defendants have mere claimed the ownership of the suit property but could not establish their title through evidence.

Although, defendant relies on certain rent agreements and that his witness stated that the rent is being paid to defendant, yet the rent agreement does not establish title as

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the landlord can be any person, whether he is owner or not. Ownership over the property has to be proved independent of the rent agreement or payment of rent. Moreover, plaintiff has already claimed that defendants have taken possession of the property illegally and to that effect he had also filed complaint under illegal dispossession act.

In light of the above discussion as defendants failed to prove the issue in hand through their cogent, convincing and reliable evidence, hence issue in hand is hereby decided in negative against defendants and in favor of plaintiffs.

ISSUE NO. 1

Whether plaintiffs have got a cause of action? OPP

In wake of issue wise findings above, the plaintiffs have got a cause action, hence, accordingly the issue in hand is hereby decided in affirmative against the defendants and in favor of plaintiffs.

ISSUE NO.06:

Whether plaintiffs are entitled to the decree as prayed for? OPP

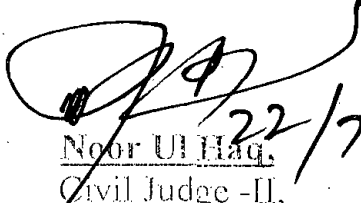
In wake of my issue wise findings above, plaintiffs are entitled to the decree as prayed for, hence, accordingly the issue in hand is hereby decided in affirmative against the defendants and in favor of plaintiffs.

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Relief:

As nutshell of my detailed discussion upon various issues, the suit of plaintiffs is hereby decreed as prayed for. Cost shall follow the events. File be consigned to record room after its necessary completion.

Announced.
22.07.2026


Noor Ul Haq,
Civil Judge -II,
Tehsil Courts Kalaya, Orakzai

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C E R T I F I C A T E

Certified that this judgment consists of twenty four (24) pages. Each page has been read over, checked and signed after making necessary correction therein.

Dated: 22.07.2026


Noor Ul Haq,
Civil Judge -II,
Tehsil Courts Kalaya, Orakzai

22/7/26.