

COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Case Title: Laiq Jan etc VS Muneer Khan etc

Serial No of order or proceeding s	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
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Order No. 09 continued	20.05.2025	<u>Brief Account:</u> The plaintiffs claim that they belong to Tribe Mamoza Tappa Mir Kalam Khel of Upper Orakzai, and are owners in possession of suit property. They add that due to the militancy and military operations in the region they had migrated to Peshawar. They returned a few years back to reclaim their lands and buildings. It is alleged that defendants have been trying to forcibly possess and appropriate suit land measuring 80 Marlas. Plaintiffs contend that they have been owners in possession of suit land since their ancestors. They request for grant of an injunction in the terms spelt above. Respondents rebut the claims and deny the assertions. They submit that suit land was sold first by son of defendant no 03 for a price of Rs 95000/- in the year 2010. Again, when defendant no 03 disputed the sale in 2024, an amount of Rs. 300,000/- was paid to him in presence of witnesses Mr. Usman Ghani, and Mr. Fazal Gul. They add that before hitting the court's docket the dispute had made a round of the local police station where an agreement was mediated by local elders and the SHO. Copy of the agreement is attached, and that the original

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Order No. 09 continued	20.05.2025	can be requisitioned from the PS concerned. Counsel concluded by terming the suit as an attempt to extort the defendants a third time. Arguments heard and record perused. <u>Reasons:</u> Interim injunction is an extraordinary remedy for exceptional circumstances. For a party to be deemed judicially deserving of the relief, it must establish a convincing pre-trial case for its case. Since the matter of interim injunction is taken-up pre-trial, the court and parties are constrained to rely on available record i.e. pleadings and documents relied upon by the sides. Before us, the pleadings of the plaintiff are deficient on certain crucial details. The fact that the plaintiffs migrated out of the district owing to militancy in the region is not backed by necessary details such as date. Their return is also not specified in the plaint. At the bar the counsel conceded that an attempt at resolution of the dispute was made by local elders and police. However, plaintiffs have omitted to mention the proceedings in their plaint. They affirmed that they have not challenged the agreement that they allege was forcibly signed by them. The alleged tenant who has been occupying suit
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Order No. 09 continued	20.05.2025	land on behalf of and with leave of the plaintiffs find no mention in the entire pleadings. Essentially, the court is at loss about the alleged date on which the plaintiffs migrated from the district, the date on which they returned, the particulars of the tenancy, the name of the tenant. Moreover, the fact of Jirgas being mediated by elders and police has been concealed, passively at least if not actively. In these circumstances, the court does not see a prima-facie case for the relief sought. Observations made above are limited in their scope to the instant matter only, and shall have no bearings on the merits of the claim during trial. File be consigned to the record room after its completion and compilation. <u>Announced</u> 20.05.2025  Ijaz Mahsood Senior Civil Judge, Orakzai (at Baber Mela)
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