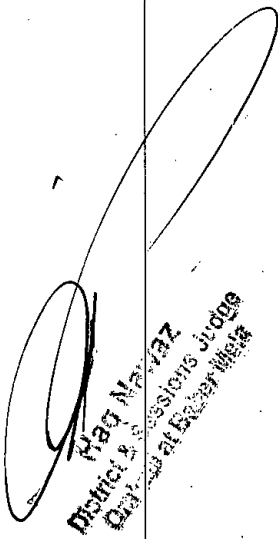


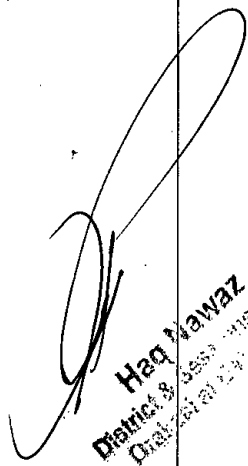
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IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA

Case Title: Abdul Qadeem et al vs Amir Ihsan et al

Serial 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 No.11	16.10.2026	Sana Ullah Khan Advocate for the petitioners present. Respondents and their counsel absent for the last two hearings. Arguments on behalf of counsel for the petitioners heard and record perused. This Criminal Revision Petition was preferred by the petitioners against the order dated 07.07.2026 passed by the Court of learned Judicial Magistrate, Tehsil Court Kalaya, in case No. 1/145 of 2026 whereby the complaint u/s 145 of the Criminal Procedure Code, 1898 was accepted and the subject of dispute was attached. The complaint was filed by the respondents u/s 145/146 CrPC for attachment of the property measuring 123 Jirabs, described with four boundaries, in headnote of the complaint. According to averments of the complaint, the complainants claim that they are owners and co-sharers of the property situated at Kalaya Headquarter. It was handed over to the respondents/complainants on the basis of a jirga held in the year 1983-84 whereas the petitioners/respondents No. 2 to 14 were tenants of the complainants. The respondents No. 2 to 14 are Afridi by caste and their predecessor namely Khan Mela was settled as a tenant in the subject of dispute. He paid half share of the produce to predecessor of the complainants during his lifetime and to the complainants after the death of their predecessor. However, the respondents No. 2 to 14 refused to pay the said produce from the last five years despite several jirgas rather they criminally intimidated the complainants and made firing which resulted into their indictment in case FIR No. 49, dated 17.05.2025, u/s 324/436/427/148/149 PPC. The complainants asked time and again to pay the half produce, but they refused. Therefore, the complaint was filed u/s 145/146 CrPC for attachment of the


Mag. Nazim
District & Sessions Judge
Orakzai at Baber Mela

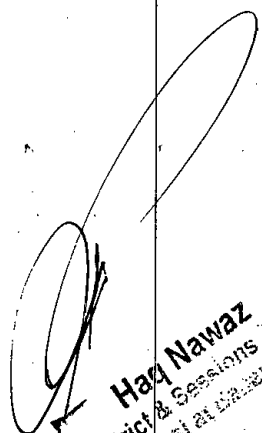
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1	2	3
		property due to apprehension of breach of peace between the parties. The learned Judicial Magistrate directed the SHO concerned to inquire into the complaint and submit his report before the trial Court which was accordingly submitted. The petitioners/respondents No. 2 to 14 also submitted their written reply before the Court of Judicial Magistrate. The learned trial Court heard both the parties and passed the impugned order on 07.07.2026 for attachment of the subject of dispute on the basis of inquiry report by the SHO concerned about apprehension of breach of peace between the parties. According to Section 145 of the Code of Criminal Procedure, 1984, <i>“Whenever a Magistrate is satisfied from a police report or other information that a dispute likely to cause breach of the peace exists concerning any land within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of being so satisfied, and requiring the parties concerned in such dispute to attend his court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statement of their respective claims as respects the fact of actual possession of the subject of dispute.”</i> Sub-Section (4) of Section 145 of the ibid act provides that, <i>“The Magistrate shall then, without reference to the merits or the claims of any such parties to a right to possess the subject of dispute, pursue the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the fact of such evidence, takes such further evidence (if any) as he thinks</i>

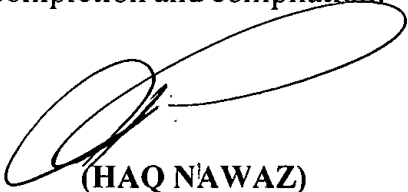

Haq Nawaz
 District & Sessions Judge
 District Court, Faisalabad

IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA

Case Title: Ad Abdul Qadeer et vs Amir Ihsan et

Serial 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.
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		necessary, and if possible, beside whether any and which of the parties at the date of the order before mentioned in such possession of the said subject." First proviso to the said sub-section (4) provides that, "If it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date." Whereas the second proviso to the said sub-section provides that, "If the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision." In the present case, though the learned Judicial Magistrate has pursued the statements put in by the parties and heard them, but did not receive any evidence which was a mandatory requirement under sub-section (4) of Section 145 CrPC. Further that, the subject of dispute was attached without any reference to Section 146 CrPC. Second proviso of sub-section (4) of the said section provides for interim attachment of the subject of dispute under Section 145 CrPC pending the decision of the inquiry as to possession. The culmination of proceedings under Section 145 CrPC, after taking mandatory evidence, is the restoration of possession of the party in possession within two months next before the order of attachment and if anyone was forcibly and wrongfully dispossessed, the court may treat the party so dispossessed as if he had been in possession at such date. The permanent attachment of a subject of dispute until a Competent Court has determined the rights of the parties or the person entitled to possession is provided under Section 146 CrPC due to


Haq Nawaz
 District & Sessions Judge
 Orakzai at Baber Mela

Serial 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.
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		apprehension of breach of peace between the parties. The decision of the Magistrate under Section 146 CrPC that none of the parties was in such possession or the Court is unable to satisfy himself as to which of the parties was then in such possession of the subject of dispute must reach after inquiry as to possession provided under sub-section (4) of Section 145 CrPC. Since, no evidence was received by the Court of Magistrate and the property was attached permanently without satisfying himself with regard to possession of the parties; therefore, the revision petition is accepted. The impugned order is set aside and the complaint is remanded back to the Court of Judicial Magistrate to proceed strictly in accordance with the procedure provided under the law. The parties are directed to appear before the Court of Judicial Magistrate on 27.10.2026. Copy of this order be sent to the trial Court for information and compliance. File of this Court be consigned to record room after its necessary completion and compilation. <u>Announced:</u> 16.10.2026  (HAQ NAWAZ) District Judge, Orakzai at Baber Mela