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IN THE COURT OF IJAZ MAHSOOD,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Civil Suit No.....84/1 of 2025

Date of Institution:10.11.2025

Date of Transfer In:27.11.2025

Date of Decision:29.09.2026

Azeem Khan S/o Noorzali Khan R/O Qaum Ali Khel, Tappa Shawas Khel, Tehsil Upper, District Orakzai
..... (Plaintiff)

VERSUS

1. Saad Asghar s/o Lal Asghar
2. Shah Asghar s/o Lal Asghar
3. Kabal Asghar s/o Wazir Asghar
All R/O Qaum Ali Khel, Tappa Shawas Khel, Tehsil Upper, District Orakzai
..... (Defendants)

**SUIT FOR DECLARATION OF TITLE AND
CORRESPONDING INJUNCTIONS**

EX-PARTE JUDGEMENT:

29.09.2026

This order is to decide instant suit filed by the plaintiff, namely **Mr. Azeem Khan s/o Noor Zali Khan**, against the defendant's seeking declaration of title and corresponding injunctions. Plaintiffs also seeks recovery of damages for trouble and distress.

Pleadings:

The matter as recounted in the plaint reads that plaintiff purchased the suit property from the defendants for a consideration of **Rs.100,000/- in the year 2005**. It is further averred that pursuant to an **Iqrar Nama dated 20.06.2009**, a

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Jirga was convened, wherein the members of the Jirga acknowledged and declared the plaintiff to be the owner of the suit property.

It is further the case of the plaintiff that in the year 2025, defendants No.1 and 3 again started interfering with the plaintiff's possession and ownership of the suit property. The plaintiff approached the police and also convened a Jirga. The members of the Jirga relied upon the previous Jirga decision of the year 2009, which was allegedly rendered in favour of the plaintiff.

The plaintiff further alleges that the defendants cultivated the crops in the suit property. Despite repeated demands, the defendants allegedly failed to acknowledge and satisfy the plaintiff's lawful claim, compelling the plaintiff to institute the present suit for recovery.

The defendants were summoned; however, they failed to appear before the Court. Consequently, defendants No.1 and 2 were proceeded against ex-parte vide order dated 08.12.2025, whereas defendant No.3 was proceeded against ex-parte vide order dated 19.01.2026.

Subsequently, the defendants appeared before the Court and moved an application for setting aside the ex-parte proceedings. The said ex-parte proceedings were set aside vide


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order dated **14.05.2026**, subject to costs of **Rs.2,000/-** imposed upon the defendants.

However, despite the said opportunity, the defendants again failed to contest the proceedings and were once again proceeded against ex-parte vide order dated **18.06.2026**. Thereafter, the case was fixed for ex-parte arguments.

Thereafter, the plaintiff was permitted to produce his ex-parte evidence and submitted a list of witnesses. The statements of seven plaintiff witnesses were recorded.

Ex-parte arguments heard and the record has been perused.

Witnesses/Exhibits:

Mr. Baloch Khan S/o Ibrahim Khan, took the stand as PW-01, Mr. Muhammad Jamil Khan s/o Olas Khan, took the stand as PW-02, Ajmeen Khan s/o Faqir Khan took the stand as PW-03, Mr. Mohib Ullah s/o Haider Shah took the stand as PW-04, Mr. Fazal Subhan s/o Gul Akbar took the stand as PW-05, Mr. Aman Ullah s/o Abdul Akbar, took the stand as PW-06 and Mr. Azeem Khan s/o Noor Zali, the plaintiff himself took the stand as PW-07. They have exhibited the following documents;

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Copy of CNIC of PW-01 as Ex.PW-1/1.

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- ii. Copy of CNIC of PW-02 as Ex.PW-2/1.
- iii. Copy of CNIC of PW-03 as Ex.PW-3/1.
- iv. Copy of CNIC of PW-04 as Ex.PW-4/1.
- v. Copy of CNIC of PW-05 as Ex.PW-5/1.
- vi. Copy of CNIC of PW-06 as Ex.PW-6/1.
- vii. Copy of CNIC of PW-07 as Ex.PW-7/1.

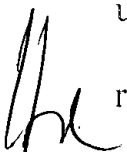
Thereafter, evidence of plaintiff was closed and ex-parte arguments heard.

Reasoning:

The matter was tried ex-parte. There is nothing in rebuttal of the claim or refutation of the evidence.

In the present case, PW-3 Ajmeen Khan and PW-5 Fazal Subhan have supported the plaintiff's version regarding the agreement/document 23/09/25 relied upon by him. The plaintiff himself appeared in the witness box as PW-7 and reiterated the material assertions contained in the plaint. He further stated that the parties had affixed their thumb impressions on the agreement/Iqrar Nama dated 20.06.2009.

The testimony of the plaintiff has remained un rebutted. There is no contrary evidence available on the record. The defendants, despite having been afforded an opportunity to contest the proceedings, have failed to place any



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material before the Court capable of discrediting the plaintiff's evidence.

Accordingly, on the basis of the evidence available on record and keeping in view the standard of preponderance of probabilities applicable to civil proceedings, the plaintiff has succeeded in establishing his claim to the extent of Prayers Alif and Bay.

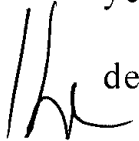
However, in respect of Prayer Jeem, the court could not find sufficient evidence, hence the prayer is dismissed.

It is pertinent to underscore that declaration of a right is sought and granted against a fully matured and pre-existing legal right. Legal right is an interest recognized by law. Private agreements on the other hand create equitable interests which, when duly attested by a public body, attains the status of right.

Throughout the province, register of rights as maintained by the revenue office, or registration of sale deed carried by the registrar's office, is received as adequate proof of official acknowledgment of rights of a party.

However, in newly merged districts, the records are yet to be officially sanctioned. In absence of public records, declaration of title through a judgment in rem is an unsafe legal

action. Therefore, despite having proved the claim, the court shall proceed to grant a modified relief in the circumstances.


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Relief:

For the foregoing reasons, the suit is partly decreed ex-parte to the extent of Prayers **Alif** and **Bay**, subject to the observations and limitations recorded hereinabove.

Prayer **Jeem** is dismissed for want of sufficient evidence.

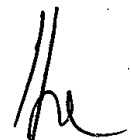
Case file be consigned to record room after its necessary completion and compilation.

Announced
29.09.2026


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Orakzai (at Baber Mela)

CERTIFICATE

Certified that this judgment of mine consists of Six (06) pages, each has been checked, corrected where necessary and signed by me.


(Ijaz Mahsood)
Senior Civil Judge,
Orakzai at (Baber Mela)