

Or-----04  
12.10.2019

*Complainant in person present.*  
*Respondents Haji Salim Khan and Amin Khan Present.*

Report not received. SHO concerned is strictly directed to submit report on 16/10/2019

Muhammad Imtiaz  
Civil Judge (II)  
Orakzai at (Babar Mola) 12/10/19

**MUHAMMAD IMTIAZ**  
**JUDICIAL MAGISTRATE-II/MTMC**  
**ORAKZAI**

Or-----05  
16.10.2019

*Complainant along with his counsel Mr. Aurangzeb Khan Bangash present.*  
*Respondents absent.*

Police report is not satisfactory. File to come up again for the submission of Police report on 18.10.19.

Muhammad Imtiaz  
Civil Judge (II)  
Orakzai at (Babar Mola) 16/10/19

**MUHAMMAD IMTIAZ**  
**JUDICIAL MAGISTRATE-II/MTMC**  
**ORAKZAI**

Or-----06  
19.10.2019

i. *Complainant along with his counsel Mr. Aurangzeb Khan Bangash present.*

ii. *Respondents Haji Salim Khan and Amin Khan Present. APP Amir Ali for the state present along with Shal Muhammad SI of PS Kalaya, L/Orakzai.*

iii. Police report received. Petitioners submitted this application u/s 133 Cr.P.C for removal of nuisance by opening the single approach to their houses. It is averred that the public thoroughfare in dispute is the only thoroughfare from *Speen Pekay School to Daar Masjid adjacent to Khyber Agency*. That it is being used as public thoroughfare for about more than 30 years. That the respondents excavated the thoroughfare in question on and now it is blocked for any general easy access and use. That the parties already effected an agreement for widening of thoroughfare in question through local Jirga. They requested to order the removal of nuisance.

iv. SHO concern was directed for submission of his enquiry report. It is concluded by the police officer that the thoroughfare

Muhammad Imtiaz  
Civil Judge (II)  
Orakzai at (Babar Mola) 19/10/19

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through. Initially parties through private Jirga agreed for widening of the public road for the benefit of the public at large but so far none of the party has honored the Jirga verdict public at large suffer at their hands.

v. In the absence of revenue record it is quite difficult to ascertain the length, ownership and the utility of the public thoroughfare. But Jirga Verdict regarding the widening of the thoroughfare in question has not been denied by the either parties.

vi. The question as to whether the <sup>Disputed</sup> ~~suit~~ thoroughfare is the ownership of respondents or the petitioners, have got legal right over its use by way of prescription or easmentary right etc and the question as to whether there exists any alternate way available to the petitioners or any other question regarding the legality or illegality of the suit thoroughfare can only be resolved through recording of pro and contra evidence in a civil suit.

vii. Apparently there exists a thoroughfare and it is required to be brought into the condition of before its excavation till the decision of any competent forum. Findings in this order shall in no way effect the proceedings before any competent forum regarding the dispute in question.

viii. Although notices were served upon the respondents but they refused to accept the notices for the reasons best known to them.

ix. Consequently, the instant complaint is hereby allowed and the absolute order is hereby passed on **19.10.2019**. Respondents are directed to remove the nuisance and refrain themselves from creating or making any hurdle or obstruction in the public thoroughfare which would cause suffering to the public at large.

x. Copy of this order is handed over to the respondents collectively and be also sent AC lower Orakzai and SHO of the PS concern for compliance. File be consigned to record room after necessary completion.

**Announced**  
**19/10/2019**

Muhammad Imtiaz  
JUDICIAL MAGISTRATE-II  
Orakzai at (M.T.M.C.)  
19-10-19

**MUHAMMAD IMTIAZ**  
**JUDICIAL MAGISTRATE-II/MTMC**  
**ORAKZAI**