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**IN THE COURT OF SAMI ULLAH, CIVIL JUDGE-I,  
ORAKZAI (AT BABER MELA).**

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Civil suit No	18/1
Date of institution	14.03.2023
Date of decision	21.06.2023

1. Azmat Ullah S/O Gareeb Shah
2. Zabit Shah S/O Gareeb Shah
3. Dilawar Khan S/O Gareeb Shah
4. Rehmat Ullah S/O Gareeb Shah
5. Mst. Mewa Jana W/O Gareeb Shah.

All resident of Qoam Esa Khel, Tappa Bala Khan Nawasi, Tatany Kaly,  
District Orakzai presently residing at District Hangu.

..... (Plaintiffs)

Versus

1. Hayat Khan S/O Jan Muhammad
2. Fareed Khan S/O Jan Muhammad
3. Mst. Turagha D/O Jan Muhammad
4. Mst. Shana D/O Jan Muhammad
5. Mst. Basmeena D/O Jan Muhammad
6. Mst. Aseekah D/O Jan Muhammad.

All resident of Qoam Esa Khel, Tappa Bala Khan Nawasi, Tatany Kaly,  
District Orakzai.

7. Government of Khyber Pakhtunkhwa through DC Orakzai.
8. Tehsildar Orakzai.
9. Janat Khan S/O Naseem Gul resident of Qoam Esa Khel, Tappa Bala Khan  
Nawasi, Tatany Kaly, District Orakzai

.....(Defendants)

**SUIT FOR DECLARATION WITH PERPETUAL  
MANDATORY INJUNCTION AND PARTITION.**

**EX-PARTE JUDGMENT:**

1. Brief facts of the case are that plaintiffs filed the instant suit

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for declaration, permanent & mandatory injunction and possession through partition to the effect they are co-owner in possession of suit property (fully detailed in the head note of the plaint) along with defendant No.1 to 6. Plaintiffs in his plaint further stressed that defendant No.1 & 2 are illegally interfering in suit property. Plaintiffs alleged in their plaint that defendant No.7 has no concern with the suit property. That defendants were asked time and again to admit the legal claim of plaintiffs but in vain, hence, the present suit.

2. Defendants were summoned and appeared before the court on few dates but later on they remain absent despite service for the second time, therefore, placed and proceeded against ex-parte. Thereafter, plaintiff was allowed to produce his ex-parte evidence after submission of list of witnesses.
3. Detail of plaintiff's witnesses and exhibited documents are as under: -

*Lamin*  
*Ullah*  
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**Sami Ullah**  
 Civil Judge/JM-I  
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	WITNESSES	EXHIBITIONS
PW-1	Susnab Khan S/O Mazar Khan R/O Qoam Mishti Tappa Darwee Khel, Orakzai.	Nil
PW-2	Khana Gul S/O Hazrat Gul R/O Qoam Mishti Tappa Haider Khel, Orakzai.	Nil

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PW-3	Azmat Ullah S/O Gareeb Shah R/O Qoam Esa Khel, Tappa Bala Khan Nawasi, District Orakzai.	Power of attorney is Ex.PW-3/1
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4. Ex-parte arguments heard and record perused.
5. Learned counsel for the plaintiff, Mr. Ihsan Ullah Khan Advocate, argued that the plaintiffs claimed declaration, permanent injunction and possession through partition on the basis of the fact that the plaintiffs along with defendant No.1 to 6 are co-sharers in the suit property. He stated that in absence of revenue record in District Orakzai, reliance is placed on evidence of the PWs. The PWs admitted that the plaintiffs are co-sharers in the suit property. He further argued that the defendants are willfully avoiding court proceedings in the instant case despite their attendance and proper service of summons on two counts. Further stated that the plaintiffs have proved their stance by producing cogent and confidence inspiring oral evidence in support of stance of the plaintiff while there is nothing in rebuttal hence, prayed for decree of the suit.
6. The plaintiffs produced three witnesses in their ex-parte evidence in support of their claim. Susnab Khan, Khana Gul and plaintiff No.1 himself appeared and recorded their statements as PW-1, PW-2 and PW-3. They supported the

*Lawyer*  
*Ullah*  
*21.06.2023*

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claim of plaintiff. The essence of the ex-parte evidence of plaintiffs is as under.

7. Susnab Khan appeared as PW-01 and recorded in his statement that the plaintiffs and defendant No.1 to 6 being legal heirs of two brothers are entitled to half shares in the suit property. He stated that both the plaintiffs and defendant No.1 to 6 are related to him. Further stated that the defendant No.1 to 6 are illegally interfering in the whole suit property.

8. Khana Gul appeared before the court as PW-02 and recorded in his statement that he personally knows the plaintiffs and defendant No.1 to 6. That the plaintiffs are co-sharers in the suit property.

9. Azmat Ullah who is plaintiff No.1 and attorney for the rest of plaintiffs appeared before the court as PW-03 and recorded his statement as follow. That the defendant No.1 to 6 are illegally interfering in the whole suit property and are denying our shares in the suit property. That our father and father of defendant No.1 to 6 were brothers and the plaintiffs and defendant No.1 to 6 are co-sharers in the suit property. He lastly prayed for decree in his favour.

10. Thereafter, ex-parte evidence of plaintiffs were closed.

11. After hearing of ex-parte arguments and perusal of the record, I am of the opinion that the plaintiffs established


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their case through evidence and as there is nothing in the rebuttal, this court is left with no other option, therefore, the suit of the plaintiffs is hereby ex-parte decreed in favour of plaintiffs.

12. Costs to follow the events.
13. File of the Court be consigned to record room after its completion and compilation.

**Announced:**  
21-06-2023

  
**Sami Ullah**  
Civil Judge-I,  
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**CERTIFICATE: -**

Certified that this judgment consists of Five (05) pages. Each and every page has been read over, corrected and signed by me where ever necessary.

  
**Sami Ullah**  
Civil Judge-I,  
Orakzai (at Baber Mela)