

IN THE COURT OF SHABEER AHMAD,
CIVIL JUDGE-II TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 44/1 of 2021
Date of Original Institution: 06.10.2021
Date of Transfer In: 30.06.2022
Date of Decision: 22.12.2022

1. **Muhammad Rehman son of Fazal Shah**, resident of Gumbat, Kohat.
 2. **Ameen Ullah son of Noor Zali Shah**, resident of Qaum Shiekhan, Tapa Bazid Khel, P.O Mishti, Tehsil Central District Orakzai.
- (Plaintiffs)**

VERSUS

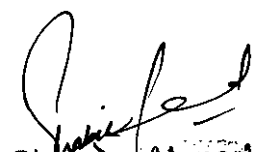
1. **Samal Khan son of Niaz Bahadar**,
2. **Sawab Gul son of Hussain Shah**,
3. **Wakeel Khan son of Zahoor Shah and**
4. **Maidan Gul son of Aman Gul**, all residents of Qaum Mishti, Tapa Bazid Khel, Kandi Rangeen Khel, Tehsil Central District Orakzai.

(Defendants)

SUIT FOR DECLARATION-CUM- PERPETUAL AND MANDATORY INJUNCTION AND POSSESSION

Ex-Parte Judgment/Order:
22.12.2022

Plaintiffs have brought the instant suit for declaration-cum-permanent injunction and possession as alternate against defendants, seeking therein that the suit property measuring 08 jeerab situated at Kandi Rangeen Khel, Orakzai, detailed in the headnote of the plaint is the ownership and possession of the plaintiffs since their predecessors and defendants have got no right to illegally and unlawfully occupy the suit property. That plaintiffs are residing in Kohat for business purpose. That plaintiffs have

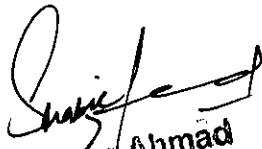

Shabeer Ahmad
Civil Judge/JM-II
Orakzai (Kalaya)
22/12/2022

given the suit property on *Ijara* to one Ameen Ullah son of Noorzali Shah, Qaum Sheikhan, Orakzai vide agreement dated 29.09.2010. That according to the agreement Ameen Ullah was regularly providing produce of the suit property. That defendants restrained Ameen Ullah from ploughing in the suit property. That this act of the defendants is unlawful and ineffective upon the rights of plaintiffs. That defendants were asked time and again through Jirga to resolve the matter and to not interfere in the suit property but in vain, hence, instant suit.

Defendants were summoned, of whom defendant No. 3 appeared through his son and submitted power of attorney and cognovit in favor of plaintiffs. His statement was recorded and placed on file. His CNIC is Ex. PA. Rest of defendants did not appear despite proper service, hence, placed and proceeded **Ex-Parte**.

Plaintiff was allowed to produce his ex-parte evidence, who produced six (06) witnesses in their support.

Muhammad Rehman son of Fazal Shah, plaintiff No. 1, himself appeared as PW-01. He stated that the suit property consisting of 08 jeerab and a house alongwith *Hujra* situated at Kandi Rangeen Khel, Orakzai, is their ownership since their predecessors. He further stated that the suit property was given to one Ameen Ullah son of


Shabeer Ahmad
022/12/2022
Orakzai (Khalaya)

Noor Zali Shah on ijara of Rs. 15,000/- per year. He stated that Ameen Ullah regularly paid the same ijara amount for the last 10 years. That during Talibinization, he randomly came to Orakzai. That defendants threatened Ameen Ullah and forcefully occupied the suit property. That plaintiffs sent several Jirga's, but in vain. He lastly requested for the decree of the suit as prayed for. He produced his CNIC and agreement deed which are Ex. PW-1/1 & Ex. PW-1/2 respectively.

Mr. Ameen Ullah Son of Noorzali Shah, plaintiff No. 2, himself appeared as PW-02. He also supported the stance of the plaintiffs as in the plaint. He lastly requested for the decree of the suit as prayed for. His CNIC is Ex. PW-2/1.

Mr. Noor Rehman Son of Latif Shah, appeared as PW-03. He stated that he is a witness to the agreement deed dated 29.09.2010 between Muhammad Rehman and Ameen Ullah, according to which Muhammad Rehman has given his property to Ameen Ullah on ijara of Rs. 15,000/- per year. His CNIC is Ex. PW-3/1.

Mr. Taj Muhammad Khan Son of Noorzali Shah, appeared as PW-04. He also stated that he is a witness to the agreement deed dated 29.09.2010. His CNIC is Ex. PW-4/1.

Shah
 Shaheer Ahmad
 27/12/2025
 Orakzai (Kalaya)

Mr. Azeem Shah Son of Haleem Shah, appeared as PW-05. He also supported the stance of the plaintiffs and that the suit property belongs to the plaintiffs. His CNIC is Ex. PW-5/1.

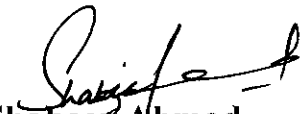
Mr. Khuraj Gul Son of Lal mar Shah, appeared and deposed as PW-06. He also supported claim of the plaintiffs. His CNIC is Ex. PW-6/1.

Ex-parte arguments of the learned counsel for the plaintiffs heard and record perused.

There is nothing in rebuttal due to ex-parte and the plaintiffs produced reliable evidence in support of their claim, therefore, ex-parte decree is hereby passed in favor of the plaintiffs against the defendants as prayed for. No order as to costs.

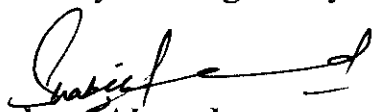
File be consigned to the District Record Room, Orakzai after its completion and compilation.

Announced
22.12.2022


Shabcer Ahmad,
Civil Judge-II,
Tehsil Courts, Kalaya, Orakzai

CERTIFICATE

Certified that this judgment of mine consists of 04 pages, each has been checked, corrected where necessary and signed by me.


Shabcer Ahmad,
Civil Judge-II,
Tehsil Courts, Kalaya, Orakzai