

4

FORM "A"

FORM OF ORDER SHEET

IN THE COURT OF SYED ABBAS BUKHARI, CIVIL JUDGE/JUDICIAL MAGISTRATE/CJ-II, KALAYA ORAKZAI

Case Title: \_\_\_\_\_ Vs \_\_\_\_\_

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 05	22.02.2024	<p>Parties present.</p> <p>Vide this order I intend to dispose the question with regard to the maintainability of instant complaint filed u/s 145 Cr.P.C.</p> <p>Arguments already heard and record perused.</p> <p>Now on perusal of the record and valuable assistances of both the learned counsels for the parties, this court is of the humble view that complainant through instant complaint had alleged that a joint property of parties to the instant complaint is situated at Wadiyo dak Toot Yar, Gandital Dabori and respondents/accused have cut the trees erected over the joint ownership. In this respect as per tradition and custom of pushtun society, two jirgas were also sent to the respondents but they refused to give the complainant his due right. He further allege that due to this act and conduct of respondents there exist apprehension of breach of peace between the parties. Accordingly his statement was recorded u/s 200 Cr.P.C. and respondents were summoned, who appeared and submitted their written reply. Respondents have alleged in their written reply that neither the complainant is owner of any land, property or forest in toot yar nor he belong to Ali Khel Mirwas Khel tribe rather he is tenant of respondents.</p> <p>In given circumstances, this court is of the humble view that one of the prime and necessary ingredient of complaint u/s 145 Cr.P.C. is dispossession, prior to two months of filing of complaint but in present case no allegations regarding dispossession have been alleged by the complainant. Furthermore, as for as question of breach of peace is concerned, neither any such incident has taken</p>

29.02.2024  
SYED ABBAS BUKHARI  
Civil Judge/JM-II  
Kalaya  
Tehsil Courts

5

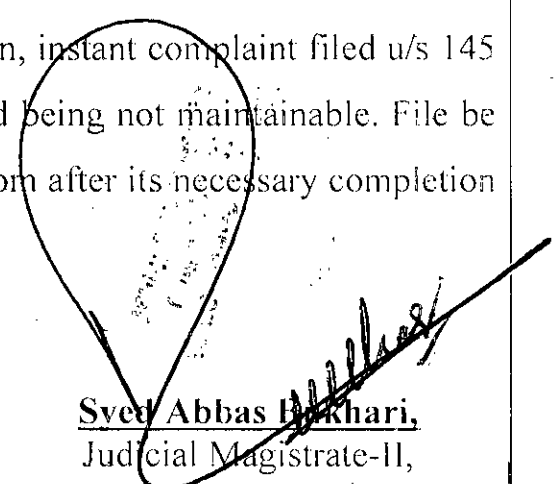
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place between the parties till date nor any such proof has been annexed with the instant complaint by the complainant. Moreover, in case of apprehension of breach of peace, SHO concerned has got the powers to bound the parties u/s 107 and 151 Cr.P.C. It is also pertinent to mention here that both the parties to the instant complaint claim their ownership over the disputed property and thus a title dispute exist between the parties and in this respect civil court has got the ultimate jurisdiction to decide the issue of title between the parties.

In light of above discussion, instant complaint filed u/s 145 Cr.P.C is hereby dismissed being not maintainable. File be consigned to the record room after its necessary completion and compilation.

**Announced**  
**22.02.2024**

  
**Syed Abbas Bukhari,**  
Judicial Magistrate-II,  
Tehsil Court Kalaya, Orakzai