

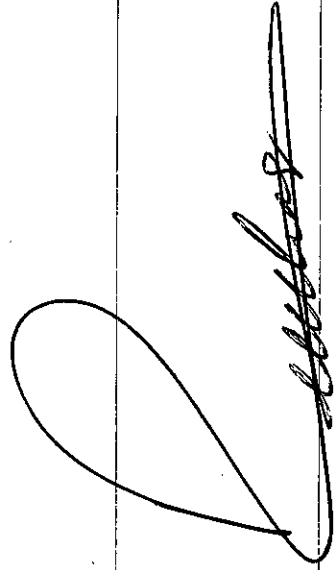
(b)

FORM "A"
FORM OF ORDER SHEET

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

Case Title: Syed Shah Husain etc Vs Syed Hamid Husain etc

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 09	29.03.2024	<p>Parties present.</p> <p>Vide this order I intend to dispose of instant application for grant of temporary injunction filed by plaintiffs, hereinafter referred as the petitioners.</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 petitioner through instant suit allege that suit property is joint ownership of parties to the suit and thus respondents be restrained from installing mobile tower over the same. Contrary to this respondents allege that suit property is their sole ownership and thus petitioners are their tenants. In given circumstances, this court is of the humble view that the contradictory stance of both the parties are subject to proof after recording of pro and contra evidence for the reason that there is no revenue record in District Orakzai and thus in absence of the same it is not possible for this court to ascertain that who amongst the parties to the suit has a prima facie case in his favour. However, it is also pertinent to mention here that petitioners were supposed to have established their right over the suit property by filing a suit for declaration cum partition against the respondents instead of filing the instant suit for restraining respondents from installation of mobile tower. Furthermore, suit property is in shape of mountain, being shared by numerous co-sharers and thus till partition of the same every co-sharers has got right to have access over every inch of the same. It is also worth mentioning here that besides parties to the suit, installation of mobile tower is beneficial to general public as well. Furthermore,</p>



SYED ABBAS BUKHARI
CIVIL JUDGE/JM-II
Tehsil Courts Kalaya

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Case Title: Syed Shau Hussain etc Vs Syed Hamid Hussain etc

Continued
Order 09

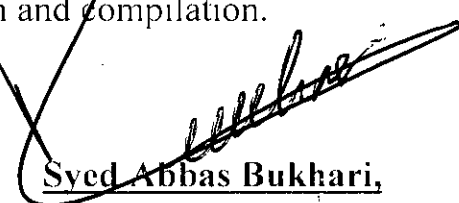
29.03.2024

the most proper and appropriate remedy available to a co-sharer against other co-owners in respect of a joint/shamilaat property, is filing of a suit for partition.

In light of above discussion, instant application for grant of temporary injunction filed by plaintiff is hereby **dismissed**.

No order as to costs. Copy of this order be placed on main suit file while file in hand be consigned to the record room after its necessary completion and compilation.

Announced
29.03.2024


Syed Abbas Bukhari,
Civil Judge-II,
Tehsil Court Kalaya, Orakzai