

IN THE COURT OF MUHAMMAD JUNAID ALAM,
CIVIL JUDGE-II TEHSIL COURTS, KALAYA, ORAKZAI

Civil Suit No. 42/1 of 2024
Date of Original Institution: 12.08.2024
Date of Decision: 16.11.2024


AHMAD KHAN SON OF ZAKARYA KHAN, RESIDENT OF QOM FERAZ KHEL, TAPPA JAISAL KHEL, SAAM, FERAZ KHEL, TEHSIL LOWER, DISTRICT ORAKZAI.

(PLAINTIFF)

VERSUS

1. JALAL GUL,
2. RASHID MUHAMMAD BOTH SONS OF JALIL SHAH,
3. HAZRAT BILAL,
4. ISMAIL,
5. AHMAD KHAN,
6. AMEEN,
7. DAWOOD, SONS OF QUDRAT SHAH,
8. ABDUL MAT KHAN,
9. ISSA KHAN,
10. ALI BAZ KHAN, SONS OF MUHAMMAD KHAN,
11. NIAZ MUHAMMAD,
12. MUHAMMAD RAHEEM, SONS OF ABDUL MUHAMMAD,
13. FAZAL MEEN SON OF MUHAMMAD AMEEN AND
14. AQAL ZAMEER SON OF FAZAL MUHAMMAD, ALL RESIDENTS OF QOM FERAZ KHEL, TAPPA JAISAL KHEL, TEHSIL LOWER DISTRICT ORAKZAI.

(DEFENDANTS)


MUHAMMAD JUNAID ALAM
Civil Judge-II
Orakzai Kalaya

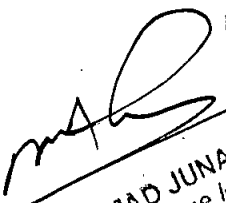
SUIT FOR DECLARATION CUM PERPETUAL INJUNCTION

Ex-Parte Judgment/Order:
16.11.2023

Vide this ex-parte order this Court intends to dispose of suit in hand filed by plaintiff against defendants.

Brief facts of the case gathered from the plaint are that plaintiff has filed the instant suit for declaration cum perpetual injunction to the effect that plaintiff and defendants

belong to tribe Feroz Khel, Tappa Jaisal Khel. That tribe Feroz Khel consists of 480 shares out of which Tappa Jaisal Khel has 30 shares. That parties to the suit has 15 shares each out of 30 shares of Tappa Jaisal Khel. Furthermore, the 15 shares of plaintiffs are divided as 05 shares of Ahmad Shah tabar, 03 shares of Feroz Khan tabar, 05 shares of Mehmood tabar while the remaining 02 shares was purchased by one late Malik Safi Ullah from Dammano. That plaintiff had previously purchased one share from Malik Safi Ullah Khan in the year 1988 in lieu of Rs-50,00,0/- as sale consideration and since the year 1988 plaintiff is in possession of suit property and thus plaintiff is owner to the extent of 1/15th share in the suit property. Similarly, the one Haji Qudarat Shah had also purchased the remaining one share from Malik Safi Ullah. Plaintiff time and again requested defendants to give his share in the joint property but they refused, hence, the present suit.


MUHAMMAD JUNAID ALAM
 Civil Judge I, JM-II
 Orakzai at Kalaya


After institution of the instant suit the defendants summoned. Defendant no. 08 & 14 were properly served but they did not appear before the court, hence, placed and proceeded ex-parte, while defendant no. 01 to 07 were summoned through publication in "The News" but they failed to appear, hence were placed and proceeded as ex-parte. Plaintiff was directed to produce his ex-parte evidence. Accordingly, plaintiff produced as many as three witnesses.

Ahmad Khan, the plaintiff himself is appeared as PW-01. He produced his CNIC which is Ex. PW-1/1.

Qayum Shah as PW-02. He produced his CNIC which is Ex. PW-2/1.

Mocen Ullah PW-03. He produced his CNIC which is Ex. PW-3/1 and thereafter closed his evidence with a note and accordingly counsel for the plaintiff advanced ex-parte arguments.


Upon perusal of record, evidence produced by plaintiff and valuable assistance of counsel for the plaintiff this court is of the view that all the PWs deposed in light and support of the stance of plaintiff as alleged in the plaint. Furthermore, due to ex-parte proceedings nothing in rebuttal or contradictory is available on the record. It is also pertinent to mention here that plaintiff had previously submitted an application for withdrawal of the suit with permission to file a fresh suit in case no. 48/1 of 2021, case titled as Ahmad Khan Vs Muhammad Tariq etc, which was allowed by the court. Previously defendants had appeared before the court and submitted their written statement attached copy of which is placed on instant file. It is also worth mentioning here that defendants had admitted the stance of plaintiff previously narrated in the plaint in the case no. 48/1 of 2024, that plaintiff had purchased one share from Malik Safi Ullah in the year of 1988 in lieu Rs. 50,000/- as sale consideration.


MUHAMMAD JUNAID
Civil Judge / JM-1
Orakzai at Kalaya

In light of the above discussion, instant suit of plaintiff is hereby ex-parte decreed against defendants. No order as to costs.

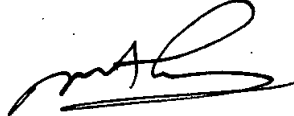
File be consigned to the District Record Room, Orakzai after its completion and compilation.

Announced
16.11.2024


Muhammad Junaid Alam,
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.


Muhammad Junaid Alam,
Civil Judge-II,
Tehsil Courts, Kalaya, Orakzai