

FORM "A"
FORM OF ORDER SHEET

IN THE COURT OF MUHAMMAD JUNAID ALAM, CIVIL JUDGE/JUDICIAL MAGISTRATE-II, KALAYA ORAKZAI
Case Title: _____ Vs _____

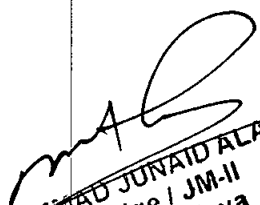
No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order 08	21.11.2024	<p>Both the parties present. Bailiff report received and placed on file.</p> <p>Through execution in hand, DHs have sought demolishing of a wall and removed^b of deris.</p> <p>Brief facts of the case are that DHs/plaintiffs filed a civil suit No.59/1 titled as Aqal Jaffar etc Vs Noor Muhammad etc for declaration cum permanent and mandatory injunction that both the parties to the suit belongs to Tambai, Lower Orakzai. That plaintiff is owner in possession of suit property named as Rewand Patay (ريوانٽ ڪوٽي) since the time of his predecessor, while the defendants have got not right to interfere with the suit property or to illegally dispossess the plaintiffs. In this respect the defendants were asked time and again that do not interfere with the suit property but they refused.</p> <p>Defendants were summoned, they appeared in person before the Court and marked their attendance.</p> <p>After recording pro and contra evidence of the parties to suit the trial court decreed the above mentioned case in favor of plaintiffs against the defendants, vide judgment dated 25.05.2023.</p> <p>Defendants/judgment debtor filed a civil appeal against judgment dated 25.05.2023 in appellate court, which was accepted. Consequently, the impugned judgment dated 25.05.2023 was set aside, the case was remanded back to the trial court with directions to implead necessary parties in the suit.</p>


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Orakzai at Kalaya

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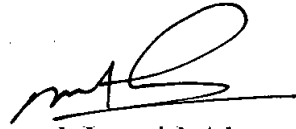
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<p><i>Continued....</i> Order 08</p>	<p>21.11.2024</p>	<p>Plaintiff no. 02, Wazir Jaffar was impleaded in the column of plaintiffs in light of judgment dated 12.09.2023 by the Hon'ble appellate court. Later on defendants filed an application for taking special oath, accordingly plaintiff no. 02 accepted the offer of defendants and take special oath on Holy Quran. Accordingly suit in hand was decreed in favor of plaintiffs/decreed holders against defendants/judgment debtors.</p> <p>Learned counsel for DHs have filed the instant execution petition contending the removing of wall, debris of wall and clear the pathway/thoroughfare and handing over the possession to decree holders.</p> <p>Perusal of record shows that previously trial court had decreed the suit property in favor of plaintiffs/DHs while contrary to this DHs filed execution petition with the plea for removing of debris of wall from pathway/thoroughfare, instead of possession of the decreed property. In fact, no such order has been made by the Court during the pendency of the suit. The Court is of the view that execution can only be made when the Court has made any order. Moreover, the Court sent the bailiff to the spot vide order no. 06 dated 22.10.2024, who reported that none of the parties were ready to resolve the issue. The disputed wall and decreed property are shown separately in the bailiff report.</p> <p>As mentioned above, suit of DHs/plaintiffs was for declaration cum-permanent injunction and possession, if</p>


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Continued.... Order 08	21.11.2024	<p>dispossessed during pendency of the suit. Nothing was brought on record that during pendency of the suit, plaintiffs were dispossessed from the suit property. In the circumstances, the Court is of the view that the Dfhs/plaintiffs may file a separate suit regarding the disputed wall and pathway, instead of instant execution petition. Hence, instant execution petition disposed of accordingly.</p> <p>File in hand along with record be consigned to record room after necessary completion and compilation.</p> <p><u>Announced:</u> 21.11.2024</p> <p style="text-align: right;">  <u>Muhammad Junaid Alam,</u> Civil Judge-II, Tehsil Courts Kalaya, Orakzai </p>