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20.04.2023


Present:

Petitioner in person.

Respondents through clerk of counsel.

Today the case was fixed for arguments on the instant petition by the petitioner but petitioner requested for adjournment due to non-availability of his counsel. Adjourned.

File to come up for arguments on the instant petition by the petitioner on **04.05.2023**.


Sami Ullah
Civil Judge-I,
Orakzai (at Baber Mela)

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Present:

Petitioner in person along with counsel.

Respondent No.03 in person and as attorney for rest of respondent along with counsel.

1. This order is intended to dispose of an application for grant of temporary injunction filed by the petitioner/plaintiff against the respondents/defendants.
2. Argument by the counsel for the Respondents already heard while argument by the counsel for the petitioner heard today.
3. Brief facts of the case are that the plaintiff/petitioner has filed the instant suit for declaration, permanent injunction and possession to the effect that the plaintiff/petitioner (here in after referred as plaintiff) is owner in
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possession of the suit property (Fully detailed in the head note of the plaint) since the time of his predecessors. The plaintiff prayed through the instant application that the defendants shall be restrained from doing interference in the suit property.

4. The defendants/respondents contested the suit by filing written statement and reply of the application for grant of temporary injunction. In the written statement the defendants/respondents contended that the suit property is in their possession for 30/40 years ago.
5. Detailed arguments on application for grant of temporary injunction heard and record perused.
6. Learned counsel for the plaintiff/petitioner argued that plaintiff/petitioner has got a prima facie case. Balance of convenience also lies in his favor and that if temporary injunction is not granted, he would suffer irreparable loss and lastly prayed for the acceptance of the application.
7. The other side fully resisted the application through arguments.
8. It is well settled law that for grant of temporary injunction, a party has to prove three essential ingredients i.e., prima facie case in his favor, balance of convenience tilts in his favor and in case injunction is not granted, he would suffer irreparable loss. Insofar, as the instant case is concerned, plaintiff is claiming that he is owner and possessor of the suit property. Plaintiff has not annexed with his plaint any reliable documentary proof in support of his claim and contention. On the other

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Sami Ullah
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Civil Judge/JM-I
Orakzai at (Babar Mela)

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hand, the defendants totally denied the claim of the plaintiff, rather claimed the same is in their possession. Moreover, perusal of case file transpires that the suit property admittedly consists of a piece of land with few feet wide in measurement alongside the boundary wall of the house of the defendants. Defendants contended that the suit property was left outside their house by them for the purpose of sanitation etc. There is nothing in the shape of any relevant document from which, it could be presumed that tentatively that the plaintiff is owner and possessor of the suit property. Also, there is no admission in the written statement in favor of the plaintiff rather there is a straight denial.

9. Therefore, as a result of above discussion, the plaintiff failed to establish his claim prima facie, what to say of the balance of convenience and irreparable loss.
10. Thus, the three necessary ingredients for the grant of temporary injunction do not exist in favor of the plaintiff, therefore, the application in hand is hereby **Dismissed**. Costs shall follow the event.
11. File be consigned to record room after its necessary completion and compilation.

Announced

04.05.2023


Sami Ullah
Civil Judge-I,
Orakzai at Baber Mela.