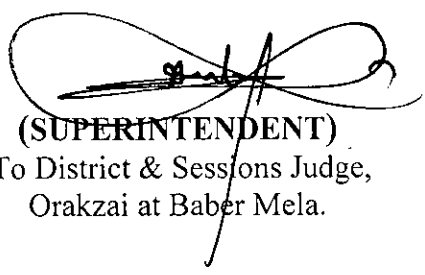



IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA


② ③

Case Title: Dost Muhammad vs Taj wali 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
<p>Superintendent Note</p>	<p>30.05.2023</p>	<p>Miscellaneous Civil Appeal presented through clerk of counsel, Insaaf Ali Advocate to the office of Superintendent. Be put up before Honorable District & Sessions Judge, Orakzai, for further orders, please.</p> <p align="right">  (SUPERINTENDENT) To District & Sessions Judge, Orakzai at Baber Mela. </p>
<p>Order No.01</p>	<p>30.05.2023</p>	<p>Register. Appellant/plaintiff Dost Muhammad along with his counsel present. Preliminary arguments heard.</p> <p>The appellant/plaintiff through a suit before the court of learned Civil Judge-I, Tehsil Kalaya, District Orakzai seeks possession of the suit property through preemption on the grounds, that the respondents/defendants have purchased the suit property on 14.04.2023 through an oral arguments against a sale consideration of Rs.100,000/-, that the appellant/plaintiff got knowledge of the same transaction on 25.05.2023 at 1100 hours at his house through his cousin, Abdullah Majid where appellant/plaintiff having superior rights of preemption performed Talbe Moasilath and on 25.05.2023 he sent notice of Talbe Ishhat to the respondents/defendants through register A.D letter and after refusal of the respondents/defendants to admit the superior rights of preemption of the appellant/plaintiff, he filed the instant suit on 27.05.2023.</p> <p>The plaint was accompanied by application for grant of temporary injunction seeking the respondents/defendants to restrain from further alienation and making interference in the suit property. The learned trial court issued ad-interim injunction to the extent of further alienation. The appellant/plaintiff on 29.05.2023 submitted application for restraining the respondents/defendants to change the nature of suit property by raising construction over there which was</p>


Shaukat Ahmad Khan
 District & Sessions Judge,
 Orakzai at Baber Mela
 30/05/23



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Contin. Order No.01		<p>turned down by the learned Civil Judge-II, Orakzai being entrusted with the urgent nature work of the court of the learned Civil Judge-I, Orakzai who was on leave on that day. The appellant/plaintiff being aggrieved of the impugned order filed instant appeal. During the course of arguments, learned counsel for the appellant/plaintiff submitted that he has a good prima facie case and that respondents/defendants are going to raise the construction over the suit property which may result in irreparable loss to the appellant/plaintiff.</p> <p>The learned counsel for appellant/plaintiff when, confronted with the provision of section 21 of the Khyber Pakhtunkhwa Preemption Act, 1987 where the vendee/defendants is entitled to the improvements before the notice of Talbe Ishhat and cannot claim improvements made after issuance of the notice Talbe Ishhat, he conceded the point; however, he requested that an observation may be recorded to the fact that the respondents/defendants would not be entitled to the cost of improvements, if any, made after issuance of the notice of Talbe Ishhat. But as the law on the point is clear and the matter is still subjudice before the learned trial court, therefore, this court deem it not necessary to record such observations.</p> <p>Hence, in view of what is discussed above, the instant appeal being devoid of merits, is dismissed in limini. File of this court be consigned to record room. Copy of this order be sent to learned trial court for information.</p> <p>Pronounced: 30.05.2023</p> <p style="text-align: right;"> (SHAUKAT AHMAD KHAN) District Judge, Orakzai at Baber Mela</p>

