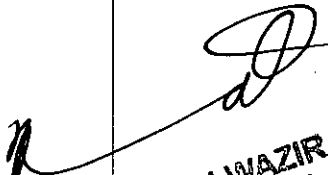


(C)

COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Case Title: Aziz Khan VS AC Lower Orakzai etc

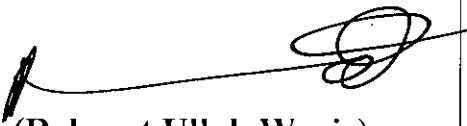
Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order No 15	31.05.2023	<p>Presence as before.</p> <p>Through my this single order, I intent to dispose off an application for the grant of temporary injunction, filed by the petitioners against the respondents.</p> <p>This application was strongly contested by the respondents by filing replication and forwarding arguments thereto.</p> <p>Arguments heard and record perused.</p> <p>After hearing of arguments and perusal of the record I am of the opinion that for the grant of temporary injunction, one will have to establish prima facie case, balance of convenience and irreparable loss in his favour. The claim of the petitioners is that they are the owners in possession of a market alongside a metaled road but the respondents are about to get through a water channel beneath the market, which would ultimately damage their market. But the respondents have taken the plea supported by a picture that a drain already exists beneath the market of the petitioners for the last 25/30 years, which has been blocked by the petitioners that is why water have accumulated over the metaled road which is damaging the same. The respondent No. 01 to 03 submitted an affidavit duly countersigned by the District Attorney whereby they agreed that they would construct a covered drain beneath the market of the petitioners in such a manner that market could be constructed over the same.</p> <p>In the light of the aforesaid facts, though the petitioners established their case prima facie to the extent of</p>


REHMAT ULLAH WAZIR
Senior Civil Judge/JM,
Orakzai at Baber Mela

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COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

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<p>Order No 15 continued</p>	<p>31.05.2023</p>	<p>their ownership of the market but the balance of convenience is tilted towards the general public as there is every likelihood of damage to the public road if the existed water channel is kept blocked and the public authorities are restrained from getting through a new drain according to the modern requirement. Also, the respondent No. 01 to 03 have submitted an affidavit that a covered drain would be installed beneath the market, above which rooms could be easily constructed, therefore, there is no apprehension of irreparable loss to the petitioners with directions to the respondents No.01 to 03 to abide by the said affidavit. Thus, the three necessary ingredients for the grant of temporary injunction do not coexist in favour of the petitioners, therefore, the application in hand is hereby dismissed and the status quo granted earlier is hereby vacated. No order as to costs.</p> <p>File be consigned to the record room after necessary completion and compilation.</p> <p><u>Announced</u> 31.05.2023</p> <p> (Rehmat Ullah Wazir) Senior Civil Judge, Orakzai (at Baber Mela)</p>
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