

Or --- 06
27-05-2023

None present for the state. Petitioner in person
alongwith counsel present. Accused/Respondants
in person alongwith counsel present. Arguments
on behalf of accused/Respondants heard. case
file adjourned. To come up for order on

31-05-2023

SYED AJAAS BUKHARI
Civil Judge/JJ-II
Tehsil Courts Kalaya

Order---07
31.05.2023

1. APP for the State present. Petitioner present.
2. Vide this order I intend to dispose of the instant Superdari petition filed by petitioner Aziz Khan for return of trees previously taken into possession by local police of PS Kalaya vide Case FIR# 87 dated: 13.09.2022 u/s 506/504/427/352/147/149 PPC.
3. Arguments already heard and record perused.
4. Brief facts of the case are that the present petitioner has previously registered Mad: 10 dated: 07.09.2022, wherein he charged accused Labar Khan etc for illegally cutting his trees and assaulting him. Accordingly upon the report of petitioner an inquiry was initiated by the local police of PS Kalaya and upon conclusion of said inquiry, FIR# 87 dated: 13.09.2022 was registered. Furthermore, during the course of inquiry, local police also took in to possession 08 trees through recovery memo dated: 07.09.2022.
5. On perusal of record and valuable assistance of the learned counsels for the petitioners, accused Lajbar etc and learned APP for the state, this court is of the humble view that petitioner claim his ownership over the subject trees. However upon perusal of the record, it also appeared that a cross mad no.11 dated: 07.09.2022 was also registered by the accused Gul Raif etc, wherein they alleged that they were cutting their own trees when present petitioner restrained them from cutting trees and used abusive

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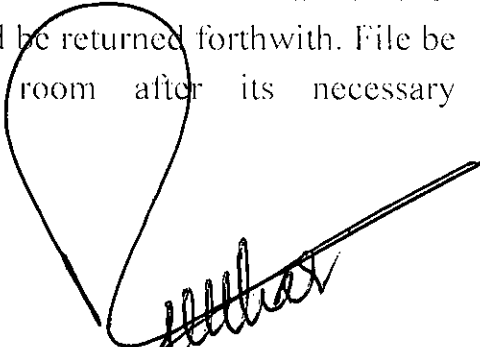
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language as well as threatened them. Thus this court deemed it proper that prior to deciding the instant superdari petition let the accused party in the instant case FIR #87 and complainant in mad. No.11, may also be summoned and provided opportunity of being heard in order to ascertain that as to whether they also claim their ownership over the said trees or otherwise. Accordingly the accused Lajbar etc were summoned, who appeared before this court alongwith their counsel and stated at the bar that they had got no concern with the trees, in respect of which the present petitioner has filed instant superdari petition and they have got no objection, if the instant superdari petition is allowed and the trees are given in possession of present petitioner.

6. It is also worth mentioning here that there is no rival claimant of the said trees and furthermore; the opponents neither claim their ownership of the trees nor they have got any objection if the same are given in custody of present petitioner.

Hence, keeping in view the aforesaid discussion instant Superdari petition is hereby **allowed** and petitioner Aziz Khan is hereby directed to submit bonds worth Rs-50000/- with two local and reliable sureties; each in like amount to the satisfaction of SHO PS Kalaya Orakzai. After submission of bonds, the possession of trees be handed over to the petitioner. Police record be returned forthwith. File be consigned to the record room after its necessary completions.

Announced
31.05.2023


Syed Abbas Bukhari
CJ/JM-II, Kalaya.