

**Case Title: Meer Janan VS Abdul Janan**

**Order No.18**

**26-02-2020**

Parties through their counsel present.

Through my this single order I intend to dispose off the instant petition in the shape of an execution petition filed by the petitioner for the execution of the order of the then Assistant Political Agent Upper Orakzai Dated: 19-09-1997, against the respondents.

Brief facts of the case are that the petitioner filed the instant petition on 15.12.2016 before the then APA U/Orakzai for execution of the order of the then APA U/Orakzai Dated: 19.09.1997. Accordingly, the then APA U/Orakzai issued summons/warrant of arrest of the present respondents, against which the present respondents moved the August Peshawar High Court, Peshawar in the writ petitions No. 349-P of 2017 and 240-P of 2018 which were jointly decided by the August Court vide order Dated: 23.10.2018, whereby the present respondents were given an opportunity to raise the objection before the then APA U/Orakzai. Meanwhile, the merger of the Erst-while Fata was affected and the instant petition was transferred to the present court on 01.04.2019.

Today the counsel for the respondents submitted replication and argued the same.

The counsel for the respondents stated at the bar that the instant case file is not a civil suit rather the same is an execution petition because allegedly instant controversy has already been decided by the then Assistant Political Agent, U/Orakzai on 19.07.1997 in favour of the petitioner but without fulfilling the legal requirements and there is no decree sheet in favour of the petitioner, therefore, the same is not executable.

The counsel for the petitioner present and argued that the instant pending petition is an execution petition and legally it must be executed in letter and spirit.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that according to Section 33 of the CPC, 1908,

***Continue.....***

  
**Rehmat Ullah Wazir  
Civil Judge/JM-I  
Orakzai at (Babar Mela)**

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**Continue**

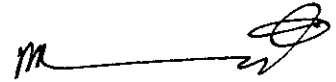
**26-02-2020**

upon hearing the case, judgment should be pronounced and on such judgment a decree shall follow. It is the duty of the court to draw up a decree in accordance with the judgment. Party in whose favour decree is passed is "Decree holder". Order XX Rule 606, CPC, 1908 specify the contents of the decree. It is the decree that is to be executed. Decree should specify the relief granted. It should be self contained and capable of execution. Even where decree is not drawn up, an appeal is not competent U/O XLI Rule 01 CPC, 1908. The perusal of the case file would reveal that there is no decree in favour of the petitioner. Thus, there is no decree before the court in favour of the petitioner for execution. Hence, petition in hand stands dismissed being non-maintainable in the eyes of the law. No order as to costs.

File be consigned to the Record Room after its completion and compilation.

**Announced**

**26/02/2020**



**(Rehmat Ullah Wazir)**

Civil Judge-I,

Orakzai (at Baber Mela)