

Case Title: Mehraban Khan Vs Said Akbar etc.**Or.....01**

27/11/2020

A written complaint submitted by Mehraban Khan s/o Gul Badshah, R/O Qoum Mishti, Tappa Mamizai, Injghalai, Tehsil Lower, District Orakzai, wherein the allegations of water flowing towards the house of the complainant are levelled against the Said Akbar S/O Din Badshah, Muhammad Din Khan and Muhammad Rehman both sons of Said Akbar and the stoppage of dirty water flow has been sought.

Their statement u/s 200 CRPC is recorded. It be registered.

Notices be issued to the SHO PS Lower Orakzai with directions to hold inquiry and submit report positively on 08/12/2020

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(Rehmat Ullah Wazir)
Civil Judge/JM-I,
Orakzai at (Baber Mela)

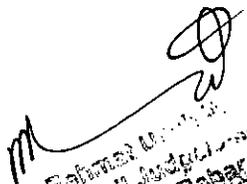
Or.....02

08.12.2020

Complainant alongwith counsel present. Inquiry Report is submitted by the SHO concerned. The counsel of the complainant was directed to argue the complaint in the light of the inquiry report, who argued the same in detail.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that the instant complaint was filed by the complainant u/s 133 Cr.P.C on the ground that the houses of the parties are located as the house of the respondents is above the house of the complainant. That the respondents are building a washroom in their house, the


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sewerage line of which is opened towards the house of the complainant, which is causing damage to the foundations of the house of the complainant and that due to this water, the complainant cannot raise new construction. That the same has caused nuisance for the complainant and his family. The findings of the SHO in his inquiry report are that the property where the sewerage of the respondents opens is the joint property of the parties and several jirgas are held between the parties over the same. The first and the foremost thing which the court observed is that the sewerage of the respondents may be creating nuisance but not for the public at large, which is the mandate and very object of the section 133 Cr.P.C. The Magistrate is empowered under the aforesaid section only if a nuisance is disturbing the public tranquillity. He has to see whether a particular act/omission etc is causing hindrance and danger to the public at large or not. But in the present case, it is a private dispute between two private parties over a joint property and the public at large has nothing to do with the same and a Magistrate u/s 133 Cr.P.C has got no powers to settle such like disputes in such a summary manner rather the complainant may approach the proper forum for redressal of his grievances. Thus, in the light of the aforesaid findings, the instant complaint is dismissed being non-maintainable.

File be consigned to the record room after its necessary completion and compilation.

Announced
08.12.2020


(Rehmat Ullah Wazir)
Civil Judge/JM-I,
Orakzai at (Baber Mela)