

**IN THE COURT OF REHMA AT ULLAH WAZIR,**  
**CIVIL JUDGE-I ORAKZAI AT BABER MELA**

Civil Suit No. 34/1 of 2019  
 Remanded On: 06.11.2019  
 Date of Original Institution: 24.04.2019  
 Date of Decision: 30.11.2020

*1. Mst: Gul Khaperai w/o Eid Man Shah R/O Ghiljo, Tehsil. Ismael Zai, District, Orakzai.*

*(Plaintiff)*

**VERSUS**

- 1. Ex-Political Agent and the present DC through record keeper survey, Ismael Zai.*
- 2. FDMA, Islamabad, through record keeper, District Orakzai.*

*(Defendants)*

**SUIT FOR RECOVERY**

**JUDGEMENT:**

Plaintiff Mst: Gul Khaperai has brought the instant suit for recovery against the defendants. That she is a permanent resident of Tehsil Ismael Zai, Village Ghiljo, District Orakzai. That due to military operations in the recent past, the house of the plaintiff alongwith all the luggage got destroyed. That due to the aforesaid military operations, she alongwith her family shifted to a settled district and remained there as Internally Displaced Persons for 10 years. That after 10 years, she alongwith her family returned to the home town and the registration form in this respect bearing code no. 2656 is annexed with the plaint. That after return, the

Government of Pakistan initiated a "Citizen Losses Compensation Program" (CLCP) and under the same program, a CLCP Form No. 96203, Dated: 30.05.2018 was issued and handed over to the plaintiff. That after survey of the entire region, the Government of Pakistan paid Rs. 400,000/- to each and every CLCP Form/Token Holder through the then Political Agent (The present Deputy Commissioner) but the CLCP Form/Token of the plaintiff is missing from the record of the defendants, that is why, the loss compensation worth Rs. 400,000/- is yet to be paid to the plaintiff. That due to non-payment of the loss compensation, the plaintiff alongwith family is yet to rehabilitate. That the defendants were asked time and again to admit the claim of the plaintiff and pay the loss compensation worth Rs. 400,000/- but they refused, hence, the present suit.

Defendants were summoned through the process of the court, who appeared through their representative and contested the suit by filing written statement, wherein they raised certain factual and legal objections.

Divergent pleading of the parties were reduced into the following issues;

1. Whether the plaintiff has got a cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether the suit of the plaintiff is time barred?

4. Whether the suit of the plaintiff is not maintainable in its present form?
5. Whether the plaintiff is entitled to the recovery of compensation under the CLCP Form No. 96203 Dated: 30.05.2018, which was filled/issued in her name?
6. Whether the survey of the house of the plaintiff has already been done in the name of her son namely Imtiaz S/O Eid Man Shah, that is why her suit is baseless and not maintainable?
7. Whether the plaintiff is entitled to the decree as prayed for?
8. Relief.

Parties were given ample opportunities to produce their respective evidence. The plaintiff produced the one Ajmal Khan, member of the survey team, appeared as PW-01, who endorsed his signature over the CLCP Form No. 96203, Dated: 30.05.2018, issued to the plaintiff. Further, Mr. Muhammad Akbar, member of the survey team, appeared as PW-02, who endorsed his signature over the CLCP Form No. 96203, Dated: 30.05.2018, issued to the plaintiff. Further, Mr. Shafi Ullah, record Keeper, DC Office Orakzai appeared as PW-03, who produced CLCP Form No. 96203, Dated: 30.05.2018, the copy of which is Ex.PW-3/1 and stated that the same is correct. Further, Mr. Imtiaz, the special attorney for the plaintiff appeared as PW-04, who produced his special power of attorney as Ex.PW-4/1, the return form of the

plaintiff as Ex.PW-4/2. Further, Mr. Momin Shah appeared as PW-05 and narrated the same story as in the plaint.

The defendants produced only one witness, as Mr. Khaista Akbar, Naib Tehsildar Ismael Zai, Orakzai appeared as DW-01, who produced his authority letter as Ex.DW-1/1 and denied the claim of the plaintiff.

My issue wise findings are as under:

**Issues No. 02:**

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

**Issues No. 03:**

The defendants in their written statement raised the objection that the suit of the plaintiff is time barred but I am of the opinion that the survey of the damaged house of the plaintiff under CLCP as per the CLCP Form, available on case file has been done on 30.05.2018, while the instant suit is filed on 24.04.2019 and as per the Article 62, of The Limitation Act, 1908, such a suit for recovery of money can be filed within 03 years, meaning thereby that the suit of the plaintiff is within the statutory period of limitation. Hence, the issued is decided in negative.

Handwritten signature and stamp:   
 Momin Shah  
 Naib Tehsildar  
 Civil Judge (Muz)

**Issues No. 04:**

The defendants in their written statement raised the objection that the suit of the plaintiff is not maintainable in its present form but the same is neither pressed nor proved by the defendants, hence, the issue is decided in negative.

**Issues No. 01 & 07:**

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my above issue-wise findings, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for. Therefore, both these issues are decided in positive.

**Issues No. 05 & 06:**

Both these issues are interlinked, hence, taken together for discussion.

The plaintiff alleged in her plaint that she is a permanent resident of Tehsil Ismael Zai, Village Ghiljo, District Orakzai. That due to military operations in the recent past, the house of the plaintiff alongwith all the luggage got destroyed. That due to the aforesaid military operations, she alongwith her family shifted to a settled district and remained there as Internally Displaced Persons for 10 years. That after 10 years, she alongwith her family returned to the home town

and the registration form in this respect bearing Code No. 2656 is annexed with the plaint. That after return, the Government of Pakistan initiated a "Citizen Losses Compensation Program" (CLCP) and under the same program, a CLCP Form No. 96203, Dated: 30.05.2018 was issued and handed over to the plaintiff. That after survey of the entire region, the Government of Pakistan paid Rs. 400,000/- to each and every CLCP Form/Token Holder through the then Political Agent (The present Deputy Commissioner) but the CLCP Form/Token of the plaintiff is missing from the record of the defendants, that is why, the loss compensation worth Rs. 400,000/- is yet to be paid to the plaintiff. That due to non-payment of the loss compensation, the plaintiff alongwith family is yet to rehabilitate. That the defendants were asked time and again to admit the claim of the plaintiff and pay the loss compensation worth Rs. 400,000/- but they refused, hence, the present suit.

M. Ullah  
 M. Ullah  
 Civil Judge/JM-I  
 Bahawalpur

In order to prove her stance, the plaintiff produced witnesses, in whom Mr. Shafi Ullah, Record Keeper, DC Office, Orakzai appeared as PW-03, who produced the CLCP Form no. 9620, Dated: 30.05.2018, issued in the name of the plaintiff, the copy of which is Ex.PW-3/1 and stated that the same is correct. The two marginal witnesses and the members of the committee of this

CLCP Form appeared as PW-01 and PW-02, who endorsed their signatures over the same and that the same was issued to plaintiff after survey by the relevant team. The special attorney of the plaintiff and one other witness appeared as PW-04 and PW-05 respectively, who also supported the plaint. All the aforesaid witnesses have been cross examined but neither they have been contradicted nor anything tangible has been extracted out of them during cross examination. Further, it is worth mentioning that the record keeper of the defendants, who appeared as PW-03 and who produced the suit CLCP Form No. 96203, Dated: 30.05.2018, has neither been cross examined nor the genuineness of the said form has been challenged/denied by the defendants, which is legally something admitted by the defendants. Further, the special attorney of the plaintiff, who appeared as PW-01, has produced the return form, bearing Code No. 2656, which is Ex.PW-4/2, which was issued to the plaintiff upon return of her family to the region after long-long displacement, has not been challenged/denied by the defendants during evidence.

In order to counter the claim of the plaintiff, the defendants have produced only one witness, as Mr. Khaista Akbar, Naib Tehsildar Ismael Zai, Orakzai appeared as DW-01, who only denied the claim of the plaintiff in an evasive style by stating in his examination in chief that it was learnt

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that the one Gul Zaman is black list in the record of Army and that the two other contiguous houses were of the one Akhtar Man Shah and the one Imtiaz, the son of the plaintiff and that compensation has been paid to these two persons. But admitted in his cross examination the CLCP Form correctly bears his signature and the signatures of other members of the committee. Further admitted that the cancelation of the CLCP Form of the plaintiff has been done only by the captain concerned without any written proof. Further admitted that there is no proof with respect to the fact that the house was the ownership of the one Gul Zaman.

After thorough discussion of the pro and contra evidence, it is established that the plaintiff was displaced from her house as a result of military operations in the region and she alongwith family remained outside her region for 10 long years. It is also an established fact that after survey under CLCP, the house of the plaintiff was considered damaged and she was declared entitled to the recovery of the partial compensation. So far as the cancelation of the CLCP Form by one captain of Army is concerned, the same is illogical and unreasonable as admittedly there was a committee for the said survey, which would decide and assess the ownership of a house and the damage as a result of military operations, but admittedly as per the statement of



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DW-01, the same CLCP Form was cancelled only by the captain after his personal verification and without any proof. If there is a committee for the issuance of a CLCP Form, then logically the same cannot be cancelled by a single member of a committee upon his personal knowledge. Further, the defendants have taken the plea, firstly that the house upon which the CLCP Form was issued is not the ownership of the plaintiff rather the same is the ownership of the one Gul Zaman, brother-in-law of the plaintiff, who is black as per the record of army, but the defendants failed to explain what is black and what is white, whether blackness creates barriers/hindrances in the enforcement of one's rights and also failed to establish something black on the part of the aforesaid Gul Zaman, Secondly that son of the plaintiff namely Imtiaz has been paid compensation of the same house but they also failed to prove this fact either through their own evidence or in the cross examination of this Imtiaz, when appeared as PW-04 in the instant case. Thus, what all the defendants have alleged are mere oral assertions and they badly failed to establish their assertions through cogent and reliable evidence. On the other hand, the plaintiff established through evidence that she was displaced alongwith family from her house as a result of military operations and her house was destroyed but even then, the defendants are

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Rehmi Ullah Wazir  
Govt. Agent/AM-1  
Control of Property Model

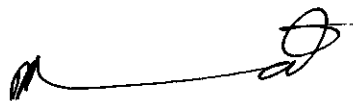
refusing to pay the meagre partial compensation to her for rehabilitation as per the policy and announcement of the Federal Government under the CLCP. In the light of the aforesaid findings, the Issue No. 05 is decided in positive while the Issue No. 06 is decided in negative.

**Relief**

As sequel to my above issue-wise findings, suit of the plaintiff is hereby decreed as prayed for subject to payment of the outstanding court fee within 01 month. Costs shall follow the event.

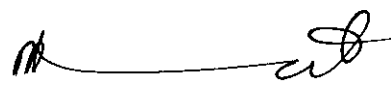
File be consigned to the Record Room after its necessary completion and compilation.

**Announced**  
30.11.2020

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

**CERTIFICATE**

Certified that this judgment of mine consists of 10 pages, each has been checked, corrected where necessary and signed by me.

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