

0-08
17-12-2020

Parties along with counsel present.
Both the counsel argued in
application U/O 7-R-11 C.P.C.
File is to come for order
on 22/12/2020.



Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai (Babag Mela)

Or.....09
22.12.2020

Presence as before. Through my this single order, I intend to dispose off an application for rejection of plaint U/O 7-R-11 CPC, filed by the defendant No. 01 against the plaintiffs.


This application was strongly contested by the other party by filing replication and forwarding arguments thereto.

Brief facts of the case are that the plaintiffs filed the instant suit for declaration cum perpetual and mandatory injunction against the defendants to the effect that they are the residents of District Orakzai. That the defendant No. 01 has obtained a mining lease for coal from the defendant No. 04 which is the result of fraud and collusion. That the plaintiffs conducted a jirga with the defendant No. 01 but failed. That afterwards, the plaintiffs approached the defendant No. 02 and 03, who proceeded according to law and recommended the cancellation of the lease to the defendant No. 04 but the defendant No. 04 is using delaying tactics.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that according to the KPK Minerals Sector Governance Act, 2017 and the KPK Minerals Sector Governance (Amendment)

Continue.....



Rehmat Ullah Wazir
Civil Judge/JM-I
Orakzai (Babag Mela)

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Act, 2019, there is a complete scheme and frame work of things to be done has been provided in the said Acts and also laying down means and procedures for protection of rights claimed by the interested persons. They can approach for redressal of grievances to the licensing authority as envisaged in the section 02 (U) of the KPK Minerals Governance Act, 2017 and then to the Appellate Tribunal as envisaged in the section 05 (A) of the KPK Minerals Governance (Amendment Act, 2019). Further, u/s 102 (6), it is provided that


“notwithstanding anything provided in the other law for the time being in force, no court shall have jurisdiction to entertain or to adjudicate upon any matter to which the Appellate Authority under this Act is empowered to dispose off or to determine the validity of anything done or an order passed by it”.

Thus, jurisdiction of the Civil Court is specifically barred under the said provisions.

Therefore, in the light of the aforesaid findings, the application in hand is accepted and the plaint of the plaintiffs is hereby **rejected** being barred by law. Costs shall follow the event.

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

Announced
22.12.2020


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