

Or.....07  
23.12.2020

Presence as before. Through my this single order, I intend to dispose off an application for the grant of temporary injunction, filed by the plaintiffs against the defendants.

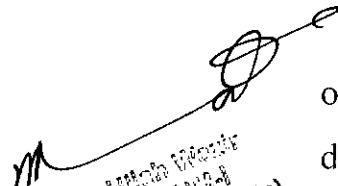
This application was strongly contested by the defendant no. 01 by filing replication and forwarding arguments thereto.

Brief facts of the case are that, the plaintiffs filed the instant suit for declaration cum perpetual and mandatory injunction to the effect that the suit property in the shape of a mountain is the ownership of the plaintiffs since their forefathers. That the defendant no. 01 is about to conduct a Majlas-e-Aam and then about to get NOC from the defendant No. 02 To 04. That legally the consent of whole village including the plaintiffs is necessary for lease of a coal mine but the defendants are about to conduct Majlas-e-Aam by ignoring the plaintiffs. That the defendants be restrained from the aforesaid acts. That the plaintiffs objected over the same and asked the defendants not to do the aforesaid acts but they refused, hence, the present suit.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that firstly, it is an admitted fact as per the plaint that the defendant no. 01 has only applied for the grant of prospecting license for coal mining till date. The onward procedure after the aforesaid application in the shape of Majlas-e-Aam and then issuance of NOC are yet to be done according to the KPK Minerals Governance Act, 2017, which is a statutory procedure. The same cannot be stopped in its beginning through injunction. Further, legally a declaration cannot be sought of any right or title which is not yet denied and the same is the case with the present plaintiffs. Secondly, in case the plaintiffs are denied their due rights and they are not heard in Majlas-e-Aam and the issuance of NOC, 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

*Continue.....*

  
Rehmat Ullah Wasti  
Civil Judge (M-1)  
Orakzai (Barak District)

Case Title: Muhammad Yonus etc VS Noor Ali etc

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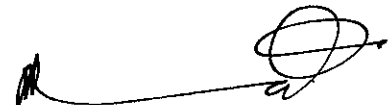
envisaged in the section 05 (A) of the KPK Minerals Governance (Amendment Act, 2019). Further, u/s 102 (6), it is provided that “notwithstanding anything provided in the other law for the time being in force, no court shall have jurisdiction to entertain or to adjudicate upon any matter to which the 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, while deciding the application for temporary injunction, it is revealed that the plaintiffs have got no cause of action as no overt act has yet been done by the defendants rather there is every possibility of the fact that the plaintiffs may be considered in the Majlas-e-Aam which is yet to be conducted and no suit is maintainable on mere speculations and imaginations. Further, the jurisdiction of the present court is specifically barred by the aforesaid provisions, therefore, while deciding the temporary injunction application, the court by itself took the notice of the cause of action and bar of jurisdiction. Thus, the plaint of the plaintiffs is hereby rejected u/o 07-R-11 CPC on the ground of non-disclosure of the cause of action and bar of jurisdiction. Costs shall follow the event.

The application for permission to file amended plaint becomes automatically infructuous and disposed off accordingly.

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

Announced  
23.12.2020



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