

IN THE COURT OF ASGHAR SHAH
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL MISC. APPEAL NO. : 2/14 OF 2020
DATE OF INSTITUTION : 02.12.2020
DATE OF TRANSFER IN : 16.12.2020
DATE OF DECISION : 20.01.2020

MUHAMMAD YASIR S/O RISHAM KHAN AND TWO OTHERS, ALL
RESIDENTS OF LAGHONE, CASTE MANDRA KHEL, SUB-SECTION
MUDAT KHEL, DISTRICT ORAKZAI
.....(APPELLANTS)


-VERSUS-

PROVINCIAL GOVERNMENT AND SIX OTHERS
..... (RESPONDENTS)

Present: Syed Hamza Gilani Advocate for appellant
: Akbar Ali, Government Pleader
: Jabir Hussain Advocate for respondent no. 02 to 07

JUDGEMENT
20.01.2021

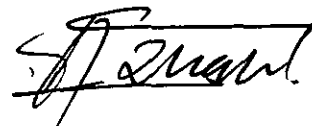
In the suit before the trial court, appellant/plaintiff claimed the ownership of the suit property to be their joint ownership with respondents/defendants no. 2 to 7. That, on partial land, the Provincial Government has constructed a school. That the education department started construction by encroaching the suit property by extending the limits of the school and despite various requests they refused to stop the constructions. Hence, the suit before the trial court. Alongwith plaint an application for the grant of temporary injunction for the subject purpose was also submitted. The trial court vide impugned order dated 27.11.2020 issued notice of the application to the defendants despite they being placed ex-parte earlier. Aggrieved from the same, the appeal in hand is instituted.


(ASGHAR SHAH)
District Judge, Orakzai
at Baber Mela

2. Arguments heard and record perused.

3. From the arguments and record available on file, it reveals that admittedly the respondents/defendants have not joined the proceedings of the trial court and they have not submitted their written statement till date besides the application for temporary injunction is still pending adjudication in the trial court, therefore, any decision on merits on the application of temporary injunction would be amount to pre-empting the powers of the trial court besides the same would prejudice the rights of either party. So, the better course would be let the respondents/defendants to join the proceedings of the trial court by submission of written statement and written reply of the application for temporary injunction whereafter the trial court to decide the application of temporary injunction on merits after hearing counsel for both the parties and the aggrieved party thereafter may approach the competent forum for the redressal. The status quo shall be maintained till 27.01.2021, the date fixed in the trial court and for further status quo the trial court can be approached. Appeal is disposed of accordingly. No order as to cost. File of the trial court be returned while file of this court be consigned to Record Room after its completion and compilation.

Announced
20.01.2021

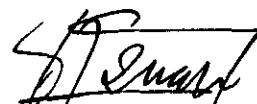


(ASGHAR SHAH)
District Judge, Orakzai
at Baber Mela

CERTIFICATE

Certified that this judgment consists of two (02) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 20.01.2021



(ASGHAR SHAH)
District Judge, Orakzai
at Baber Mela