

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

MISC. CIVIL APPEAL NO. : 8/14 OF 2021
DATE OF INSTITUTION : 20.02.2021
DATE OF DECISION : 18.03.2021

HASHIM ALI S/O MORAN ALI, CASTE STORI KHEL, TAPA TAZI
KHEL, DISTRICT ORAKZAI
.....(APPELLANT)


-VERSUS-

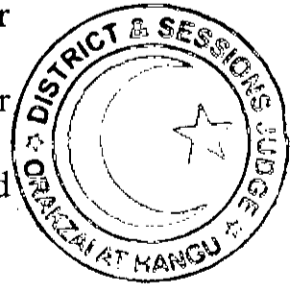
SYED MUHAMMAD AMEER JAAN S/O MIR SYED, R/O STORI
KHEL, BABA NAWASI, DISTRICT ORAKZAI
.....(RESPONDENT)

Present: Syed Muzahir Hussain Advocate for appellant.
: Jabir Hussain Advocate for respondent

JUDGEMENT
18.03.2021

In the suit before the trial court, the appellant/plaintiff claimed ownership in possession in respect of the suit property measuring 07 Kanal and 05 ¼ Marla against the respondent/defendant besides through a separate application requested for issuance of temporary injunction in order to restrain the respondent/defendant either to claim rights or from interference in the suit property. The application after due process dismissed by the trial court through impugned order dated 26.01.2021 hence, the appeal in hand.



(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 for the grant of temporary injunction it is essential

that three of its basic ingredients i.e., prima facie case, balance of inconvenience and irreparable loss must co-exist side by side and even if a single ingredient is missing, no temporary injunction could be granted in such a case. In the instant case, the claim of appellant/plaintiff regarding ownership of the suit property is subject to proof, which proof at the moment is neither available in oral nor in documentary form besides anything which is subject to proof no temporary injunction can be granted in such a case. Moreover, the old record available on the case file is showing that appellant/plaintiff has himself admitted the possession of the suit property with respondent/defendant, thus the same has created very good prima facie case not in favour of appellant/plaintiff but respondent/defendant and any restraining order to the respondent/defendant would amount to deprive him from the enjoyment of his property in his possession as such the balance of inconvenience tilt towards the respondent/defendant and certainly he would suffer irreparable loss if the injunctive order as requested is passed against him.

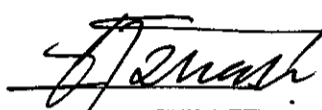
4. Thus, the trial court after considering the case from all the four corners was justified in dismissing the application of appellant/plaintiff submitted for temporary injunction through impugned order dated 26.01.2021. No illegality or legal infirmity in the impugned order of the trial court to the


 (ASGHAR SHAH)
 District Judge, Orakzai
 at Baber Mela



extent of temporary injunction was pointed out. Therefore, the impugned order of the trial court to the extent of temporary injunction stands upheld and the appeal in hand resultantly stand dismissed with no order as to cost. File be consigned to Session Record Room after its completion and compilation.

Announced
18.03.2021



(ASGHAR SHAH)
District Judge, Orakzai
at Baber Mela

CERTIFICATE

Certified that this judgment consists of three (03) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 18.03.2021




(ASGHAR SHAH)
District Judge, Orakzai
at Baber Mela