

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

MISC. CIVIL APPEAL NO. : 7/14 OF 2021  
DATE OF INSTITUTION : 13.02.2021  
DATE OF DECISION : 20.03.2021

SHER MUHAMMAD S/O ISMAIL SHAH, CASTE ISA KHEL/ ALI KHEL, TEHSIL UPPER DISTRICT ORAKZAI AND FIVE OTHERS

.....(APPELLANTS)

**-VERSUS-**

SAID HAKIM S/O SHER AKBAR, R/O KHADIZAI, TEHSIL UPPER DISTRICT ORAKZAI AND ANOTHER

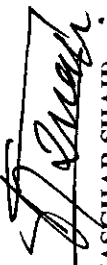
..... (RESPONDENTS)

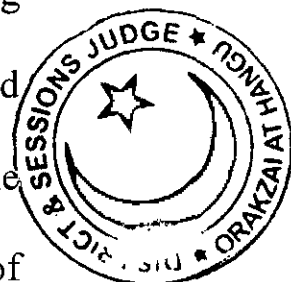
**Present:** Javid Muhammad Advocate for appellants  
: Muhammad Farooq and Hussain Uddin Advocates  
for respondents

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**JUDGEMENT**  
**20.03.2021**


In the suit before the trial court, respondents/plaintiffs claimed declaration, perpetual and mandatory injunction with regard to the suit property of Moza Khadizai consist of forest, streams, mountain etc. An application for temporary injunction for restraining the defendants from interference in the suit property and cutting of trees from the suit forest was also filed. The appellants/defendants contested the suit by submission of written statement besides also filed an application for temporary injunction restraining the respondents/plaintiffs from interference in the suit

  
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property as well as from cutting of trees from the suit forest. The trial court after due process accepted the application of the respondents/plaintiffs through impugned order dated 06.02.2021 and granted temporary injunction in their favour for a period of 06 months or till the disposal of suit whichever is earlier. The impugned order is assailed by the appellants/defendants on various grounds including that their application for temporary injunction is pending adjudication before the trial court whereas that of respondents/plaintiffs have been disposed of in the above manner. In these circumstances when both the parties submitted their respective applications for the grant of temporary injunction, then instead of decision of single application, the trial court was supposed to decide both the applications jointly. At this stage any discussion with regard to the grant or otherwise of temporary injunction in favour of either party would prejudice their case. So, the better course would be let the trial court to decide both the applications whereafter any aggrieved party may approach the appellant forum, if require and desire so.


- (2). Therefore, without touching the other merits of the case, appeal in hand is accepted and impugned order of the trial court is set aside and the trial court is directed to

  
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take both the applications of the parties submitted for temporary injunction and decide them at once. No order is to cost. File be consigned to record room after its necessary completion and compilation.

**Announced**  
20.03.2021

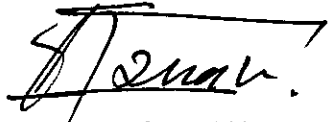
  
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**CERTIFICATE**

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

Dated: 20.03.2021



  
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20/03/21