

Or.....12  
28.07.2021

Presence as before. Through my this single order, I intend to dispose off an application U/O 7-R-11 CPC for the rejection of plaint, filed by the Defendants No. 01 & 02 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 a suit for declaration cum perpetual and mandatory injunction and specific performance of a contract Dated: 02.07.2011 against the defendants to the effect that the plaintiffs and the Defendant No. 01 & 02 jointly gave the property for the construction of the Government Girls Higher Secondary School Kurez, Orakzai, in which one third (1/3) of the land was given by the plaintiffs while the two third (2/3) of the land was given by the Defendant No. 01 & 02. That at the time of the construction of the said school, it was agreed between the parties through elders of the locality and according to the Rivaj of the Qoum through an agreement deed, Dated: 02.07.2011, that Class-IV jobs will be distributed between the parties as 01 job will be given to the plaintiffs while 02 jobs will be given to the Defendant No. 01 & 02. That after the construction of the said school, the merger of FATA took place and the said school devolved within the jurisdiction of the Education Department of KPK and accordingly, the recruitments in the said school begun and the Plaintiff No. 01 submitted an application for recruitment on behalf of the plaintiffs. That now the Defendant No. 03 in collusion with the Defendant No. 01 & 02 are about to recruit/appoint the candidates of the Defendant No. 01 & 02, which is the violation of the agreement deed Dated: 02.07.2011 and the violation of the Qoumi Rivaj. That the aforesaid acts of the defendants are ineffective upon the rights of the plaintiffs and it is very necessary to restrain them from doing the aforesaid acts. That the defendants were asked time and again not to do the aforesaid acts but they refused, hence, the present suit.

②  
Muzamil Hassan  
Civil Judge/JM-4  
Orakzai (Dakshin Mela)

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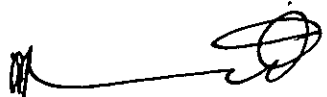
*Muzamil Hassan etc Vs Shah Wali Khan etc*

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that it is an admitted fact that the suit jobs are to be given by the Defendant No. 03, the District Education Officer (DEO), Orakzai and the same not in any of his Private Enterprise rather in a Government Department, fueled by the Public Exchequer and the same through an Advertisement i.e through an open competition, which can be joined by all the Eligible candidates belonging to District Orakzai as per the Advertisement available on case file. Admittedly, the so called agreement deed Dated: 02.07.2011 is between the plaintiffs and the Defendant No. 01 & 02 but ironically about the mandate of the Defendant No. 03 i.e DEO, Orakzai, which has no legal value rather the same is void ab-initio. The object of establishing a school anywhere by spending Public Money is very high and lofty, the educating of the generations. No one can be allowed to hinder that lofty object by acting in a stone age style like the present parties and their elders and the so called Rivaj. Further, the present plaint is an attempt by the plaintiffs to restrain the Education Department to go through the smooth process of recruitment in advance as no recruitment has yet taken place. This is misuse of the jurisdiction of a court and even wastage of the time of the court by filing such frivolous suit. Further, it is not clear as per the file whether the Class-IV vacancies of the said school have been advertised or not. Thus, the bare reading of the plaint does not disclose any cause of action against the defendants rather the same is a frivolous and baseless suit, therefore, the application in hand is Accepted and the plaint of the plaintiffs is hereby Rejected U/O 7-R-11 CPC with costs.

File be consigned to the Record Room after its necessary completion and compilation.

Announced  
28.07.2021

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