

IN THE COURT OF DISTRICT & SESSIONS JUDGE, ORAKZAI
AT BABER MELA

(4)

Case Title: Syed Hamid Hussain etc VS Abbas Fageer etc


Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
Order No.03	03.11.2023	<p>Mr. Abid Ali Advocate for appellants present. Appellant No. 1, Syed Hamid Hussain present in person. Mr. Insaf Ali Advocate present and submitted Wakalatnama on behalf of respondents. Placed on file. Respondents No. 1 and 2 present in person. Counsel for appellants/plaintiffs submitted application to the fact that the respondents/defendants are bent upon raising construction over the suit property in violation of the restraining order of this court and that the spot may be inspected through Bailiff of the court. Placed on file. Arguments heard.</p> <p>In a suit before the learned trial court, the appellants/plaintiffs seek declaration with permanent injunction to the fact that they are owners in possession of the suit property where the predecessors of the respondents/defendants had raised construction with the permission of the predecessor of appellants/plaintiffs vide a written deed dated 26.05.1931. That the predecessors of respondents/defendants are bent upon making further construction over the jointly owned landed property without permission of the appellants/plaintiffs. The suit was accompanied by application for grant of temporary injunction to the fact that respondents/defendants may be restrained from further alienation and raising construction over the suit property. The learned trial court issued ad-interim injunctions to the extent of further alienation of the suit property. Appellants/plaintiffs being aggrieved of the order, filed the instant appeal.</p> <p>I heard arguments and perused the record.</p> <p>It is evident from the record that the application for grant of temporary injunctions is pending before the learned trial court which is yet to be decided on the basis</p>

Shaukat Ahmad Khan
District & Sessions Judge
Orakzai at Baber Mela

26/11/23

5
IN THE COURT OF DISTRICT & SESSIONS JUDGE, ORAKZAI
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		<p>of merits. Any findings on merits may prejudice the case of either of the parties. When the learned counsel for respondents/defendants was confronted with aforementioned situation he conceded the point; however, he submitted that the case is fixed before the learned trial court for 14.11.2023 and that the same may be directed to be fixed the case for early hearing. So far, the application of the appellants/plaintiffs for making inspection of the spot through Bailiff of the court, is concerned, both the counsels for parties agreed that as the case is pending before the learned trial court, therefore, the same may also be moved before the learned trial court for appropriate order.</p> <p>Hence, in view of what is discussed above, without touching the merits of the case, the instant appeal is hereby disposed of with the directions for parties to appear before the court of learned trial court on 02.11.2023. Both the parties are directed to maintain status-quo on the spot till date fixed. Copy of this order be sent to the learned trial court with the directions to requisition the case file on aforementioned date, fixed the same for early hearing and decided the application of appellants/plaintiffs on the basis of merits after obtaining written statement and reply of the application from respondents/defendants.</p> <p><u>Pronounced</u> 02.11.2023</p> <p style="text-align: right;"> (SHAUKAT AHMAD KHAN) District Judge, Orakzai at Baber Mela</p>