

**IN THE COURT OF SHAUKAT AHMAD KHAN**  
**DISTRICT JUDGE, ORAKZAI (AT BABER MELA)**

MISC. CIVIL APPEAL NO. : 27/14 OF 2021  
DATE OF INSTITUTION : 17.12.2021  
DATE OF DECISION : 18.01.2022

TAYYAB KHAN S/O AZRAM KHAN, R/O CASTE MISHTI, TAPA  
HAIDER KHEL, VILLAGE MAMA KHEL, TEHSIL UPPER, DISTRICT  
ORAKZAI

.....(APPELLANT)

-VERSUS-

1. AGHA JAAN S/O NOOR ABAT KHAN,
  2. KHAISTA AKBAR S/O KHIAL AKBAR
  3. MASTAN AKBAR S/O KHIAL AKBAR
  4. ABDUL FAYYAZ S/O KHIAL AKBAR
  5. MULTAN AKBAR S/O KHIAL AKBAR
  6. MALAK KHAN S/O QADAM KHAN
- ALL RESIDENTS OF CASTE MISHTI, TAPA HAIDER KHEL, TEHSIL  
UPPER, DISTRICT ORAKZAI

..... (RESPONDENTS)

**Present:** Mr. Sana Ullah Khan Advocate for appellant  
: Mr. Zahoor Ur Rehman Advocate for respondents

**JUDGEMENT**

18.01.2022

Impugned herein is the order dated 17.11.2021 of the  
learned Civil Judge-I, Orakzai passed in civil suit No. 30/1 of  
13.02.2021, titled "TAYYAB KHAN VS AGHA JAAN"  
vide which application of appellant/plaintiff for grant of  
temporary injunctions has been turned down.


2. As per contents of plaint in civil suit titled above,  
appellant/plaintiff seeks declaration-cum-perpetual  
injunctions to the fact that he is owner in possession of suit  
plot detailed in the headnote of the plaint while the  
respondents/defendants, without having got no concern with  
the suit plot, are bent upon making interference and forcefully

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occupying the same. The respondents/defendants submitted written statement wherein they contended that they are owners in possession of the suit plot while the appellant/plaintiff has got no concern with the same.

3. The plaint was accompanied by application for grant of temporary injunctions wherein the appellant/plaintiff seeks the respondents/defendants to be restrained from making interference in the suit plot. The respondents/defendants through a written reply contested the application. The learned trial court, after having heard the arguments, turned down the application; hence, the present appeal.


4. I heard arguments and perused the record. Perusal of the case file reveals that the appellant/plaintiff claims himself to be exclusive owner of the suit plot with actual possession of the same, since his forefathers. On the other hand, the respondents/defendants have also come with the same contention claiming themselves as owner in possession of the suit plot. None of the parties has any documentary evidence in support of his contentions with respect to ownership or possession of suit plot. Both the parties have got adjacent house/property to the suit plot i.e., the suit plot, as per site plan annexed with the plaint, on its southern side, is bounded by the house of appellant/plaintiff while towards the northern side, the suit plot is bounded by the house/property of respondents/defendants. None of the parties has

  
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preponderance of evidence on the basis of available record tilted in its favour to establish prima facie case, balance of convenience and irreparable loss. In these circumstances in order to avoid occupation of the suit plot by either of the party in the garb of acceptance or rejection of the application for grant of temporary injunctions, the best suitable mode to preserve the subject matter of suit is, to maintain the status quo on the spot by both the parties.

5. Hence, in view of what is discussed above, the impugned order dated 17.11.2021 of learned Civil Judge-I, Orakzai is set aside. Both the parties are directed to maintain status quo on the spot for a period of six (06) months or till final disposal of the suit, whichever is earlier. File of this court be consigned. Record be returned to learned trial court with a copy of this order.


**Pronounced**  
18.01.2021

  
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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: 18.01.2021

  
(SHAUKAT AHMAD KHAN)  
District Judge, Orakzai  
at Baber Mela