

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

MISC. CIVIL APPEAL NO. : 1/14 OF 2022
DATE OF INSTITUTION : 03.01.2022
DATE OF DECISION : 09.02.2022

1. AYAZ ALI KHAN S/O TAJ ALI KHAN
 2. MUHAMMAD ASHRAF S/O AZMAT KHAN
 3. MUHAMMAD RAHEEL KHAN S/O AZMAT KHAN
 4. AYYUB KHAN S/O AWAL KHAN
 5. NIAZ WALI KHAN S/O MUHABBAT ALI KHAN
 6. SHAMEET KHAN S/O GUL MAT KHAN
 7. MUHAMMAD AYYUB KHAN S/O DASTAR KHAN
- ALL RESIDENTS OF CASTE BALAND KHEL, TAPA SALMAT KHEL, DISTRICT ORAKZAI

.....(APPELLANTS)

-VERSUS-

1. SHADEEM KHAN S/O GUL BAS KHAN
2. EID AZAD S/O GULDAR KHAN
3. AZWAR KHAN S/O SHEEN AZAR
4. SHER KHANDAN S/O SHADI KHAN
5. ABDUL SALAM S/O MIWA KHAN
6. ABDULLAH S/O MUHAMMAD JAAN
7. SHEHZAD KHAN S/O KHADIM KHAN

ALL RESIDENTS OF CASTE BALAND KHEL, TAPA MASTI KHEL, DISTRICT ORAKZAI

8. MUHAMMAD RAEES KHAN S/O PEER TAHIR SHAH
9. ABDUL SAMAD S/O BURHAN UDDIN
10. ILHAM UDDIN S/O IBRAHIM KHAN
11. KAMIL BADSHAH S/O ZAMEER BADSHAH
12. SAMEEN BADSHAH S/O MIR SALEEM SHAH
13. AKBAR DIN S/O ASHRAF UDDIN
14. MOEEN UDDIN S/O WAJID SHAH
15. NAWAB KHAN S/O NASEEM SHAH
16. MUHAMMAD DIN SHAH S/O LAIQ SHAH

ALL RESIDENTS OF CASTE BALAND KHEL, TAPA PEERAN, DISTRICT ORAKZAI

..... (RESPONDENTS)

Present: Muhammad Abid Wazir and Khusheed Alam Advocates for appellants
: Mr. Shoaib and Malak Jawad Advocates for respondents no. 1 to 7

JUDGEMENT
09.02.2022

Impugned herein is the order dated 26.11.2021 of learned Senior Civil Judge, Orakzai passed in civil suit no. 31/1 vide which application of Gul Payao Khan and five (05) others has

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been accepted for their impleadment as defendants in the suit as representative of Caste Baland Khel.

- (2). Through a suit before the trial court, the appellants/plaintiffs seek declaration and possession of the suit property on the grounds, that the respondents/defendants no. 1 to 7 have encroached 15 gaz of land transferred to the appellants/plaintiffs by respondents/defendants no. 8 to 16 as a result of demarcation between appellants/plaintiffs and respondents/defendants no. 8 to 16. That as a result of construction of a new road in the land of appellants/plaintiffs, the respondents/defendants no. 1 to 7 are bent upon occupying 08 kanals land of the appellants/plaintiffs on one side of the road.

The respondents/defendants no. 1 to 7 contested the suit on the grounds, that they are owners in possession of the suit land vide sale deed no. 393 of 2019.

During the course of proceedings, Gul Payao Khan and five others submitted application for their impleadment in the suit in the panel of defendants being representative of caste Baland Khel on the grounds, that they are necessary parties to the suit.

The application was accepted vide impugned order of the learned trial court.

The appellants/plaintiffs, being aggrieved of the impugned order, filed the present appeal.


- (3). I heard arguments and perused the record.

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(4). Perusal of case file shows that as per impugned order of the learned trial court, Gul Payao Khan and five others, as representative of caste Baland Khel, have been directed to be impleaded in the panel of defendants and the said order has not yet been set aside, reversed or modified; however, the memorandum of appeal shows that the said impleaded defendants are not arrayed as respondents in the memorandum of appeal. The application for impleadment of the above-named defendants as respondents in the memorandum of appeal, has also been withdrawn by the counsel for the appellants/plaintiffs on previous date. Similarly, the contents of the memorandum of appeal are also ambiguous.

(5). Hence, without touching the merits of the case, the instant appeal is dismissed. File of this court be consigned to Record Room while record be returned. Copy of this judgment be sent to the trial Court for information.


Pronounced
09.02.2022


(SHAUKAT AHMAD KHAN)
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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: 09.02.2022


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

