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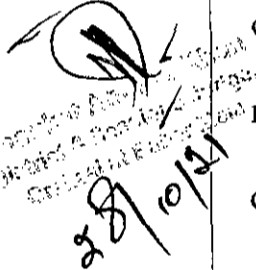
IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA

Case Title: Haji Toor Khan etc vs Haji Akbar 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
Superintendent Note	25.10.2021	<p>Civil Misc. Appeal presented through counsel, Khurshid Alam Advocate to the office of Superintendent. Be put up before Hon'ble District Judge, Orakzai, for further orders, please.</p> <p style="text-align: right;">  (SUPERINTENDENT) To District Judge, Orakzai at Baber Mela. </p>
Order No.01	25.10.2021	<p>Register. Counsel for the appellant present. Preliminary arguments heard. Points raised need consideration. Appeal is admitted for full hearing. Notice be issued to the respondents for 28.10.2021. Meanwhile, status quo be maintained on the spot till date fixed.</p> <p style="text-align: right;">  (SHAUKAT AHMAD KHAN) District Judge, Orakzai at Baber Mela </p>
Order No.02	28.10.2021	<p>Appellants no. 1 and 3 alongwith their counsel present. Respondent no. 2 and 3 present in person. Respondent no. 1 has been not present despite being served through his brother while notice in the name of respondent no. 4 returned unexecuted. Counsel for the appellants heard at some length. Both the parties heard in person.</p>

Shaukat Ahmad Khan
 District & Sessions Judge
 Orakzai at Baber Mela
 28/10/21


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		<p>The appellants through a civil suit before the court of Senior Civil Judge, Orakzai have sought declaration with injunctions to the fact that the appellants/plaintiffs are owners in possession of the suit property detailed in the headnote of plaint while the respondents despite having got no concern with the suit property, are bent upon passing a road in the suit property. The plaint was accompanied by application for grant of temporary injunctions. The learned SCJ, Orakzai after admitting the case for hearing issued notice of the application to the respondents/defendants instead of passing restraining order, vide impugned order dated 22.10.2021. The appellants/plaintiffs being aggrieved of the order filed the instant civil appeal.</p> <p>Learned counsel for the appellants/plaintiffs submitted that appellants/plaintiffs have got prima facia case and that the factums of the balance of convenience and irreparable loss also tilt in favour of the appellants/plaintiffs. However, when the learned counsel for appellants/plaintiffs was confronted with the situation that the application for grant of temporary injunctions is pending before the trial court where the prima facia case and the other ingredients for grant of temporary injunction would yet to be decided on merits, he conceded</p>

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		<p>the point that any findings regarding merits of the case would prejudice merits of the case before the learned trial court. On the other hand, the present contesting respondents/defendants conceded at the BAR that they would appear before the learned trial court on date fixed and till then they have got no objection if the status quo is ordered to be maintained on the spot.</p> <p>Hence, in view of what is discussed above, on acceptance of the instant appeal, the impugned order dated 22.10.2021 of learned SCJ, Orakzai is set aside. Status quo be maintained on the spot till 03.11.2021, the date fixed before the learned trial court. Parties are directed to appear before the learned trial court on date fixed. Needless to mention that the learned trial court would decide the fate of the application for grant of temporary injunctions on the basis of merits. Consign. Copy of this order be sent to the trial court for information and compliance.</p> <p><u>Pronounced:</u> 28.10.2021</p> <p style="text-align: right;"> (SHAUKAT AHMAD KHAN) District Judge, Orakzai at Baber Mela</p>