

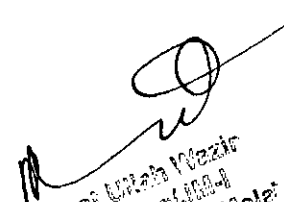
(6)

Or.....09
27.11.2021

Complainant alongwith counsel present. Inquiry Report is submitted by the SHO concerned. The counsel of the complainant was directed to argue the complaint in the light of the inquiry report, who argued the same in detail.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that the instant complaint was filed by the complainant u/s 133 Cr.P.C on the ground that there was a public road/thoroughfare in the shape of a road towards their houses which has been in their use for a long time since the age of their ancestors. That now the respondents have blocked the same by putting stones over the same, which have caused inconvenience to the complainant and all the other co-villagers and has become a public nuisance. Firstly, the counsel for the complainant objected over the inquiry report submitted by the SHO, which was not in favor of the complainant, therefore, the same was rejected vide order no. 04, Dated; 01.06.2021 and the SHO concerned was directed to conduct fresh inquiry and submit his report. Secondly, after the fresh inquiry, the finding of the SHO in his inquiry report is that the disputed thoroughfare is the ownership of the respondents and can be used only by the pedestrians and it is not a public thoroughfare and cannot be used as a road for the transport of vehicles and the same is also made by the respondent upon his personal expenses.


Rohmat Ullah Wazir
Civil Judge (M.A.)
Ordnal of Gabag Mela

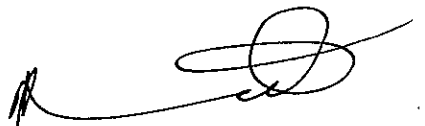
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The first and the foremost thing which the court observed is that the road/thoroughfare of the respondents may be creating nuisance but not for the public at large, which is the mandate and very object of the section 133 Cr.P.C. The Magistrate is empowered under the aforesaid section only if a nuisance is disturbing the public tranquility. He has to see whether a particular act/omission etc is causing hindrance and danger to the public at large or not. But in the present case, the disputed thoroughfare is the ownership of the respondents and can be used only by the pedestrians and the public at large has nothing to do with the same and a Magistrate u/s 133 Cr.P.C has got no powers to settle such like disputes in such a summary manner rather the complainant may approach the proper forum for redressal of his grievances. Thus, in the light of the aforesaid findings, the instant complaint is dismissed being non-maintainable.

It is pertinent to mention here that the counsel for the complainant once again submitted today an application for rejection of the inquiry report and requisition for a fresh inquiry and report but the same is dismissed being flimsy and non-maintainable.

File be consigned to the record room after its necessary completion and compilation.

Announced
27.11.2020


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