

Or.....07
23.02.2022

Presence as before. Through my this single order, I intend to dispose of an application for the grant of temporary injunction filed by the plaintiffs against the defendants.

This application was strongly contested by the other party by filing replication and arguments thereto.

Arguments heard and record perused.

After hearing of arguments and perusal of the record, I am of the opinion that for the grant of temporary injunction, one will have to establish prima facie case, balance of convenience and irreparable loss in his favour. The plaintiffs have filed the instant suit for declaration cum perpetual and mandatory injunction to the effect that the defendants are building a small dam in the area of the plaintiffs without their permission which is likely to cause damage to the houses of the plaintiffs and likely to block the thoroughfare of the plaintiffs leading to their houses. But during arguments, it is revealed that the defendants are building dam by blocking a stream for irrigation of the downstream area and for saving the coal reserves in the area while the houses of the plaintiffs are situated at a height of some 100 feet above on a mountain and aside of the small dam. All the streams located anywhere is legally the property of the irrigation department for the object of public welfare. We are living in a country where there is already a short of water reserves and by now we are facing severe drought of water. We need building water reservoirs on war footing basis. So far as, the blockage of the thoroughfare of the plaintiffs is concerned, it is revealed during arguments that the same was through the stream which is now to be filled with water and would be the catchment area of the suit dam but the same stream is the property of the irrigation department, thus, the same cannot be claimed as a right. Thus, in the light of the aforesaid findings, the plaintiffs failed to establish their claim prima facie what to say of the balance of convenience and irreparable loss.

Further, in the light of the aforesaid findings, I would not hesitate to hold that in the present circumstances, the plaintiffs have got
Continue


Rahman Ullah Memon
Civil Judge (J-1)
Orakzai (Rahay Mela)

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Gulab Vs Secretary Irrigation

Or.....07

Continued

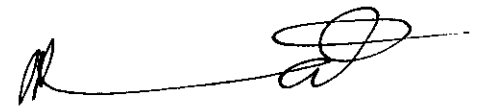
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no cause of action against the defendants, therefore, while disposing the application for the grant of temporary injunction, the plaint of the plaintiffs is hereby rejected being not disclosing any cause of action against the defendants with costs.

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

Announced

23.02.2022



(Rehmat Ullah Wazir)

Civil Judge-I,
Orakzai (at Baber Mela)