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

MISC. CIVIL APPEAL NO. : 5/14 OF 2022
DATE OF INSTITUTION : 18.04.2022
DATE OF DECISION : 11.05.2022

ABDUL WAHAB S/O KHIAL SHAH, R/O CASTE MALA KHEL,
TAPA AZIZ KHEL, VILLAGE FARID KHAN GARHI, TEHSIL
UPPER, PO GHILJO, DISTRICT ORAKZAI

.....(APPELLANT)

-VERSUS-

1. IBRAHIM S/O ABDUL RASHID
2. ABDUL RASHID S/O KHIAL SHAH
BOTH RESIDENTS OF CASTE MALA KHEL, TAPA AZIZ KHEL,
VILLAGE FARID KHAN GARHI, TEHSIL UPPER, PO GHILJO,
DISTRICT ORAKZAI

..... (RESPONDENTS)

Present: Abid Ali Advocate for appellant.
: Sana Ullah Khan Advocate for respondents.

JUDGEMENT

11.05.2022

Impugned herein is the order dated 17.03.2022 of learned Civil Judge-I, Orakzai passed in civil suit no. 110/1 vide which application of the appellant/plaintiff for grant of temporary injunctions has been dismissed.

- (2). Through a suit before learned Civil Judge-I, Orakzai, the appellant/plaintiff has sought declaration-cum-perpetual injunctions to the fact that appellant/plaintiff is owner in possession of a land measuring 12 Marlas named as Sandali situated at Farid Khan Ghari, detailed in the headnote of the plaint vide a partition deed dated 16.12.2020 while the respondent/defendant, being in possession of his due share, has got no right to make construction upon the property of the appellant/plaintiff. As per averments of the plaint, the

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(3). I heard arguments of learned counsels for the parties and perused the record.

(4). Perusal of case file shows that as per pleading of the parties, it is admitted on record that appellant/plaintiff and respondents/defendants are brothers inter se. It is also admitted on record that they alongwith their other brothers have inherited the suit property from their predecessor jointly owned by them. The partition deed dated 16.12.2020 has also not been denied by the respondents/defendants in their written statement. So far possession of the suit property is concerned, both the parties have adverse claims i.e., each is claiming himself in actual possession of the same. In these circumstances, when the question of possession is not clear deciding the application for grant of temporary injunctions, in either way, may lead to complicated and multiplication of proceedings, therefore the best course in such like circumstances, is to maintain status-quo on the spot. When counsels for the parties were confronted with the aforementioned situation, they agreed that let the status-quo be maintained on the spot and both the parties may be restrained from making construction over the same.

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(5). Hence, in view of what is discussed above coupled with the consent of both the counsels for parties, the impugned order dated 17.03.2022 of the learned Civil Judge-I, Orakzai, is set aside. The application for grant of temporary injunctions is disposed of with the directions that both the parties shall

maintain status-quo on the spot for a period of 06 months till final disposal of the suit, which is earlier. File of this court be *consigned to RR* with a copy of this judgment to learned trial court for information and compliance.

Pronounced
11.05.2022



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



CERTIFICATE

Certified that this judgment consists of four (04) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 11.05.2022



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