

6

IN THE COURT OF ADDITIONAL SESSIONS JUDGE ORAKZAI, AT BABAR MELA

Civil Misc. Petition No. 01/06 of 2022

Date of institution: 01.06.2022

Date of decision: 18.07.2022

Bilal Khan Vs Siyal Khan

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
Order	18.07.2022	<p>Mr. Khursheed Alam Advocate for petitioner and Mr. Abid Ali Advocated for respondent are in attendance. Arguments heard; whereas, this is the disposal of captioned Civil Misc. petition.</p> <p>2. Brief facts are such that CM Appeal bearing No. 3/14 of 2022 has been preferred by the petitioner against the Order passed by learned Senior Civil Judge, Orakzai in Civil Suit; whereby, the Court has refused grant of temporary injunction to the plaintiff. This Civil Misc Appeal was disposed of vide Order No. 6 dated 10-05-2022, which is reproduced herein below for ease of reference.</p> <p><i>“The case file is fixed for arguments but learned counsel representing parties had agreed non-alienation or transfer of property in dispute till final disposal of civil suit. They have requested that Civil Misc. Appeal may be disposed of accordingly. Statement of respondent recorded and placed on file. Pending civil Misc. Appeal is being disposed of in terms of mutual agreement. Copy of this file be placed on file and record be returned back to the quarter concerned; whereas, file of this Court be consigned to District Record Room on completion as prescribed.”</i></p> <p>3. Instant contempt petition has been presented with the stance that the respondent being defendant in original suit has already been restrained in CMA No. 3/14 of 2022 not to alienate the property. He has violated the order of the Court by ploughing through tractor in the disputed area that attracts contempt of Court proceedings. It has been added that copies of criminal proceedings annexed to the petition are sufficient proof of the violation of the Court Order.</p> <p>4. Respondent on appearance contended in reply</p>


SAYED FAZAL WADOOB
Addl: District & Sessions Judge
Orakzai at Hangu

that the Order under reference was regarding restriction over further alienation and has not been violated. The disputed property is in his possession and he is cultivating the same as no injunctive order is in field regarding cultivation.


5. Learned counsel for petitioner argued that violation of Court Order has been proved from security proceeding under Section 107/151 of the Code of Criminal Procedure, 1898. The respondent is liable to be proceeded for contempt of Court.

6. Learned counsel representing respondent opposed by stating that the order of Appeal Court dated 10-05-2022 was passed on mutual agreement and mere alienation of disputed property was restricted. The respondent has neither transferred nor alienated the suit property and thus no violation of order can be surfaced. He added that no injunctive order has been passed by any Court that may be inferred for prohibiting cultivation of property in dispute.

7. The bare reading of Order No. 6 dated 10-05-2022, passed in CMA No. 3/14 of 2022 as reflecting that it was based on mutual agreement of the parties regarding non transfer of the property. The property is admittedly neither transferred nor alienated and thus no violation of Court Order is being surfaced.

8. In the light of above discussed facts and circumstances of the case, the matter agitated has having no substance for further proceeding and thus non maintainable. Consequently, petition under adjudication stands dismissed. Cost shall follow the events. File be consigned to the District Record Room after necessary completion and compilation with the span allowed for; whereas, record to be returned with copy of this Order.

9. Announced in open Court.
18.07.2022


Sayed Fazal Wadood,
AD&S.J, Orakzai at Baber Mela