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Janab Khan and one other Vs C & W and one other

Order...01

25.01.2024

Case file remanded back Vide Order dated: 17.01.2024 by the Worthy District and Sessions Judge, Orakzai. It be registered.

Plaintiff No.02 in person along with counsel present.

Defendant No.02 through junior counsel present.

Perusal of record transpires that the instant case is remanded back on the score of determination of pecuniary jurisdictions in the instant suit. Thus, it be fixed for arguments on next date.

File to come up for arguments on maintainability of the instant suit on 30.01.2024.

Sami Ullah
Sami Ullah
Civil Judge-I,
Orakzai (at Baber Mela)

Order...02

30.01.2024

Present:

Plaintiff in person alongwith counsel.

Defendant No.1 through district attorney.

Defendant No.2 in person alongwith counsel.

1. This order is directed to dispose of the instant suit which was remanded back from appellate forum on the score of maintainability on point of pecuniary jurisdiction of this trial court.
2. Brief facts of the case are that plaintiffs filed the instant suit for declaration, permanent & mandatory injunction to the effect they are owner in possession of suit property (fully detailed in the head note of the pliant) since the time of their ancestors. Plaintiffs in their plaint further asserted that the defendants are constructing Ghiljo to Dabori road which passes in front of their property, in which some portion of their property has been taken for the said purpose without acquiring it legally. The plaintiffs further asserted that around 200 Marlas land of the plaintiffs is used by defendants for construction of the said road. Alongwith deceleration and permanent injunction the plaintiffs have sought compensation of Rs.50,000,000/- (Fifty Million) in prayer
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Sami Ullah
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Civil Judge/JM-I
Orakzai (at Baber Mela)

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Bay. Plaintiffs alleged in their plaint that defendants were time and again asked to legally acquire their property and pay compensation in that respect but of no avail. Hence, they filed the present suit.

3. The suit was previously decided Vide Order No.23 Dated 24.10.2023 of this court and ex-parte partial decree up to the extent of declaration only was granted in favour of the plaintiff. The plaintiff preferred an appeal against the partial decree and respondents have agitated the point of pecuniary jurisdiction of this court in appeal. Resultantly, the ex-parte decree was set aside and case was remanded back vide order dated 17.01.2024 of Hon'ble DSJ, Orakzai, with directions to hear the parties on the point of pecuniary jurisdiction.
4. Arguments on maintainability of the instant suit is heard from counsel of the plaintiff, defendant No.2 and district attorney on behalf of defendant No.1.
5. After perusal of case file and relevant Laws, this court is of the view that one of the reliefs sought in prayer-Bay of the instant suit is recovery of Rs.50,000,000/- (Fifty Million only), which exceeds the pecuniary Jurisdiction of this court.
6. The amendment made in Section (6) (a) of CPC, 1908 through the Khyber Pakhtunkhwa Code of Civil Procedures (Amendment) Act, 2020 reads as follow;

Pecuniary Jurisdiction, --- Save in so far as is otherwise expressly provided, all civil suit shall be filed in the following manner, namely:

- a. *Where the amount or value of the subject matter of the suit is below rupees fifty million, the suit shall be filed in the court of Civil Judge, as may be prescribed by the High Court; and*
- b. *Where the amount or value of the subject matter of the suit is rupees fifty million or above, the suit shall be filed in the court of District Judge, as may be prescribed by the High Court."*

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 Civil Judge/JM-I
 Orakzai (Babar Mela)


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7. Keeping in view the above discussion, this court lack jurisdiction to entertain the instant suit as per section of Law mentioned above. Therefore, suit in hand is not maintainable in this court. Resultantly, original plaint be returned to the plaintiff for its presentation to the Court/forum having jurisdiction in the matter with an endorsement of its return with red ink. Copy of plaint be placed on case file.
8. File be consigned to record room after its necessary completion and compilation.

Announced
30.01.2024


Sami Ullah
Civil Judge-I,
Orakzai (At Baber Mela)