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Contractor Anwar Khan Afridi Vs Janab Ali and one other

Order...07

30.01.2024

Present:

Petitioner in person alongwith counsel.


Respondent No.1 & 2 through counsel.

Respondent No.3 through district attorney.

1. Today the case was fixed for reply of the instant petition by respondent No.3 and maintainability of the instant petition.
2. This order is directed to dispose of the instant petition on maintainability.
3. Brief facts of the instant petition are that petitioner has filed the instant petition u/s 12(2) CPC, for setting aside ex-parte decree passed in Civil Suit No.24/1 of 2023 Dated 24.10.2023 for the reason that the decree has been passed based on fraud and misrepresentation.
4. Perusal of case file reveals that the decree which was impugned through the instant 12(2) petition has already been set aside vide order dated 17.01.2024 of Hon'ble DSJ, Orakzai, and the case was remanded back to this court for determination of maintainability of that Civil suit. Maintainability of the civil suit regarding which the instant petition has been filed has already been decided today and the case filed is returned to plaintiff within the meaning of order 7 Rule 10, CPC, 1908.
5. As the suit has been returned in maintainability and before that the decree passed was set-aside by appellate forum, the instant petition under section 12(2), CPC, 1908 stand infructuous. Therefore, the instant petition is **Dismissed** being not maintainable in the present circumstances.
6. 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)