

(18)

N/R P O is on Station Leave.

8/9/22

File be put up on 15.09.2022.

Or.....33
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Presence as before.

Through my this single order, I intent to dispose off an application for the grant of temporary injunction, filed by the plaintiffs against the defendants.

This application was strongly contested by the defendants by filing replication and forwarding 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 claim of the plaintiffs is that they are the exclusive owners of the suit property but the defendants have taken illegal possession of the same and have started construction over the same.

During arguments, the counsel for the defendants submitted a notification Dated: 09.04.2021, under sec. 04 of the Land Acquisition Act, 1894 issued by the Deputy Commissioner, Orakzai as a Land Acquisition Collector for the District, whereby the suit land has been taken for "Defense works construction, training and accommodation of troops, Headquarter Orakzai Scouts, Kalaya". There are other documents in the shape of Iqrar Nama for sale of the suit property from the owners of the same including 02 of the present plaintiffs and the order of the Land Acquisition Collector, Orakzai whereby a Quomi Commission has been constituted for the determination of the ownership and price of the suit land and resultantly, the opinion of the said Quomi Commission is also annexed.

Continue.....

REHMAT ILLAH WAZIR
Senior Civil Judge/JM
Orakzai at Baber Mela

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Case Title: Tale-U-Din etc VS DC, Orakzai etc

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It is pertinent to mention here that one of the plaintiffs namely Tale-U-Din stated at the bar during arguments that the dispute is now only to the extent of its price and not something else, meaning thereby that as per the documents provided by the defendants, there is no dispute w.r.t the title of the suit property rather it is only to the extent of the quantum of its price.

There is complete scheme of the things provided by the Land Acquisition Act, 1894. An objector/aggrieved party is legally supposed to move the office of the collector for continue reference of the objection to the referee court provided by the Sec. 18, 30 and 52 of the Ibid Act. But in the present case, the plaintiffs have never bothered to act upon the mechanism provided by the Ibid Act rather they have directly approached to this court but the court of the undersigned is lacking jurisdiction in the present issue. Guidance in this respect is derived from YLR 2009, Peshawar, Page 1402, YLR 2010, Karachi, Page 247 and MLD 2005, Lahore, Page 168.

In view of the above findings, I am of the opinion that the present suit is barred by the afore-mentioned legal provisions, hence, while deciding the application for temporary injunction, the plaint of the plaintiffs is **rejected u/o 7-R-11 CPC with costs.**

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

Announced
15.09.2022


(Rehmat Ullah Wazir)
Senior Civil Judge,
Orakzai (at Baber Mela)