

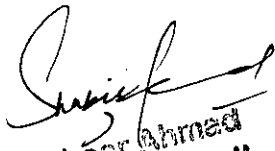
Or-----13

29.11.2022

Parties present.

Through this single order I intend to dispose of an application, for rejection of plaint under Order 7 Rule 11 CPC filed by the defendant no. 2.

Brief facts of the case are that plaintiff has filed a recovery suit of Rs. 650,000/- against defendants that plaintiff has suffered injuries and his vehicle was damaged during a fight between defendants. That plaintiff is a pickup driver and son of defendant no. 1 booked his pickup for grocery to Masud Pakha (مسعود پکھا). That when plaintiff reached Masud Pakha, a fight broke between defendants. That plaintiff tried to reconcile between defendants but Fazal Rafiq son of Fazal Hanan hit his vehicle with Kalashnikov and his leg also broke due to hitting of stones. That police also took his vehicle in possession and he got back the vehicle on superdari after 02 months. That the plaintiff was earning Rs. 3000/3500/- per day on the said pickup. That the plaintiff also spent a lot of money on treatment. That the plaintiff also spent almost above 02 lacs on courts proceedings. That thereafter Khatteb of Jamia Masjid and Ameer of Tableeghi Markaz namely Nooran Gul patched up the matter between parties and a compromise deed was signed between the parties. That plaintiff was earning Rs. 3500/- per day on pickup and as ^{pick up} was in police possession for 02 months, he suffered a monetary loss of Rs. 210,000/-. That now defendants are liable to pay him an amount of Rs. 650,000/-. That defendants were asked time and again to pay the said amount, but they refused to pay, hence, the present suit.


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29/11/2022
Orakzai District Court

Defendants were summoned who appeared and defendant no. 1 filed a cognovit in favor of plaintiff while defendant no. 2 filed written statement and an application under Order VII Rule 11 CPC for rejection of plaint on grounds that plaintiff has got no

cause of action against defendant no. 2. Plaintiff filed replication to Order VII Rule 11 CPC.

Arguments heard and record of case file gone through.

As per law, plaint can only be reject when it does not disclose a cause of action or relief claimed is under value or plaintiff fails to correct the valuation in-spite directions of the court or that plaint is written upon insufficient stamp papers or suit is barred by law:


Claim of the petitioner/defendant no. 1 is that the plaintiff has got no cause of action and suit of plaintiff is liable to be rejected under Order VII Rule 11 CPC.

Perusal of record transpires that FIR of the said occurrence was lodged on 06.09.2021 vide FIR No. 28 against Fazal Rafiq and Fazal Karim both sons of Fazal Hanan. Fazal Rafiq was acquitted by court of learned SCJ/JM, Orakzai vide order dated 28.06.2022, wherein order of learned court was based on that prosecution failed to bring home the guilt of the accused facing trial. While the co-accused namely Fazal Karim son of Fazal Hanan is still behind the bars and is on trial for the said offence. The compromise deed attached with the plaint also has no name of the plaintiff as a party. Moreover, Fazal Hanan, the present defendant no. 2 was not implicated in the FIR of the said occurrence.

On what has been discussed above, the plaintiff failed to disclose any cause of action against the defendant no. 2, therefore, the application is allowed and plaint is **rejected** under Order VII Rule 11 CPC. Costs shall follow the event.

File be consigned to District Record Room, Orakzai after its proper completion and compilation.

Announced
29.11.2022


Shabeer Ahmad,
Civil Judge-II,
Tehsil Courts, Kalaya, Orakzai