

**COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

**Case Title: Muqeel Shah VS Shaheen etc**

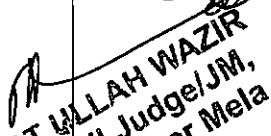
Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order No. 05	30.11.2022	<p>Parties along with their counsel present. Through my this single order I intend to dispose an application for the grant of temporary injunction filed by the petitioner against the respondents.</p> <p>This application was strongly contested by the opposite party by filing replication and forwarding arguments thereto.</p> <p>Brief facts of the case are that; the petitioner filed the instant petition for temporary injunction to the effect that he is the lease holder of 1000 Acre area for coal mining vide license Dated: 03.09.2018. That he began the coal mining as per the approved sketch and spent a huge amount. That now the respondent No. 01 is interfering in the leased area of the petitioner. That he is mining in the area of the petitioner illegally in the garb of a sketch which is prepared through fraud and the same is fake/forged and overwritten sketch and prepared in collusion with the other respondents.</p> <p>Arguments heard and record perused.</p> <p>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 petitioner is that he is the lessee of the suit area and have an approved sketch, according to which he is mining in the area and have spent a huge amount but the respondent No. 01 in collusion with the other respondents have prepared a forged and fictitious sketch and in the garb</p>

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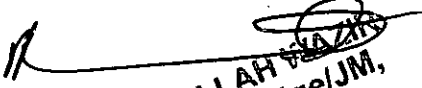
<p>Order No 05 continued</p>	<p>30.11.2022</p>	<p>of the same, he is interfering in the leased area of the petitioner and illegally mining in the same. As per the sec. 56(3) of the Khyber Pakhtunkhwa Minerals Sector Governance Act, 2017, it is provided that “in the event of any unauthorized mining, obstruction, hindrance or interference in the prospecting, exploration or mining operations, the administration of the locality, on the request of the licensing authority, shall take all necessary steps to stop the illegal acts to ensure smooth operations of the holder of the mineral title”.</p> <p>Also, the counsel for the plaintiff submitted today a letter of the even number Dated: 28.11.2022, through which the DG Mines and Minerals, KPK have addresses the AD Mines and Minerals, Orakzai to examine and inquire the claim of the present petitioner about the dispute sketch and the same is yet to be inquired.</p> <p>Further, as per the sec. 102 of the Khyber Pakhtunkhwa Minerals Sector Governance Act, 2017, there is a scheme of things provided for the resolution of such like disputes through licensing authority and then through the appellate authority. Also, sub sec. 06 of the said section clearly ousting the jurisdiction of the court in such like disputes to entertain or adjudicate upon any matter to which the appellate authority under this act is empowered to dispose off or to determine the validity of anything done or an order passed by it.</p> <p>Thus, in the light of the aforesaid findings, the petitioner failed to establish his claim prima facie. What to say of the balance of convenience and irreparable loss. Thus, the three necessary ingredients for the grant of temporary injunction do not favor the petitioner, therefore,</p>
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<p><b>Order No 05 continued</b></p>	<p>30.11.2022</p>	<p>the application in hand is <b>dismissed</b> and the temporary injunction granted earlier is hereby <b>vacated with costs</b>.</p> <p>File be consigned to the record room after its necessary completion and compilation.</p> <p><b><u>Announced</u></b> 30.11.2022</p> <p> (Rehmat Ullah Wazir/JM, Senior Civil Judge/JM, Orakzai at Baber Mela)</p>
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