

**IN THE COURT OF SYED OBAIDULLAH SHAH,**  
**DISTRICT JUDGE, ORAKZAI (AT BABER MELA)**

CIVIL REVISION NO. : 1/12 OF 2024  
DATE OF INSTITUTION : 24.01.2024  
DATE OF DECISION : 08.03.2024

1. HAJI RAHEEM KHAN S/O SHER AFZAL
2. SHAPO KHAN S/O MIR SHAH
3. LAIQ KHAN S/O MUHAMMAD AFZAL
4. HABIB SHAH S/O ISLAM SHAH
5. AQAL SHAH S/O ISLAM SHAH
6. ZAFAR KHAN S/O MUHAMMAD AKBAR
7. ABDUL REHMAN S/O AZRAM KHAN
8. AJMAL KHAN S/O BRANG KHAN
9. KIRAMAT ULLAH S/O AKRAM KHAN
10. KHWAIDAD KHAN S/O WAZIRISTAN
11. SHAN AKBAR S/O SPEEN AKBAR
12. SHAH MUHAMMAD S/O PIAO GUL
13. ABDUL SHAHID S/O NOOR JALIL KHAN
14. PIAO GUL
15. ABDUL SHAHID S/O NOOR JALIL KHAN
16. SHARID S/O MUHAMMAD AKBAR
17. AMEEN AJAB KHAN S/O GUL AKBAR
18. SAJID S/O SHER AFZAL

ALL R/O CASTE MISHTI, TAPA HAIDER KHEL, TEHSIL  
CENTRAL, DISTRICT ORAKZAI

.....(PETITIONERS)

-VERSUS-


1. REHMAN GUL S/O SEEN AKBAR
2. DAMAT KHAN S/O ZARIF KHAN
3. MIRAJ KHAN S/O AJMIR KHAN
4. NOOR SHAHID S/O AJMIR KHAN
5. MUHAMMAD TAHIR S/O ZARIF KHAN
6. ABDUL KHALIQ S/O YAR MUHAMMAD
7. BANARAS KHAN S/O ZARIF KHAN
8. HALEEM GUL S/O SEEN AKBAR
9. FAZAL KHALIQ S/O ABDUL KHALIQ
10. ABDUL KHALIQ S/O ALI AKBAR
11. BAKHTIAR KHAN S/O REHMAN GUL
12. INJIR GUL S/O ZARIF KHAN

ALL R/O CASTE MISHTI, TAPA HAIDER KHEL, TEHSIL  
CENTRAL, DISTRICT ORAKZAI

13. SHO POLICE STATION MISHTI MELA

.....(RESPONDENTS)

**Present:** Mudassir Ijaz Advocate, the counsel for the petitioners.  
Basit Hafeez Advocate, the counsel for respondents no. 2  
to 8, 10 and 12.

  
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District & Sessions Judge  
Orakzai at Baber Mela

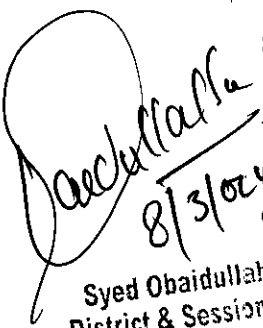
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JUDGMENT

08.03.2024

Impugned herein is the order/judgment dated 02.11.2023 of the learned Civil Judge-II, Tehsil Court Kalaya, District Orakzai vide which application for amendment of the plaint of the petitioners has been dismissed.

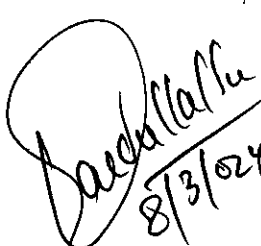
- (2). The petitioners (hereinafter referred to as plaintiffs) through a civil suit before the learned trial court claimed that they are owners in possession of the suit property since the time of their forefathers situated at Gujar Kaley Mishti Tehsil Lower, District Orakzai which is surrounded by the fields of plaintiffs to the east, dwellings of plaintiffs to the west and a road and DHQ Hospital Mishti Mela to the north as outlined in the headnote of the plaint and that a suit pathway has been constructed by the plaintiffs used by them as well as the people of the locality, enclosed from both sides by markets of respondent no. 12. The respondents, who have no legitimate claim to the suit property, are allegedly attempting to seize the fields by constructing over them and obstructing. The respondents were summoned who appeared before the learned trial court and contested the suit by submitting their written statement wherein they besides raising various other legal and factual objections contended that they are owners in possession of the suit property since their forefathers.

  
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(3). The learned trial court, after having heard the arguments on application, dismissed the same. Plaintiffs, considering themselves aggrieved of the impugned judgment/order, filed the instant revision petition.

(4). I heard arguments of the learned counsels for the parties and perused the record.

(5). Perusal of the case file reveals that the plaintiffs submitted an application before the learned trial court contending that the suit pathway is a public passage used by the people of the locality for their conveyance and sought amendment of the plaint as necessary beneficiaries have not been arrayed besides some crucial facts have not been asserted in the plaint. As per averments of the plaint, the plaintiffs categorically claimed the suit property and the suit pathway as their ownership devolved upon them from their ancestors. They further claim to have constructed the pathway for the benefit of the local residents. It is apparent from the record that the plaintiffs are altering their stance through the application submitted before the trial court, thus changing the nature of the suit. Moreover, their application lacks specific details regarding the undisclosed facts for which they deemed it necessary to amend the plaint. Prior to the instant civil suit, the plaintiffs had also filed a complaint u/s 133 CrPC against the respondents on 11.12.2021. However, it was dismissed by the Judicial Magistrate/Civil Judge-I, Tehsil Court Kalaya vide


  
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order dated 06.09.2023. Such conduct on the part of the plaintiffs reveals their malicious intent to entangle the respondents in protracted legal proceedings.

- (6). Hence, in view of what is discussed above, it is held that the impugned order dated 02.11.2023 passed by the learned Civil Judge-II, Tehsil Court Kalaya, District Orakzai, is in accordance with law and does not suffer from any legality or irregularity. Accordingly, the instant revision petition is dismissed.

Judgment announced. File of this court be consigned to Record Room while record be returned. Copy of this judgment be sent to learned trial court for information.

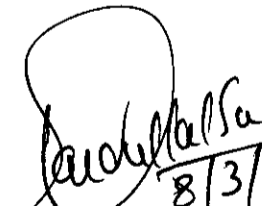
Dated: 08.03.2024

  
8/3/24  
(SYED OBAIDULLAH SHAH)  
District Judge, Orakzai  
at Baber Mela

**CERTIFICATE**

Certified that this judgment consists of four (04) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 08.03.2024

  
8/3/24  
(SYED OBAIDULLAH SHAH)  
District Judge, Orakzai  
at Baber Mela

