

Order...08

15.02.2024

Present:

Plaintiffs through counsel.

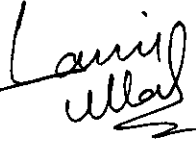
Defendant No.02 and 04 in person along with counsel.

PWs absent.

Today the case was fixed for cross examination of PW-01 to PW-04 but counsel for the plaintiffs submitted an adjournment application. The application is accepted and proceedings are adjourned with one-time opportunity.

Moreover, Notice U/O 17 Rule 3 CPC which was previously issued is extended till next date.

File to come up for cross examination of PW-01 to PW-04 on **23.02.2024.**


Sami Ullah
Civil Judge-I,
Orakzai (at Baber Mela)

Order...09

23.02.2024

Present:

Plaintiff No.01 in person.

Defendant No.02 & 04 in person alongwith counsel.

PWs absent.

Today the case was fixed for evidence of the plaintiffs, but plaintiffs requested for adjournment due to non-availability of witnesses and counsel of the plaintiffs.

Perusal of case file transpires that this court Vide Order No.24 dated 14.04.2023 has dismissed the suit of the plaintiffs due to non-production of their evidence after giving them due notice U/O 17 Rule 3 CPC, and extended the same several time. The plaintiffs preferred an appeal against the dismissal of the suit notice Under Order 17 Rule 03 CPC in the appellate forum and the case was remanded back to this court by providing single opportunity to the plaintiffs for production of their evidence on 11.11.2023. Since then
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Sami Ullah
Civil Judge/JM-I
Orakzai (at Babar Mela)

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the plaintiffs have requested for adjournments on one pretext and another. This court again gave Notice Under Order 17 Rule 03 CPC for production of evidence and was extended for several times but of no avail. Even today the plaintiffs failed to produce their witnesses. In this situation, the court is left with no other option but to proceed with the case accordingly, after grant of several opportunities to the plaintiffs. Therefore, the plaintiffs lost their right of evidence due to non-compliance of order 17 Rule 3 CPC.


Reliance is placed on 2020 SCMR 300, and the relevant portion reads is under;

“The order to close the right to produce evidence must automatically follow failure to produce evidence despite last opportunity coupled with a warning. The trend of granting (Akhri Mouqa) then (Qatai Akhri Mouqa) and then (Qatai Qatai Akhri Mouqa) make a mockery of the provisions of law and those responsible to interpret and implement it. Such practices must be discontinued, forthwith.”

Thus, in these circumstances the suit of the plaintiffs is hereby **Dismissed** for non-production of evidence and non-compliance of Notice U/O 17 Rule 3 CPC.

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

Announced:
23.02.2024


Sami Ullah
Civil Judge-I,
Orakzai (at Baber Mela)