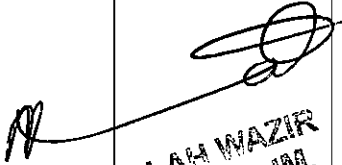


17

COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA


Case Title: _____ VS _____

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	29.11.2022	<p>Presence as before. Through my this single order, I intend to dispose off an application for rejection of plaint U/O 7-R-11 CPC, filed by the defendant No. 06 & 07 against the plaintiff.</p> <p>This application was strongly contested by the other party by filing replication and forwarding arguments thereto.</p> <p>Brief facts of the case are that the plaintiff filed the instant suit for declaration-cum-perpetual and mandatory injunction against the defendants to the effect that he is the lease holder of the suit area vide notification MDW/ORAKZAI/ML/COAL(01)/2020 and have been allotted an area of 800 Acre for coal mining and he is mining in the said area under the said lease. But the defendants are interfering in the mining without any legal justification and obstructing the smooth mining of the plaintiff. That the defendants No. 06 & 07 are illegally harassing the plaintiff through applications of the defendant No. 01 to 05. That these acts of the defendants are illegal, ineffective upon the rights of the plaintiff and liable to be restrained.</p> <p>Arguments heard and record perused.</p> <p>After hearing of arguments and perusal of the record, I am of the opinion that the main object of the present suit is the stoppage of the interference of the defendants in the coal mining of the plaintiff but according to Sec. 56(3) of the KPK Minerals Sector Governance Act, 2017, it is the local administration which is empowered to take all necessary steps to stop the illegal acts to ensure smooth operations of the holder of the mineral title and not the court. Admittedly, the defendants No. 06 & 07 are the DC and AC, Orakzai who on the application of the rest of the defendants may have taken some steps to solve the dispute between the parties but they are authorized under the Ibid Act to take necessary steps. Also, this is a forum for redressal of grievances of the plaintiff, who may move</p>


REHMAT ULLAH WAZIR
Senior Civil Judge,
Orakzai at Baber Mela

COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

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<p>Order No 05 continued</p>	<p>29.11.2022</p>	<p>the said forum for any remedy against the private defendants.</p> <p>Further, according to the KPK Minerals Sector Governance Act, 2017 and the KPK Minerals Sector Governance (Amendment) Act, 2019, there is a complete scheme and frame work of things to be done has been provided in the said Acts and also laying down means and procedures for protection of rights claimed by the interested persons. They can approach for redressal of grievances to the licensing authority as envisaged in the section 02 (U) of the KPK Minerals Governance Act, 2017 and then to the Appellate Tribunal as envisaged in the section 05 (A) of the KPK Minerals Governance (Amendment Act, 2019). Further, u/s 102 (6), it is provided that</p> <p><i>“Notwithstanding anything provided in the other law for the time being in force, no court shall have jurisdiction to entertain or to 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”.</i></p> <p>Thus, jurisdiction of the Civil Court is specifically barred under the said provisions.</p> <p>Therefore, in the light of the aforesaid findings, the application in hand is accepted and the plaint of the plaintiff is hereby rejected being barred by law with costs.</p> <p>File be consigned to the record room after its necessary completion and compilation.</p> <p><u>Announced</u> 29.11.2022</p> <p style="text-align: right;">  (Rehmat Ullah Wazir) Senior Civil Judge, Orakzai (at Baber Mela) </p>
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