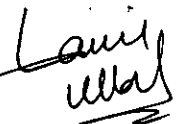


**Order...31**  
**Continued.**  
07.03.2024

Cost of Rs.500/- which was imposed on the respondent No.05 to 10 on previous date, received today and the said amount is handed over to the petitioner No.01, in this respect, his thumb impression is obtained on the margin of order sheet.

Today the case was fixed for arguments on the instant petition. Both the counsel for the defendants argued the same while counsel for the plaintiffs sought time. Granted.

File to come up for arguments on the instant petition by counsel for the plaintiffs on **14.03.2024.**

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

**Order...32**  
**14.03.2024**


**Present:**

Petitioner No.01 in person and as attorney for rest of the petitioners along with counsel.

Respondent No.04, 08 in person and as attorney for the respondent No.03, 05 to 07, 09 & 10.

1. This order is intended to dispose of the instant petition separately filed for grant of temporary injunction by the plaintiffs/petitioners against the defendants/respondents.
2. Brief facts of the case are that plaintiffs/petitioners filed the instant suit for declaration-cum perpetual & mandatory injunction and possession through partition to the effect that they alongwith defendant No.05 to 09 are co-sharer in suit property fully detailed in the head note of the plaint. Plaintiffs have sought cancellation of written deed dated 22.07.2022 whereby plaintiff No.01 has sold the disputed property to the defendant No.01 to 04. That beside plaintiff No.01 there are other co-sharers in the suit property but only plaintiff No.01 has sold the disputed property

**(Continued...)**


  
**Sami Ullah**  
Civil Judge/JM-I  
Orakzai (at Baber Mela)

Order...32  
Continued.  
14.03.2024

without express consent from other co-sharers. That defendants have no right to deny the legal rights of plaintiffs and to interfere in the suit property. That defendants were asked time and again to admit the legal claim of plaintiffs but in vain, hence, the present suit.

3. The defendants/respondents contested the suit by filing written statement and reply of the application for grant of temporary injunction. In the written statement the defendants/respondents contended that defendants are in possession of the suit property and are cultivating the same from long time. That plaintiffs/petitioners have got no cause of action by filing the instant suit/petition.
4. Argument by the counsel for the defendants already heard while argument by the counsel for the plaintiffs heard today.
5. Learned counsel for the plaintiffs/petitioners argued that plaintiffs/petitioners have got a prima facie case. Balance of convenience also lies in his favor and that if temporary injunction is not granted, he would suffer irreparable loss and lastly prayed for the acceptance of the application.
6. The other side fully resisted the application through arguments.
7. It is well settled law that for grant of temporary injunction, a party has to prove three essential ingredients i.e., prima facie case in his favor, balance of convenience tilts in his favor and in case injunction is not granted, he would suffer irreparable loss. Insofar, as the instant case is concerned, plaintiffs are claiming that they are co-sharer in the suit property alongwith defendant No.05 to 09. Plaintiffs have not annexed with their plaint any reliable documentary proof in support of their claim and contention. On the other hand, the defendants totally denied the claim of the plaintiffs, rather claimed that the same was sold to them by the plaintiffs. There is nothing in the shape of any relevant document from which, it could be presumed that tentatively that the plaintiffs alongwith defendants No.05 to 09 are co-sharer in suit property.

(Continued...)

  
Sami Ullah  
Civil Judge/JM-I  
Orakzai at (Babar Meja)

**Member Ali and others Vs Mosam Khan and others**

Order...32  
Continued.  
14.03.2024

Furthermore, the description of suit property is not clear and the temporary injunction cannot be granted when the same has not been specified and fully detailed.

- 8. Therefore, as a result of above discussion, the petitioners/plaintiffs failed to establish his claim prima facie, what to say of the balance of convenience and irreparable loss.
- 9. Thus, the three necessary ingredients for the grant of temporary injunction do not exist in favor of the plaintiffs, therefore, the application in hand is hereby **Dismissed**. Costs shall follow the event.
- 10. The instant petition be consigned to record room after its necessary completion and compilation.

Announced  
14.03.2024

**Sami Ullah**  
Civil Judge-I,  
Orakzai at Baber Mela.