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**IN THE COURT OF ABDUL BASIT,
ADDITIONAL DISTRICT JUDGE-II, ORAKZAI**

Civil Suit No. 01/01 of 2023

Date of institution: 02.12.2023

Date of decision: 01.04.2024

Date of consignment:

Motasim Khan son of Naseem Khan resident of Quom Zarghun Khel, Qasim Khel, Post Office Darra Bazar, Darra Adam Khel, Kohat at present leaseholder Dana Khola District Orakzai (plaintiff)

Versus

Noor Sher Khan son of Khan Badshah resident of Tandi Muhammad Khel, Zarghun Khel, Darra Adam Khel, Kohat (defendant)

SUIT FOR RECOVERY OF MONEY/DAMAGES

Ex-Parte Judgment

Concise facts of the case are that plaintiff is doing business of lease mining since long and at present working on four mines at Dana Khola Oblun, District Orakzai; that plaintiff has a good reputation and respect in the business circle not only in Darra Adam Khel but also at District Orakzai; that defendant also belonged to his area but he had joined with him few persons of the area and they were making interference/creating hurdles in his work at every juncture with respect to lease mining at Khola Oblun District Orakzai all the times; that he used to block the mining passages forcibly and also criminally intimidated the laborers/contractors by making fires at them due to which he has registered different criminal cases against them; that he has stopped the mines drilling for many months due to which he has not only suffered huge financial loss but has become in debt; that defendant has also filed false, frivolous and groundless applications against him in different departments due to which his goodwill was badly affected; that on 26.03.2023, defendant has filed a false application against him in

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the office of Deputy Commissioner, Orakzai for cancellation of lease, due to which working on his four mines was stopped for many days and inquiry was initiated; that after the inquiry, the application was found baseless, however, due to this, he has suffered huge financial loss; that this act of defendant has also caused him depression due to which he has become prey of mental illness; that he is also feeling life and financial threats from the defendant; therefore, he has prayed for recovery of rupees thirty million for causing financial loss and recovery of damages of rupees twenty million for causing defamation and mental illness, hence, the suit for recovery of rupees fifty million.

Defendant was summoned through ordinary mode of service as well as through registered post and publication in daily newspaper; however, he did not turn up and finally placed ex-parte on 15.01.2024. In compliance to the court direction, he submitted list of witnesses and produced the ex-parte evidence in support of his stance. He recorded the statements of Shamroz Khan (PW-2), Ajab Khan (PW-3), Aaj Muhammad (PW-4) and himself appeared as PW-1. He has produced the copies of documents and closed the evidence.

Ex-parte arguments on case heard and record perused.

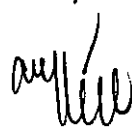
Viewing the ex-parte arguments advanced by learned counsel for plaintiff and record available on file, this is held that according to oral and documentary evidence produced by plaintiff, it is established that plaintiff was granted lease for coal mining of the given area, however, due to regular interference and creation of hurdles by defendant in the mining work, plaintiff has borne huge financial loss and faced great hardships, which also caused him defamation in the society, which factors also does not exclude the probability of suffering the from depression and mental illness.

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In the backdrop of above discussion, it is held that plaintiff has got a cause of action and has successfully proved his case through cogent, reliable and confidence inspiring evidence in absence of contrary and any rebuttable evidence on file, hence, an ex-parte decree for recovery of rupees thirty million for causing financial loss and recovery of damages of rupees twenty million for causing defamation etc. is passed in favour of plaintiff as against defendant. Plaintiff has to prove costs of his proceedings.

File consigned to record room after completions and compilation.

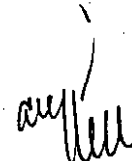


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CERTIFICATE

Certified that this judgment consists of three (03) pages, those are signed by me after necessary corrections, if any found.



Announced
01.04.2024

Abdul Basit
Addl. District Judge-II, Orakzai