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Order No.04  
16.03.2024

Plaintiff along with counsel present. Special attorney for defendant along with counsel present. Arguments on application for rejection of plaint on behalf of counsel for respondent/plaintiff heard today. Arguments of counsel for petitioner/defendant already heard and record perused.

Brief facts of the case are that plaintiff has filed the instant suit against defendant for declaration to the effect that he is co-sharer in coal mine No.2 situated at Dowli, Lower Orakzai and defendant has no right to dispossess him or deprive him of his share in the coal mine. Plaintiff has also sought rendition of accounts and recovery of machinery/goods. That defendant was asked time and again to admit the legal claim of plaintiff but in vain, hence, the present suit.

Petitioner/defendant has sought rejection of plaint on the ground that suit of plaintiff is time barred and that this court lacks pecuniary jurisdiction to proceed with the case. As for as issue of jurisdiction is concerned, when a court lacks jurisdiction to proceed with a matter, the proper course of action would be return of plaint for presentation to the court in which the suit should have been instituted within the meaning of order VII rule 10 CPC. As for as

  
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**ZAHIR KHAN**  
**Civil Judge/JM**  
**Kalaya Orakzai**


limitation is concerned, the averments of the parties consist of issues of question of law and fact which cannot be determined without

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recording evidence of the parties. Pertinent to mention that previous application of petitioner/defendant for rejection of plaint under order VII rule 11 CPC was rejected by this court vide order dated: 31.08.2023, resultantly, application in hand is hereby dismissed. No order as to costs.

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

**Announced**  
**16.03.2024**



**Zahir Khan**  
CJ-I, Tehsil Kalaya, Orakzai