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IN THE COURT OF ZAHIR KHAN
Civil Judge-I, Kalaya, Orakzai

Petition No.....01/06 of 2024.

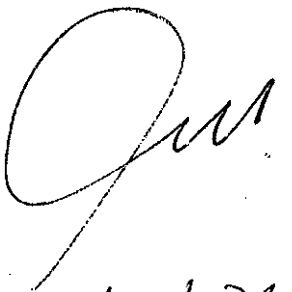
Date of Institution.....03.02.2024.

Date of Decision.....30.04.2024.

Order No.08
30.04.2024

Petitioner No. 01 for himself and as special attorney for rest of the petitioners alongwith counsel present. Respondent No.3 in person present. Rest of the respondents present through special attorney. Arguments on application for grant of temporary injunction on behalf of counsel for respondents already heard. Arguments on application for grant of temporary injunction on behalf of counsel for petitioners heard today and record perused.

Brief facts of the case are that petitioners/plaintiffs have filed the instant suit for declaration cum-permanent injunction, possession through partition and mense profit against respondents/defendants to the effect that parties to the suit are close relatives being cousins and the suit property fully detailed through boundaries in the head note of plaint is the joint undivided ownership of the parties. Petitioners/plaintiffs being LRs of deceased Summand Ali are equally entitled to their shari shares in the joint property but the respondents/defendants being influential persons, have deprived them from their legal shares and they have illegally occupied the



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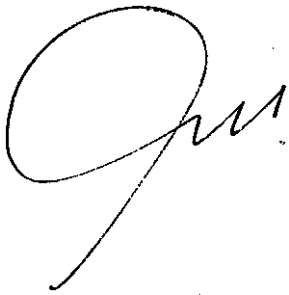
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entire suit property. That refusal/denial of respondents/defendants from title and ownership of petitioners/plaintiffs is illegal, unlawful and ineffective upon the rights of petitioners/plaintiffs. That respondents/defendants were asked time and again to admit the legal claim of petitioners/plaintiffs but in vain, hence, the present suit.

Respondents/defendants were summoned who contested the suit by submitting written statement and reply. In the written statement, respondents/defendants have averred that claim of petitioners/plaintiffs is baseless and that they have no concern whatsoever with the suit property as the suit property is their ancestral ownership.

It is established principle of law that a party seeking temporary injunction is required to make out a prima facie case, which would mean arguable case, likelihood of irreparable loss or injury for no-grant of temporary injunction; and balance of convenience tilts in his favor and all ingredients must co-exist. Absence of any one of these essentials would be fatal to the plea for the issuance of the injunction. In so far, the instant case is concerned, whether the suit property is the joint ownership of parties by virtue of inheritance or not, this fact would be seen after recording of evidence of petitioners/plaintiffs. No pedigree table is placed on file. The question of prima facie case in favor of petitioners/plaintiffs would be seen after scanning the evidence of



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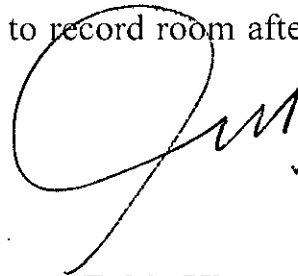
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the parties. Where evidence is required to establish the claim of petitioners/plaintiffs, it cannot be said that they have got a prima facie case in their favour. Petitioners are not in possession of the suit property, therefore, balance of convenience also does not tilt in their favor. Petitioners/plaintiffs failed to establish that they would suffer irreparable loss if stay is not granted, resultantly, application for grant of temporary injunction is dismissed. No order as to cost. This order of mine is tentative in nature and shall not affect merits of the case. Copy of this order be placed on main file.

File of this court be consigned to record room after necessary completion and compilation.

Announced
30.04.2024



Zahir Khan
Civil Judge-I, Kalaya, Orakzai.