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

Petition No.....7/6 of 2023.
Date of Institution.....24.07.2023.
Date of Decision.....31.05.2024.

Order No.16
31.05.2024

Petitioners/defendants namely Waris Khan and Sahar Ali present. Respondent/plaintiff namely Khayal Zaman present.

Arguments on application for rejection of plaint already heard and record gone through.

Brief facts of the case are that respondent/plaintiff is seeking decree of this court to the effect that he hails from Qaum Bar

Muhammad Khel, Tappa Alat Khel, village Chamando Mela, Lower Orakzai and he has constructed a house on his ancestral property and

has got a right of way which he has been peaceably and openly enjoying as an easement, as of right, without interruption for the last

20 years. That, petitioners/defendants have blocked/obstructed the said way without lawful justification, therefore,

petitioners/defendants be directed to unblock the way for peaceful enjoyment.

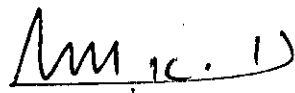
ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

AMM, K. I. J
31/05/2024

Petitioners/defendants have sought rejection of plaint on the ground that plaintiff has got no cause of action to file the instant suit and that there is no way, therefore, there is no right of way or any other easement. On the other hand, claim and contention of respondent is that he has got a right of way and he has been peaceably and openly enjoying the same as an easement, as of right, without interruption for the last 20 years. The averments of the parties consist of issues of question of law and fact which cannot be determined without recording evidence of the parties. The application does not cover the four corners of Order-VII Rule-11 CPC. Hence, the application for rejection of plaint stands rejected. No order as to costs.

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

Announced:
31.05.2024



Zahir Khan
CJ-I, Tehsil Kalaya, Orakzai