

Order No.06  
25.05.2024

Parties along with counsel present. Arguments on application for rejection of plaint on behalf of counsel for respondent/plaintiff heard today. Arguments of counsel for petitioners/defendants already heard and record perused.

Petitioners/defendants have sought rejection of plaint on the ground that previous suit of plaintiff was dismissed by the court of Assistant Political Agent, Orakzai vide order dated 28.11.2017,

ZAHIR KHAN  
Civil Judge/JM  
Kalaya Orakzai

therefore, the suit in hand is not maintainable in the eyes of law, hence, liable to be dismissed. Respondent/plaintiff contested the application through written reply wherein, it is contented that no such litigation was held in the court of APA, Lower Orakzai between

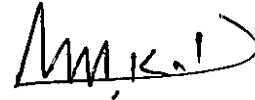
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the parties of the suit in hand on the same subject matter and lastly requested for dismissal of the application. Record shows that civil suit of respondent/plaintiff was dismissed as withdrawn with permission to file a fresh one by the court of Senior Civil Judge, Orakzai vide order dated: 23.02.2023 and in pursuance of the said order, the suit in hand was submitted by respondent/plaintiff on 14.10.2023. Petitioners/defendants have not challenged order dated 23.02.2023. The said order of dismissal of suit with permission to file a fresh one is still in field. Record further shows that the present defendants were not party to the previous litigation before court of APA, Lower Orakzai rather brother (Syed Hashim Jan) of present defendant No. 1 was party to that suit. Petitioners/defendants have

not annexed any plaint/application of previous alleged suit which could show that the subject matter is the same. Hence, plaint in hand cannot be rejected on the alleged ground. The averments of the parties consist of issues of question of law and fact which cannot be determined without recording evidence of the parties, 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**  
**25.05.2024**



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