

IN THE COURT OF SYED OBAIDULLAH SHAH
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

MISC. CIVIL APPEAL NO. : 2/14 OF 2024
DATE OF INSTITUTION : 09.09.2024
DATE OF DECISION : 24.10.2024

1. NASIR ALI
 2. HABIB ALI
 3. NASEER HUSSAIN
 4. SABIR ALI
 5. ALL SONS OF BIDAR ALI
 6. AZEEM ALI
 7. SUDAIR ALI
 8. TAHIR ALI
 9. ALL SONS OF SPEEN, R/O CASTE MANI KHEL, TAPA MIRWAS KHEL, TEHSIL LOWER, DISTRICT ORAKZAI
-(APPELLANTS)

-VERSUS-

1. NAZEER HUSSAIN S/O MIR ABDUL HASSAN
 2. ZAMAN ALI S/O ZAMEEN ALI
 3. SHAMEEM HASSAN S/O ABID ALI
 4. KISWAR ALI S/O ABID ALI
 5. RIHAN ALI
 6. RIHAD ALI
 7. SAFDAR ALI
 8. INAB ALI
 9. ALL SONS OF IJAD ALI, R/O CASTE MANI KHEL, TAPA MIRWAS KHEL, TEHSIL LOWER, DISTRICT ORAKZAI
- (RESPONDENTS)

Present: Sana Ullah Khan Advocate, the counsel for appellants.
: Abid Ali Advocate, the counsel for respondents.

JUDGEMENT
24.10.2024

Impugned herein is the order dated 30.07.2024 of learned Civil Judge-II, Tehsil Kalaya, vide which the application of respondents/plaintiffs for grant of temporary injunction has been allowed.

- (2). The respondents/plaintiffs (hereinafter referred to as plaintiffs) through a suit before the learned trial court claimed that Nazeer Hassan/plaintiff no. 1 and plaintiffs no. 2 to 8 had purchased the suit property in the year 1991 in lieu of Rs. 70,000/- from defendant no. 8 Shah Sawar Ali through a written deed, as detailed in the headnote of


24/10/24
Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

the plaint. They also claimed that since then they are owners in possession of the suit property while the appellants/defendants (hereinafter referred to as defendants), having got no concern whatsoever with the suit property, are bent upon making interfering in the construction work and that they be restrained from doing the same. The defendants were summoned who appeared before the learned trial court and submitted written statement wherein they raised various legal and factual objections.

The plaint was accompanied by application for grant of temporary injunction wherein the plaintiffs have sought the defendants to be restrained from making interference in the suit property by claiming its ownership and hindering the construction. The application was contested by the defendants through submission of written reply. The learned trial court, after having heard the arguments, allowed the application of plaintiffs and temporary injunction was granted in their favour. The defendants, considering themselves aggrieved of the impugned order, filed the instant appeal.

Arguments heard and record gone through.


Perusal of the case file reveals that the plaintiffs assert their ownership of the suit property claiming it dates back to 8th February, 1991, when they had purchased it from


24/10/24
(3)
(4)
Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

defendant no. 8 in lieu of Rs. 70,000/-. They further stated that they have planted trees on the suit property and that a jirga was convened on 12.11.2023 which ruled in their favour regarding the suit property. In contrast, the defendants claimed the ownership of the suit property in their written statement, wherein they denied the validity of the 1991 deed asserting that defendant no. 8 Shah Sawar Khan had no right to sell the suit property. They also rejected the jirga verdict of 12.11.2023.

Both parties claimed ownership of the suit property, as outlined in the plaint and the defendants' written statement. It is significant to note that neither party has yet produced evidence to support their claims. Furthermore, the validity of the jirga verdict and the sale deed of 1991 will be determined following the presentation of evidence from both sides. Consequently, the determination of the true owner of the property remains unresolved, pending the examination of evidence from both parties. In order to prevent the alienation of the suit property and to maintain its current status, the grant of a temporary injunction is deemed necessary in this case.

In light of the above discussion, it is held that the order of the learned trial court is based on proper appreciation of evidence available on file and needs no


24/11/2024
(5)
Syed Chaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

interference from this court; therefore, the appeal, being devoid of merits, is dismissed.

Judgment announced. File of this court be consigned to record room after its necessary completion and compilation while record be returned along with copy of this judgment for information.

Dated: 24.10.2024

(Signature)
24/10/24

(SYED OBAIDULLAH SHAH)
District Judge, Orakzai
at Baber Mela

CERTIFICATE

Certified that this judgment consists of four (04) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 24.10.2024

(Signature)
24/10/24

(SYED OBAIDULLAH SHAH)
District Judge, Orakzai
at Baber Mela

