

Present:

Nemo for appellant

Respondent No.1, Meen Ajab Khan, in person

Abid Rehman, who has filed application for impleadment, along with Aurangzeb Khan Advocate

1. Notice issued to appellant Muhammad Noor returned with report that he was personally served. However, he did not appear in court till rising hour, despite repeated calls.
2. The counsel for applicant Abid Rehman stated that an application had been filed for impleadment of Abid Rehman as necessary party in the instant appeal. I have heard his arguments on the application. The said Abid Rehman was impleaded as a party to the dispute by the learned lower forum (APA/ADM Upper Orakzai). The final judgment, dated 27-11-2017, was passed in favour of respondent No.1 Meen Ajab, in light of the majority Jirga award. Applicant Abid Rehman did not file any separate appeal against the said judgement; he has filed the instant application, dated 21-05-2019, for impleadment as necessary party before the court of learned ADJ-II Orakzai, before transfer of instant appeal to this court. The learned counsel could not convince this court as to how he can be a party to an appeal filed by another. An aggrieved party is required to file a memo of appeal against impugned judgment. In the present case there is no memo of appeal on behalf of Abid Rehman, which could be taken into consideration for deciding his grievance. The requirement of filing

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of memo of appeal cannot be bypassed by mere filing of an application for impleadment, and that too belatedly. Thus, the application of Abid Rehman is found without substance and the same is hereby dismissed.

3. Since the appellant Muhammad Noor has failed to appear despite notice, therefore, the instant appeal is dismissed for non-prosecution, under Order 41 Rule 17 of CPC. No order as to costs. Let a copy of this order be placed on the file of trial court and the record be returned to quarter concerned. Let this file be consigned to record room after its necessary completion and compilation.

Announced
06-08-2019


Jamal Shah Mahsood,
ADJ-I, Orakzai

Additional District & Sessions Judge-1
Orakzai