

**IN THE COURT OF ASGHAR SHAH, DISTRICT JUDGE
ORAKZAI AT BABER MELA**

Civil Appeal No : 4/13 of 2019
Title : Walayat Khan vs Provincial Government
of Khyber Pakhtunkhwa Etc.
Date of Institution : 16.11.2019
Date of Decision : 22.11.2019

Order No. 02
22.11.2019

Khalid Mehmood Khan Advocate for appellant Walayat Khan along with appellant present. Representatives of respondents 2,3 and 4 also present. Appeal in hand is filed against the judgement and decree dated: 19.10.2019 of the Learned Civil Judge-I, Orakzai whereby the suit of appellant/plaintiff was turned down.

It is brought in to the notice of court that **THE KHYBER PAKHTUNKHWA CODE OF CIVIL PROCEDURE (AMENDMENT) ACT, 2019 (KHYBER PAKHTUNKHWA ACT NO. XL OF 2019)** has been passed by the Provincial Assembly of Khyber Pakhtunkhwa on October 4th, 2019 and has been assented by the Governor on 10th October, 2019. By virtue of the said Act an amendment in section 96 of the CPC has been carried out which is reproduced below for ready reference,

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"Substitution of section 96 of Act No. V of 1908.---In the said Act, for section 96, the following shall be substituted, namely:

"96. Appeal from final judgment or decree.--- Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court not later than thirty days from every final judgment passed by any Court exercising original jurisdiction

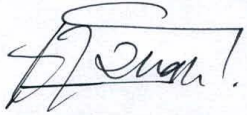
The Memorandum of Appeal Original documents, record,
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on any question of law or fact erroneously determined by the original court and the High Court shall decide the appeal within ninety days.”.

Since after the Act being assented by the Governor on October 10th, 2019 therefore, all the cases decided by the court of Civil Judge after the October 10th, 2019, shall be appealable to the High Court.

Thus, in the light of above, the present court lacks jurisdiction with regard to the subject matter of the appeal. Hence, the memorandum of appeal in original along with documents, if any, be returned to the appellant to file the same before the Peshawar High Court, Peshawar. No order as to costs. Record of the trial court be returned. The photocopy of memorandum of appeal and original documents be filed and case be consigned to the record room after proper completion and compilation.

Announced:
22.11.2019


(ASGHAR SHAH)
District Judge, Orakzai
at Baber Mela
22/11/19
