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Case Title: Noor Gul VS Haji Muhammad Ayaz

Or.....10
26.11.2020

Plaintiff along with counsel present. Defendant has already been proceeded ex-parte.

Through my this single order, I intend to dispose off the instant suit ex-parte.

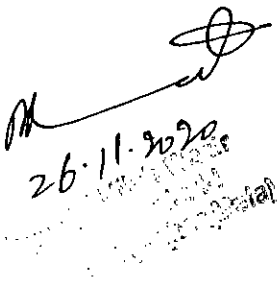
Brief facts of the case are that the plaintiff filed the instant suit for declaration cum perpetual and mandatory injunction to the effect that the plaintiff is the owner in possession of the property (Khet), the boundaries of which are as to the West of which is land of the one Noor Muhammad, to the East is the land of the plaintiff and his brother, to the North is the land of one Bait Ullah and to the South is the land of Muhammad Sadiq and a public thoroughfare, situated at Mishti, Tappa Darwi Khel, Kaarh Mela, Tehsil Central, District Orakzai since his forefathers. That the defendant has nothing to do with the suit property as neither he is the owner of the suit property nor he is in possession of the same. That despite the aforesaid facts and circumstances, the defendant is interfering in the suit property and is about to do construction forcibly over the same. That the aforesaid acts of the defendant are illegal and ineffective upon the rights of the plaintiff. That the defendant was asked time and again not to do the aforesaid acts but he refused, hence, the present suit.

The defendant was served through the process of the court but he failed to appear before the court, therefore, he was placed and proceeded ex-parte vide order No. 07, Dated: 20.10.2020.

Consequently, the plaintiff was directed to produce ex-parte evidence, which he did accordingly.

The plaintiff produced witnesses in ex-parte, in whom the plaintiff himself appeared as PW-01, who produced the copy of his own CNIC which is Ex.PW-1/1 and further produced the site plan of the suit property which is Ex.PW-1/2 and the pictures of the suit

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property which are Ex.PW-1/3. He further narrated the same story as in his plaint. Further, Mr. Wahid Gul appeared as PW-02, who produced the copy of his CNIC, which is Ex.PW-2/1. He further supported the stance of the plaintiff by narrating the same story as in the plaint.

Ex-Parte arguments heard and record perused.

After hearing of ex-parte arguments and perusal of the record, I am of the opinion that the plaintiff established his case through ex-parte cogent and reliable evidence. As the suit property is situated in erstwhile FATA, where no settlement has been carried out, that is why there is no land record, which could prima facie decide the ownership of any land. All the court has to see and rely, is the oral evidence of the plaintiff which is the sole criterion in most cases because most of the parties do not have any document in the shape of jirga decision/iqrar-namas etc with respect to their property which could help out the proper adjudication. The same is the case with the present plaintiff. Also, the defendant has been placed and proceeded ex-parte and there is nothing in rebuttal and the court is left with no other option, therefore, the suit in hand is hereby decreed ex-parte as prayed for. Costs shall follow the event.

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

Announced
26.11.2020


(Rehmat Ullah Wazir)
Civil Judge-I
Orakzai (at Baber Mela)