

# **COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA**

Case Title: \_\_\_\_\_

موکل شاہ بنام سرن

| Serial No<br>of order or<br>proceeding<br>s | Date of Order<br>Proceedings | Order or other Proceedings with Signature of Judge or<br>Magistrate and that of parties or counsel where necessary   |
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| 1   | 2                            | 3  |
| Order No. 06                                | 03.02.2025                   | <p>This order shall decide an application filed by plaintiff seeking a restraining order to prevent the defendants from carrying out mining operations in the subject matter of the suit, a disputed mine.</p> <p><b><u>Brief Account:</u></b></p> <p>Plaintiff claims that mining rights to land measuring 1000 acres under lease order no 374 were awarded to him provisionally. However, it is alleged that subsequently defendants colluded to alter the measurements of the sketch to his prejudice only to favor the defendant. He complains that the defendant is now illegally encroaching upon land initially awarded to the plaintiff.</p> <p>Defense counter argues that plaintiff is misreporting the matter only to mislead the court. They contend that the plaintiff's proposed sketch was subsequently turned down, and the plaintiff only received a prospecting licence, rather than a consummate mining licence. They report that the matter has already been settled by the competent forum all the way to the top of its hierarchy. Upon the complaint of the plaintiff, a thorough inquiry was conducted in which measurements were duly taken to determine the veracity of the allegations. That the committee found the allegations of the plaintiff as baseless and unfounded.</p> <p>Counsel argues that his clients are in possession of mining licences, and the land permitted for mining. That in addition to being prima facie entitled, a restraining order, if passed against them, will surely put them at risk of higher loss and inconvenience, as they are deeply and widely invested in the mining operations.</p> <p>Arguments heard and records perused.</p> |

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**Reasoning:**

In addition to self-serving pleadings of both sides, the only documentary material of a presumably neutral origin on file is the inquiry report filed by a competent committee constituted by the Director General Mining.

The report exhaustively treats the controversy in respect of the dispute about the measurement of land over which the parties are claiming mining rights. Its findings, in paraphrase, reads that the map claimed by the plaintiff was untraceable. When asked to furnish the local elders who witnessed the alleged transaction, the plaintiff could not produce the same. On the other hand, the sketch of the defendant is duly accounted for in all relevant records.

In respect of the corrections in the sketch, the report reads that it was common practice in ex-Fata, and had never been a cause of suspicion.

Instantly, the court is engaged in deciding a petition for grant of a restraining order at a pre-trial stage. Naturally, in absence of evidence the court can only on admitted facts, or public records invested with a rebuttable presumption of correctness.

The narrative of the plaintiff from available records is that the defendant has managed to tamper records, and receive favorable orders from the mining department all the way up to the Director general by collusion. He insinuates that the inquiry report, the modified map, and the orders in appeal etc all the way up to the last forum are the outcome of connivance.

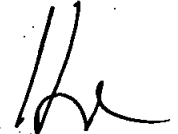
It is a slightly tall order for the court to give in to such broad and sweeping allegations of public bodies, especially in absence of any reliable forensic material or evidence.

Further, the court also agrees with the contention of

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| <p>Order No. 06<br/>continued</p> | <p>03.02.2025</p> | <p>the defendant that a restraining order against them would bring to a halt their running operations, which, presumably, required millions to start running.</p> <p>In view of the foregone, application for grant of restraining order is dismissed. File be consigned.</p> <p><b><u>Announced</u></b><br/>03.02.2025</p> <p><br/><b>Ijaz Mahsood</b><br/>Senior Civil Judge,<br/>Orakzai (at Baber Mela)</p> |
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