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COURT OF SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Case Title: Ahmad Jan etc VS Sher etc

Serial No of order or proceeding s	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
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Order No. 09	19.04.2025	<p>Petitioners through special attorney along with counsel present. Respondents No. 01 in person and as special attorney for rest of the respondents present.</p> <p>This order is meant to decide an application filed by plaintiff for grant of a restraining order against interference with title and possession of suit property. Respondents have already filed their written replies.</p> <p><u>Brief Account:</u></p> <p>The claim as stated in the plaint reads that petitioners are owners in possession of suit property measuring 20 Jerab consisting of 18 fields situated at Laatu Kach Gharhi bounded on the North by the lands of Saleh Khan and other lands, on the South bounded by barren land of the petitioners, on the West bounded by Mamuzai river and on the East bounded by house of the one Said Jalal. That petitioners alleged that respondents are illegally interfering in the suit land and further request for a restraining order against the alleged intervention by the respondents.</p> <p>Respondents contend that petitioners are purposely making frivolous claims. They contend that neither the petitioners belong to Qoum Mamuzai nor they are the</p>

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<p>Order No. 09 continued</p>	<p>19.04.2025</p>	<p>entitled to the suit land; however, they are tenants. That the petition in hand is bad for of mis-joinder and non-joinder.</p> <p>Arguments heard and record perused.</p> <p><u>Reasoning:</u></p> <p>It is pertinent to highlight the legal requirements of a restraining order, before merits for its grant in the instant case are weighed.</p> <p>A pre-trial restraining order is an extraordinary remedy provided by law for exceptional circumstances where a party is faced with a real risk of irreparable loss. Since it is an extraordinary remedy, the standards set by law for its grant are commensurately high. The spirit of law is that pre-trial restraining orders be issued sparingly and in deserving cases only.</p> <p>Now, the court is supposed to look for while decided an application for grant of interim injunctive relief is a good Prima-Facie case. It is commonplace knowledge that land settlement in the nascent district of Orakzai is yet to take place. Essentially, the court is not assisted by any land record in its assessment for merits of the contentions before it.</p> <p>Petitioners claim that they belong to Mamozai tribe, as is evident from his CNIC, and that the suit land, per tribal mode of distribution, was given to their tribe.</p> <p>Respondents contend that petitioners belong to Ali</p>
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<p>Order No. 09 continued</p>	<p>19.04.2025</p>	<p>Khel tribe, not Mamozai, and were given shelter on suit land as tenants at will of the respondents. They add that all the witnesses on the plaintiffs' list of witness are admittedly from Ali Khel, rather than Mamozai.</p> <p>In these circumstances, when only the ethnic origin of the parties is the substance of their claim to the suit land, the court is hesitant to proceed boldly in the matter at this stage.</p> <p>In order to redress the apprehensions of both sides, the court deems it safe and advised to order maintenance of status quo to the extent of chopping of trees, and raising of new constructions. No side shall engage in these two activities without prior intimation to and leave from the court for a period of six months or disposal of the suit, whichever comes first.</p> <p>Meanwhile, bailiff of the court shall visit the site, prepare a comprehensive report on the nature of the land, and what stands on it, and also take photographs, and submit his findings within 07 days.</p> <p>Application is disposed of in these terms.</p> <p>File be consigned to the record room after its completion and compilation.</p> <p><u>Announced</u> 19.04.2025</p> <p> Ijaz Mahsood Senior Civil Judge, Orakzai (at Baber Mela)</p>
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