

JUDGMENT SHEET

IN THE HIGH COURT OF BALOCHISTAN, QUETTA

Civil Revision Petition No.490 of 2023
(ID-100107604390)

Abdul Shakoor

VERSUS

Saeed Khan & others

Under section 115, C.P.C

ORDER

Date of hearing: 22.12.2023

Announced on: 28.12.2023

Petitioner by: M/s Syed Ayaz Zahoor, Amanullah Battezai, Bakhtiar Sherani & Aster Mehak, Advocates

Respondent Nos. 1 to 3 by: Mr. Qurban Ali Tareen, Advocate

Respondent Nos. 4 & 5 by: Mr. Allauddin Kakar, Assistant Advocate General

NAZEER AHMED LANGOVE, J.- In this petition, the following prayer has been made:

“It is, therefore, most respectfully prayed that on the perusal of the legal aspect of the matter, as well as the documents available on the record, the impugned order dated 30.09.2023 passed by the learned Additional District Judge, Kuchlak and order dated 20.06.2023, passed by the learned trial court may be set aside and the contempt proceedings against the private respondents may be directed to be initiated in the interest of justice, equity and fair play.”

2. Heard the learned counsel for the parties and gone through the record with their assistance.

3. Facts of the case are that respondents Nos.1 to 3 (plaintiffs) filed a civil suit (No.76/2021) for declaration, partition and permanent injunction against the petitioner and respondents Nos. 4 & 5 (defendants) in respect of the properties situated at Mahal Karez Garanjawi, Mouza

Khaizi, Tappa Baleli, Tehsil Saddar, District Quetta (detail is mentioned in the plaint).

An application accompanied the main suit under Order XXXIX, Rule 1 & 2, read with section 151, C.P.C for temporary injunction.

4. After hearing the arguments, vide order dated 30th April 2022, passed by the learned trial court (Civil Judge, Kuchlak), allowed the application under Order XXXIX, Rule 1 & 2, C.P.C. The parties were directed to maintain status quo. Assailed in civil appeal No.32/2022, but up-held, vide order dated 26th July 2022, passed by the learned appellate Court (Additional District Judge, Kuchlak); hence, the institution of Civil Revision petition No.483/2022. Vide order dated 22nd August 2022, while admitting the petition, this Court allowed C.M.A. No.1482/2022, and the parties were directed to maintain status-quo regarding the property-in-dispute.

Meanwhile, the petitioner filed a Contempt Application No. 17/2022, with the allegation of violating the orders of this Court. However, with the consent of the parties' learned counsel, this Court transmitted the referred application to the trial court with certain directions. Still, according to the petitioner's learned counsel, the contemnors intentionally disobeyed the orders of this Court.

5. It is relevant to note that Contempt of Court may be committed where the contemnor:

1. *Disobey any court order that he is legally bound to obey.*
2. *Willful breach of undertaking.*
3. *Interferes in the process.*

4. *Lowers the authority of the Court.*
5. *Scandalizes a Judge in relation to his office.*
6. *Disturbs order or decorum*

Since the main petition has been sent to the trial court to know the root cause first and then proceed accordingly, plus observing the principle of judicial restraint, I would like to avoid taking any legal action against the contemnors; however, they are directed to be careful in the future and comply with the orders in letter and spirit.

Order accordingly.

Quetta,
Announced today on:
28th December 2023

JUDGE