

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

*Criminal Miscellaneous Application No.S- 509 of 2025*  
*(Babar Mirza Chughtai Versus the State and others)*

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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1. For hearing of case
2. For hearing of MA No. 8382/2025

**20.11.2025**

Mr. Aamir Mansoob Qureshi Advocate for the Applicant  
 Mr. Abdul Monem Advocate for the Respondent Nos.10 to 12  
 Ms. Rahat Ahsan, Additional Prosecutor General, Sindh

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**Ali Haider 'Ada', J:-** Through the present Criminal Miscellaneous Application, the Applicant assails the Order dated 19.04.2025 passed by the learned Additional Sessions Judge-II, Karachi-East (trial Court) in Criminal Complaint No. 02 of 2025, whereby the Complaint instituted by Respondent No. 11 was admitted for regular hearing and bailable warrants were directed to be issued against the Applicant.

2. Briefly stated, Respondent No. 11 instituted a Complaint under Sections 3, 4, and 5 of the Illegal Dispossession Act, 2005, bearing Criminal Complaint No. 02 of 2025, primarily on the ground that the property in question had been purchased by him through a Registered Sale Deed, pertaining to an undivided share of 62.50, from certain legal heirs of the original owner, Fazal Karim. It was claimed that by virtue of the said transaction, Respondent No. 11 was in possession of the property; however, he alleged that on 28.12.2024 he was unlawfully dispossessed at the hands of the present Applicant. Upon presentation of the Complaint, the learned trial Court called for a report from the concerned quarters and, after a perusal thereof, proceeded to pass the impugned order dated 19.04.2025, whereby cognizance was taken and the Complaint was admitted for regular hearing. The said order has been assailed by the Applicant through the instant Criminal Miscellaneous Application.

3. Learned counsel for the Applicant submits that the present matter does not constitute a case of forceful dispossession. According to him, the factual position is that an Agreement to sell was executed between the parties in the year 2016, specifically between the Applicant and the ancestor of legal heirs of Fazal Karim on 26.06.2016. Under the said Agreement to Sell, the possession of the entire property in question was duly handed over to the Applicant, who

has since then continuously enjoyed such possession. He further submits that the part-payment schedule was mentioned on page 2 of the said agreement. After the demise of Fazal Karim, his widow also executed another Agreement to sell in continuation of the previous one, which is available at page 145 of the record. The part-payment schedule is likewise reflected on the second page of the subsequent agreement. Learned counsel adds that the Applicant made payments through Defence Saving Certificates, cash vouchers, and negotiable instruments, including cheques, in favour of the legal heirs of Fazal Karim. It is further contended that one of the legal heirs, namely Shaukat (son of the deceased), executed an undertaking acknowledging his inherent share and recognizing the Applicant's lawful possession over the property. Counsel argues that, with mala fide intent, certain co-legal heirs subsequently executed an Agreement in favour of Respondent No. 11, which the Applicant has already challenged through a civil suit. Reliance is placed on 2010 YLR 2864, PLD 2025 SC 53, and 2025 SCMR 787. Learned Counsel therefore prays for setting aside the impugned order dated 19.04.2025 whereby cognizance was taken.

4. Conversely, learned counsel for Respondents No. 10 to 12 contends that a valid and lawful Registered Sale Deed was executed in favour of the Respondents, transferring an undivided share of 62.50. Pursuant thereto, Respondent No. 11 remained in possession until he was dispossessed on 28.12.2024 by the Applicant. Counsel further submits that the civil suit referred to by the Applicant's counsel was dismissed by the learned Senior Civil Judge-X, Karachi East; hence, there is no lis pending before any civil forum. Thus, the contention regarding the matter being of a civil nature is misconceived. He additionally relies upon the report of the Revenue authorities, wherein the title documents of the Respondents were verified and confirmed. On this basis, he submits that the order of the learned trial Court is well-reasoned, that charge has already been framed, and the trial is proceeding strictly in accordance with law; therefore, no interference is warranted.

5. Learned Additional Prosecutor General also supports the impugned order, submitting that the issues raised by the Applicant require determination only after recording of evidence. At this preliminary stage, the challenge to the trial Court's assumption of cognizance is premature.

6. Heard the arguments advanced by learned counsel for the respective parties and examined the material available on record.

7. At the very outset, when it was confronted to the learned counsel for the Applicant as to how the Order dated 19.04.2025, whereby the learned trial Court assumed cognizance could be challenged through a Criminal Miscellaneous Application, he fairly conceded that this Court possesses ample authority to convert one form of proceedings into another, wherever necessary, in the interest of justice. He further submitted that although the impugned order is revisable, this Court may also entertain the matter in exercise of its inherent jurisdiction. According to him, the jurisdiction of this Court is attracted either under Sections 435 and 439, CrPC. or under Section 561-A, CrPC. as the case may be.

8. It is pertinent that Section 9 of the Illegal Dispossession Act, 2005 expressly provides that the provisions of the Code of Criminal Procedure shall apply to proceedings under the Act. For ready reference, Section 9 is reproduced as under:

***9. Application of Code. Unless otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1898 (V of 1898), shall apply to proceedings under this Act.***

Reliance is also placed on the case of *Habibullah and another v. The State and 9 others* (2009 MLD 1162), wherein this Court converted a Constitutional Petition into a Criminal Revision when the circumstances so warranted, particularly where a complaint had been disposed of by the trial Court. The principle was further fortified in *Abdul Haque v. Mir Ahmed and 6 others* (2015 PCrLJ 1490), wherein it was observed that the High Court is fully empowered to examine the legality, propriety, and correctness of an order passed by a trial Court in proceedings under the Illegal Dispossession Act, in the exercise of its revisional jurisdiction, especially where the trial Court had dismissed the complaint. Similarly, in *Muhammad Husnain and another v. Additional Sessions Judge, Multan and 2 others* (PLD 2013 Lahore 1), it was held that parties aggrieved by an order passed under the Illegal Dispossession Act possess the right to avail remedies of appeal and revision in accordance with law. These pronouncements, when examined in the light of Section 9 of the Illegal Dispossession Act, 2005 which expressly applies the provisions of the Code of Criminal Procedure to proceedings under the Act make it clear that revisional jurisdiction is available and can be validly invoked. In view of

the above legal position, and keeping in mind the mandate of Section 9 of the Act which authorizes the application of the Criminal Procedure Code, the present Criminal Miscellaneous Application is hereby treated and converted into a Criminal Revision. Guidance in this regard is also drawn from the judgment of the Honourable Supreme Court in *Hafsa Habib Qureshi and others v. Amir Hamza and others* (PLD 2024 SC 780), wherein it has been held that the High Court possesses the power to convert and treat one form of legal proceedings into another, and thereafter proceed to adjudicate the matter on its merits.

9. Now, advertent to the merits of the case, first and foremost aspect requiring consideration is that the record prima facie reflects that certain transactions took place between the original owner Fazal Karim and the present Applicant, supported by negotiable instruments and other documents. At this preliminary stage, such documents cannot be discarded merely on the basis that the opposing side subsequently executed a Registered Sale Deed in favour of Respondent No. 11. The Applicant has consistently claimed uninterrupted possession of the property since 2016 pursuant to the Agreement to Sell, and there is nothing on record to suggest that the legal heirs or the widow of the deceased ever denied receiving payments or entering into such agreements with the Applicant. Thus, at this stage, the possession held by the Applicant appears to be referable to the claimed contractual arrangement and no material has been shown indicating that his occupation is unlawful, forcible, or in the nature of illegal dispossession within the meaning of the Illegal Dispossession Act, 2005. In this context, reference may also be made to Section 53-A of the Transfer of Property Act, 1882, which provides protection to a transferee in possession under part performance of a contract. For ready reference, Section 53-A of the said Act is reproduced as under:

*[53-A. Part performance. Where any person contracts to transfer for consideration any immovable property by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty,*

*and the transferee has performed or is willing to perform his part of the contract, taken possession of the property or any part thereof, or the transferee, being already in possession, continues in possession in part performance of the contract and has done some act in furtherance of the contract,*

*and the transferee has performed or is willing to perform his part of the contract,*

*then, notwithstanding that the contract, though required to be registered, has not been registered, or, where there is an instrument of transfer, that the transfer has not been completed in the manner prescribed therefor by the law for the time being in force, the transferor or any person claiming under him shall be debarred from enforcing against the transferee and persons claiming under him any right in respect of the property of which the transferee has taken or continued in possession, other than a right expressly provided by the terms of the contract:*

*Provided that nothing in this section shall affect the rights of a transferee for consideration who has no notice of the contract or of the part performance thereof.]*

Thus, in view of the above, where a transferee has taken possession in part performance of a contract, or if already in possession continues to remain so, such possession is protected under Section 53-A of the Transfer of Property Act, 1882. Therefore, at this stage, the Applicant's possession being referable to an admitted contractual arrangement cannot be termed unlawful.

10. Now, advertent to Section 3 of the Illegal Dispossession Act, 2005, which must be examined to determine whether the ingredients of the offence are satisfied in the present case, the said provision is reproduced hereunder for ready reference:

*3. Prevention of illegal possession of property, etc.- (1) No one shall enter into or upon any property to dispossess, grab, control or occupy it without having any lawful authority to do so with the intention to dispossess, grab, control or occupy the property from owners or occupier of such property.*

*(2) Whoever contravenes the provisions of the subsection (1) shall, without prejudice to, any punishment to which he may be liable under any other law for the time being in force, be punishable with imprisonment which may extend to ten years and with fine and the victim of the offence shall also be compensated in accordance with the provision of section 544-A of the Code.*

11. Accordingly, before determining the applicability of the above-mentioned provision to the present case, it is essential to examine the factual assertions made in the Complaint filed by the Respondents. The Respondents, in their Complaint, stated that:

*"5. That complainant being businessman and to run the said shops for commercial purpose while there in Quetta came to know on dated 28.12.2024 through reliable sources that the purchased Commercial plot of land bearing No. 642-C, measuring 107 Square Yards consisting of 03 shops on ground floor, measuring 963 Square feet and*

*two floors situated at Central Commercial Area, Block-2, P.E.C.H.S. Karachi have been illegally possessed by respondents No.1-3 Land grabbers on whom the complainant immediately rushed towards Karachi and visited his plot and found that the said respondents No. 1-3 alongwith others unknown personnel have illegally possessed there on whom the complainant/petitioner requested to the illegal possessor/land grabbers and shown the complete documents but beside to vacated the said plots started abusing language and gave him life threats for dire consequences."*

12. On a careful examination of the factual and legal aspects of the case, it is apparent that the Respondent/Complainant is required, as a threshold matter, to demonstrate that he was in lawful possession of the entire property in question at the relevant time. In the present matter, the admitted position on record is that the Respondent only purchased a 62.50% undivided share from certain legal heirs of the original owner. In view of such partial ownership, it is legally untenable for the Respondent to claim possession of the entire property. Possession and rights in the remaining share of the property continue to vest with the other co-owners, including the Applicant, in accordance with principles of partition and co-ownership.

13. Furthermore, no legal heir or co-owner of the property came forward during the proceedings before the trial Court to assert that the Applicant had unlawfully retained possession or that the Agreements exhibited by the Applicant were forged or fabricated. In these circumstances, the appropriate remedy for the Respondent, if any, would be to initiate proceedings under the Partition Act or through a civil suit seeking his share, rather than invoking the provisions of the Illegal Dispossession Act, 2005. The attempt to claim possession beyond the proportionate share through the mechanism of a criminal complaint under the said Act is clearly misconceived.

14. It is well settled that a complaint under the Illegal Dispossession Act, 2005 is maintainable only against a person who forcibly deprives a lawful occupier or owner of possession. The legislative intent behind the term "forcibly" is to prohibit the use of force or coercion to dispossess someone from property, and the statute is not intended to resolve disputes of a civil nature, nor can it serve as a substitute for civil remedies. In the present case, the dispute between the parties is essentially civil in nature, arising out of co-ownership, partial sale, and alleged contractual obligations. There is no material on record to show that the Applicant acted with force or malice to dispossess the Respondent from the property, and the continued possession by the Applicant appears lawful, being supported by Agreements to Sell, part-

payment receipts, and documents evidencing transactions with the original owners/legal heirs. Therefore, it is evident that the present complaint does not fall within the ambit of the Illegal Dispossession Act. At this juncture, the matter requires careful reconsideration in light of the statutory mandate, judicial precedents, and the material on record, which collectively indicate that the present case falls under civil proceedings rather than criminal litigation.

15. In this regard, the recent judgment of the Hon'ble Supreme Court in **Criminal Petition No. 61-K of 2025, decided on 26.09.2025**, is directly applicable, wherein the Hon'ble Apex Court has categorically held that:

6. *The Act is a special penal statute intended to protect lawful owners and occupiers from forcible dispossession and land grabbing by unauthorised persons. This Court has repeatedly clarified that its reach is not restricted to so-called Qabza groups or land mafias, but any person who with force intrudes upon or controls the property of a lawful owner or occupier with intention to dispossess, grab, control or occupy may be proceeded against, provided the statutory ingredients are made out. See Niaz Ahmed v. Aijaz Ahmed (PLD 2024 SC 1152), Mst. Gulshan Bibi v. Muhammad Sadiq (PLD 2016 SC 769), Shaikh Muhammad Naseem v. Mst. Farida Gul (2016 SCMR 1931) and Mst. Inayat Khan v. Muhammad Ramzan (2012 SCMR 229). The earlier contrary, narrow view in Habibullah v. Abdul Manan (2012 SCMR 1533), has expressly been declared not good law and stands displaced by the later jurisprudence by this court. See Shaikh Muhammad Naseem v. Mst. Farida Gul (2016 SCMR 1931) and Mst. Gulshan Bibi v. Muhammad Sadiq (PLD 2016 SC 769).*

7. *It is pertinent to note that, Section 3 (3) of IDA, 2005 deals with the punishment of illegal dispossession, it reads as under:*

*"Whoever forcibly and wrongfully dispossesses any owner or occupier of any property and his act does not fall within sub section (1), shall be punished with imprisonment which may extend to three years or with fine or with both, in addition to any other punishment to which he may be liable under any other law for the time being in force. The person dispossessed shall also be compensated in accordance with provisions of section 544A of the Code."*

*At this Juncture, it is expedient to examine the existing requirements of this legislation which is the term "forcibly", meaning thereby, to do something with "force". Coming to the facts of the case, it is pertinent to note that para 1, of the facts stated in leave to appeal petition filed by the instant petitioner read as under:*

*"As a result, the complainant and his wife moved out, leaving the respondents in occupation of the property". This statement itself depicts that the element of "force" seems to be absent here*

Further Reliance is placed on the following authorities:

***Nadeem Waqar Khan Vs Javed Masood Ahmed Khan, P L D 2020 Sindh 8***, it has been held that:

4. *There is no cavil to the proposition that complaint under the Illegal Dispossession Act 2005 is maintainable against any person who forcibly dispossesses the occupier or owner but such remedy is never meant to settle civil dispute or a substitute for civil suit. Here in this case the applicant himself admits the status of respondent (accused) as that of 'partner' though alleged to be sleeping. The rights and liabilities of a 'partner' are controlled by the terms and conditions of partnership deed 'however what the term 'partner' refers to is a: "business by two or more individuals who share management and profits'. Prima facie, the each partner would be presumed to be in possession or control of such business, hence legally the remedy of Illegal Dispossession Act would not be available for a partner against other partner even if allegation is that of dispossession. Perusal of impugned order shows that same is on reasonable grounds and with regard to removal of documents and accounts from the property as well dispossession if any, applicant is at liberty to approach civil court. This Criminal Revision Application is dismissed.*

***Haji Abdul Karim Memon and another Vs The State and another, 2019 YLR 2376, [Sindh]*** it has been held that:

10. *There appears to be a case of civil nature between the parties and in my view, the record shows that the subject property in fact is a Municipal land and both parties are falsely claiming their right to such public land. The Honourable Supreme Court time and again has issued directions that all public lands should be removed from encroachments and should be used only for public purposes.*

***Nawabzada Muhammad Usman Khan Vs Nawabzada Muhammad Fateh Khan and Another 2013 Y L R 1001 [Peshawar]***, it has been held that:

5. *According to contents of the complaint it is an admitted fact that the petitioner and respondent No.1 are the real brothers being the sons of Nawabzada Muhammad Khalid Khan who in his life time partitioned his land amongst three sons i.e. petitioner, respondent No.1 and Changez Khan. It is also an admitted fact that there is a dispute between the co-owners over possession of the property and to this effect the petitioner/complainant has filed civil suit under section 9 of the Specific Relief Act, which is pending adjudication and simultaneously registered a criminal case vide F.I.R. No.749 dated 28-8-2011 under sections 379, 447, 427, 148 and 149 against respondent No.1 and during the pendency of the above matter, the petitioner also filed the instant complaint so it was a dispute between the two brothers over the property left by their predecessor-in-interest, furthermore, respondent No.1 neither belongs to a class of property grabbers nor Qabza Group, hence no case under section 3 of Illegal Dispossession Act has been made out. Reference is made to the judgment of a Full Bench of the Lahore High Court in Zahoor Ahmad and others v. The State and others (PLD 2007 Lahore 231) wherein it has been held that the Illegal*



*Dispossession Act, 2005 was restricted in immovable property which has allegedly come about through the hands of a class or group of persons who could qualify as property grabbers/Qabza Groups/land mafia and the said Act was being invoked and utilized by the aggrieved persons against those who have credentials of antecedents being members of the Qabza Groups or land mafia. It was further held that the Illegal Dispossession Act, 2005 has been found to be completely nugatory to its contents as well as objectives. Reliance is also placed on "Mobashir Ahmad v. The State (PLD 2010 SC 665) and "Habib Ullah v. Abdul Manan" (2012 SCMR 1533).*

***Khadim Ali Vs Hakim Ali and Another, 2021 Y L R 1556 [Sindh]***, it has been held that:

*11. In view of what has been stated above, I am of the view that the parties are disputing over the subject property and the respondent Hakim Ali claimed to be in possession of the disputed property prior to the alleged date of dispossession shown by the complainant, who has not substantiated his case as set out in his ID complaint by any evidence worth consideration and no case attracting the provisions of Illegal Dispossession Act, 2005 has been made out by the complainant and the matter is purely of civil nature, as the claim of the parties regarding ownership and possession over the disputed property can only be sifted by adducing evidence of the nature before the Court of plenary jurisdiction with consequential relief of possession in appropriate proceedings. I have seen the impugned judgment dated 28.03.2017, passed by the learned trial Court acquitting the respondent on failure of the complainant to prove his case against the respondent beyond a reasonable doubt. Patently the impugned acquittal judgment is apt to the facts and circumstances of the case, which suffering from no illegality or misreading or non-reading of the evidence does not call for any interference in criminal acquittal appeal under the provisions of section 417, Cr.P.C. In the case of Muhammad Shafi v. Muhammad Raza and another (2008 SCMR 329), the Hon'ble Supreme Court of Pakistan has held that:-*

*"An accused is presumed to be innocent in law and if after regular trial he is acquitted he earns a double presumption of innocence and there is a heavy onus on the prosecution to rebut the said presumption. In view of the discrepant and inconsistent evidence led, the guilt of accused is not free from doubt, we are therefore, of the view that the prosecution has failed to discharge the onus and the finding of acquittal is neither arbitrary nor capricious to warrant interference. The petition having no merit is dismissed and leave is refused."*

***2021 M L D 395 [Sindh]***, it has been held that:

*8. It reveals from the record that four (4) civil suits for declaration, permanent injunction and possession were filed before this Court with regard to same subject property and these suits were filed prior to institution of direct complaint. Thus, the dispute between the parties over the subject property was bona fide civil dispute, which was already subjudice before this Court in different suits. It has been held by the Full Bench of the Lahore High Court, Lahore in the case of Zahoor Ahmad and 5 others v. The State reported in PLD 2007 Lah. 231 that the Illegal Dispossession Act, 2005 has no application to cases of dispossession between co-owners and co-sharers and also that the said act is not relevant to bona fide civil disputes, which are already subjudice before civil or revenue Courts. It has also been declared by the*

Full Bench of the Lahore High Court, Lahore in that case that the Illegal Dispossession Act, 2005 was introduced in order to curb the activities of Qabza groups/property grabbers and land mafia. During the course of arguments, it has been conceded by the learned counsel for the appellant that no material is available with the appellant to establish that respondents belonged to any Qabza group or land mafia or that they had the credentials or antecedents of being property grabbers.

9. In the circumstances of this case mentioned above, I have entertained an irresistible impression that through filing of his complaint under the Illegal Dispossession Act, 2005, the appellant has tried to transform a bona fide civil dispute between the parties into a criminal case so as to bring the weight of criminal law and process to bear upon respondents in order to extract concessions from them. Such utilization of the criminal law and process by the appellant has been found by this Court to be an abuse of the process of law which cannot be allowed to be perpetuated.

**Muhammad Aslam Vs Imamuddin Ahmed And 7 Others, 2013 M L D 1444 [Sindh]**, it has been held that:

9. Accordingly, it would be proper to examine the case in hand on the above touch-stone. Applicant himself admits that the subject matter property is undivided one hence in such like event it is legally presumed that every shareholder of a joint holding would be deemed to be in joint possession, therefore, co-sharer Mohammad Siddique, brother of applicant, cannot be legally presumed to be out of possession of such joint holding, who undisputedly sold out the share to accused/respondent through register sale deed, hence the accused / respondent, legally to be presumed, to be standing in the same position of such co-sharer. Without prejudice to this the complainant/applicant has further admitted in his complaint that the possession was handed over to the respondent by the Seller who was co-sharer with the applicants. Since the complainant/ applicant himself admits about delivery of possession to the accused/ respondent by an admitted co-sharer then the complainant/applicant is not legally justified to allege that the accused/respondents dispossess the applicant. Further, it is also a matter of record that suit for Specific Performance was filed before this complaint and no criminal case regarding the criminal assault, if any committed by respondents/accused was lodged. Thus what becomes evident on record is that accused/ respondent was put in possession by an owner (co-sharer), accused/ respondent possessing subject matter under a register document and that applicant / complainant was not in possession of the subject matter at the time of alleged dispossession because admittedly prior to such date the possession of the subject matter stood delivered to accused / respondent by brother of applicant / complainant, namely Mohammad Siddique, a co-sharer in joint holding. Moreover, under Illegal Dispossession Act, trial court is not competent to determine the legal character and make partition of the landed property, as same is not vested in its jurisdiction thus only civil court revenue fora are competent to resolve such controversies.

10. Thus keeping in view the guide-lines, provided by the honourable Supreme Court of Pakistan in the dictum, referred above, I am of the considered view that provision of section 3 of the Act is not applicable to the instant case and learned trial Court was well justified in dismissing the complaint of the complainant/applicant. Regarding the contention of applicant counsel that trial judge has misapplied section, while passing impugned order, in that respect it would be suffice to say

that mere mentioning the wrong section in order, will not prejudice the either party, important aspect is that, under law, it has to be seen that whether reasons assigned by the concerned court while delivering any order are justified and within the parameters of relevant law, if the same are within the law, such order cannot be annulled merely on the basis of application of wrong section.

**Sami Ul Haq Khilji vs. Ali Raza Rizvi and 2 others, PLD 2010 Lahore 394** It has been held that

14. Even preamble of the Illegal Dispossession Act provides that the said Act is specific to the extent of the property grabbers. Though respondent No.1 has claimed that the petitioner and other accused are land grabbers but has not given any specific instance of their involvement in such activities and also has not placed on record any documentary evidence in support of his claim. The perusal of the record shows that it is a private dispute between the parties and both the parties are co-sharers in the said portion of the property which was not exclusively owned by respondent No.1 who is owning a very small share as compare to the other co-owners. Moreover, claim of the petitioner is that respondent No.1 had received a total sum of Rs.25,00,000 through cheques and also in cash which is almost equivalent to the value of his share in the said property despite the fact that his name is yet to be incorporated as co-owner in the record held by various Government Departments. The facts of the case revealed that the said dispute which is civil in nature has been converted into criminal offence by the respondent No.1 with mala fide intention in order to pressurize the petitioner and other legal heirs of Mst. Shahida Begum for grabbing further amount in spite of the fact that he had already received a reasonable amount from them. The said issue can be resolved by the civil Court, which is only competent to decide the shares of the parties or that whether any amount was due from the petitioner and other legal heirs of Mst. Shahida Begum towards respondent No.1 in respect of his share in the said property. The special enactment shows that this is exclusively applicable in the case where Qabza groups and land grabbers have taken possession of the property illegally and have a chequered history in this behalf. In the present case, there is no documentary evidence about such previous record of the petitioner and other co-owners but even then the petitioner who is admittedly a co-owner has been implicated as an accused by respondent No.1 in the complaint. So the said Act is not applicable and the complaint filed by respondent No.1 by impleading the petitioner as an accused is not maintainable in view of the law laid down by the superior Courts. In *Zahoor Ahmad etc.'s case* (PLD 2007 Lahore 231), the Full Bench of this Court observed as under:-

"7. For the purpose of providing guidance to all the Courts of Session in the Province of the Punjab we declared as follows:

(i) The Illegal Dispossession Act, 2005 applies to dispossession from immovable property only by property grabbers/Qabza Group /land mafia. A complaint under the Illegal Dispossession Act, 2005 can be entertained by a Court of Session only if some material exists showing involvement of the persons complained against in some previous activity connected with illegal dispossession from immovable property or the complaint demonstrates an organized or calculated effort by some persons operating individually or in groups to grab by force. or deceit property to which they have no lawful ostensible or justifiable claim. In

*the case of an individual it must be the manner of execution of his design which may expose him as a property grabber.*

*(ii) The Illegal Dispossession Act, 2005 does not apply to run of the mill cases of alleged dispossession from immovable properties by ordinary persons having no credentials or antecedents of being property grabbers/Qabza Group/land mafia, i.e. cases of disputes over possession of immovable properties between co- owners or co-sharers, between landlords and tenants, between persons claiming possession on the basis of inheritance, between persons vying for possession on the basis of competing title documents, contractual agreements or Revenue Record or cases with a background of an on-going private dispute over the relevant property.*

*(iii) A complaint under the Illegal Dispossession Act, 2005 cannot be entertained where the matter of possession of the relevant property is being regulated by a civil or revenue Court.*

*All the Courts of Session in the Province of the Punjab are directed to examine all the complaints under the Illegal Dispossession Act, 2005 pending before them and to dismiss all those complaints forthwith which are found to be not maintainable in terms of the interpretation of the said law rendered by us through the present judgment." The august Supreme Court of Pakistan in Gul Ahmed and 3 other's case (2000 SCMR 122) has held that in exceptional cases the High Court can quash the F.I.R. without waiting the recourse to the learned trial Court under section 249-A, Cr.P.C. or 265-K, Cr.P.C. the reliance is also placed on 2007 PCr.LJ 1280 (Lahore) and 2007 PCr.LJ 1920 (Kar.).*

**Muhammad Azeem And 3 Others Vs The State, 2023 M L D 823[Sindh]**, it has been held that:

*15. The preamble of this Act is only to protect the lawful owners and occupiers from their illegal or forcible dispossession and prevent them from the land grabbers/Qabza group or land mafia. In the instant case, there is the question in respect of the examination of the title of the parties. It is pointed out that it is the sole function of the Civil Court to give an authoritative decision with regard to the title of the property and the Criminal Court is not competent to give any finding qua title of the property. In such like cases, Criminal Court is simply required to examine the material available before it to form an opinion as to whether a prima facie case is made out for holding that the person who has complained about his dispossession was in lawful possession or owner because the words used in section 3 of the Act are "owner" and "occupier" of the property. The word occupier has been defined in section 2(c) of the Act viz. "occupier" means the person who is in lawful possession of a property; the word owner is defined in section 2(d) of the Act viz. "owner" means the person who owns the property at the time of his dispossession, otherwise than through a process of law; and the word property has been defined in section 2(e) of the Act, as "property" means immovable property. Thus to attract the provisions of section 3 of the Act, the Court is required to examine as to whether the property was an immovable property; secondly that the person was the owner of the property or in its lawful possession. Thirdly, that the accused has entered into or upon the property unlawfully. Fourthly, that such entry is with the intention to dispossess i.e. ouster, evict or deriving out of possession against the will of the person in actual possession, or to grab i.e. capture, seize*

suddenly, take greedily or unfairly, or to control i.e. to exercise power or influence over, regulate or govern or relates to authority over what is not in one's physical possession or to occupy i.e. holding possession, reside in or something. The definitions of the above words have been drawn from Black's Law Dictionary and Concise Oxford Dictionary. Though all the four words carry somewhat similar meaning in general, but individually applicable to different situations, times, places and circumstances, therefore, they cannot be given one and same meaning as by doing that one or more words become redundant, which cannot be attributed to the Legislature.

**BARKAT ALI and 2 others Vs. The STATE and another, 2025 P Cr. L J 41 [Sindh]**, it has been held that:

11. In the case of an individual, it must be the manner of execution of his design that may expose him as a property grabber. Additionally, the Illegal Dispossession Act, 2005 does not apply to run-of-the-mill cases of alleged dispossession from immoveable properties by ordinary persons having no credentials or antecedents of being property grabbers/Qabza Group/land mafia, i.e. cases of disputes over possession of immovable properties between co-owners or co-sharers, between landlords and tenants, between persons claiming possession based on inheritance, between persons vying for possession based on competing title documents, contractual agreements or revenue record or cases with a background of an on-going private dispute over the relevant property. Further a complaint under the Illegal Dispossession Act, 2005 cannot be entertained where the matter of possession of the relevant property is being regulated by a civil or revenue Court.

**Waqar Ali and others Vs The State through Prosecutor/Advocate-General, Peshawar and Others, P L D 2011 Supreme Court 181**, the precedent dictates that:

10. The above noted observations point to the erroneous approach taken by the trial Court as to the maintainability of the complaint. The Court, it should be noted is not obliged on the filing of each complaint, to direct the police to investigate the matter. Section 5 of the Act is clear that "upon a complaint the Court may direct" the police to investigate the matter. This enabling power of the Court can only be exercised on the basis of and after considering the contents of the complaint. The power to direct an investigation under section 5 *ibid* is to be exercised judicially and not as an unconsidered or mechanical action undertaken on every complaint filed under the Act, regardless of the merits of the same. The purpose of the investigation under the aforesaid statute is to ascertain *prima facie*, the authenticity of what has been stated in the complaint. The complaint itself has to show that an offence cognizable by the Court has been committed by the accused person(s) named therein. In the present case, from the order of the learned trial Court dated 15-7-2009 it is obvious that the matter was sent to the police "on the lodging of the complaint". If the learned trial Court had gone through the complaint, in particular, paragraphs 3 and 4 thereof it would have become apparent to it that the dispute between the parties was not of a criminal nature, and as such cognizance was not required to be taken.

16. Regarding revisional Jurisdiction is concerned, Section 435 of the Code of Criminal Procedure provides for the revisional jurisdiction of the High Court. In order to invoke this jurisdiction, two conditions precedent

constituting jurisdictional facts must be satisfied, first, the matter must relate to proceedings, and second, such proceedings must have taken place before an inferior criminal court. The term “any proceedings” used in Section 435 Cr.P.C. is to be given a liberal interpretation, encompassing all steps or actions taken by an inferior criminal court under the law. This broad construction ensures that the High Court can effectively supervise subordinate courts to prevent illegality, irregularity, or abuse of jurisdiction. Reliance is placed upon the judgment in *Ali Gohar and others v. Pervaiz Ahmed and others* (PLD 2020 Supreme Court 427), wherein the Supreme Court emphasized that the revisional jurisdiction under Section 435 Cr.P.C. extends to any proceedings before an inferior criminal court, including the initial steps taken in criminal proceedings, and can be exercised to examine the legality, propriety, or correctness of such proceedings. In this context, in the present matter the learned trial Court, in admitting the Complaint for regular hearing, failed to properly appreciate the civil character of the dispute and wrongly assumed cognizance under the special statute.

17. In view of the foregoing discussion, and after a careful perusal of the entire record and the material available on file, the instant Criminal Revision Application is hereby allowed. The order dated 19.04.2025 passed by the II-Additional Sessions Judge, Karachi-East, stands set aside, and Criminal Complaint No. 02 of 2025 filed by the Respondent is dismissed.

**JUDGE**

*Amjad PS*