

Order Sheet

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Crl. Revision Application No.S-145 of 2018

[Umed Ali v. The State and 02 others]

Applicant : Umed Ali s/o Imam Bux, by caste Bhand
Through Mr.Ashfaque Nabi Qazi, Advocate

Respondent No.1 : The State, through Mr.Shahid Ahmed Shaikh,
Additional P.G Sindh

Respondent No.2 : Abdul Rehman s/o Haji Muhammad Hassan
Respondent No.3 : Ghulam Hussain s/o Abdullah
Through Mr.Noor-ul-Amin Sipio, Advocate

Date of hearing : **12.01.2026**

Date of Decision : **12.01.2026**

O R D E R

ARBAB ALI HAKRO, J.- This criminal revision is directed against the order dated 10.07.2018, passed by the learned II-Additional Sessions Judge, Shaheed Benazirabad. whereby the applicant's complaint under Sections 3 and 4 of the Illegal Dispossession Act, 2005 ("the Act") was dismissed. The applicant asserts that he is the lawful owner of agricultural land measuring 32-00 acres comprising Block Nos. 181 and 182, purchased through a registered sale deed dated 06.04.2004 and that he remained in cultivating possession through his Haris until 13.05.2018, when the respondents allegedly entered the land armed and forcibly dispossessed him. The trial Court, however, dismissed the complaint on the premise that the applicant was never in possession, that the accused were in possession pursuant to an earlier allotment, and that the dispute was essentially civil in nature, requiring adjudication before a civil forum.

2. Learned counsel for the applicant/complainant vehemently contended that the impugned order suffers from manifest illegality, material irregularity and gross misappreciation of law and facts, warranting interference by this Court in its revisional jurisdiction. It is argued that the learned trial Court gravely erred in

dismissing the complaint in limine without framing a charge or recording evidence, despite the fact that the applicant had placed on record unimpeachable documentary evidence establishing lawful title and prior possession over the subject land. Learned counsel submitted that at the pre-trial stage, the Court was only required to ascertain the existence of a *prima facie* case and not to undertake a deeper appreciation of disputed questions of fact, which could only be resolved after recording evidence. Learned counsel further submitted that the learned trial Court failed to appreciate that the respondents had no semblance of title or lawful possession and that the bogus revenue entries relied upon by them had already been cancelled through a judicial order passed by the competent revenue authority, which had attained finality. It is contended that the learned Court below misread and misconstrued the reports of the Mukhtiarkar and police, thereby drawing erroneous conclusions averse to the applicant. It is also urged that the object and spirit of the Act, which is to provide immediate and efficacious relief to lawful owners and occupiers against forcible dispossession, was overlooked entirely. According to learned counsel, the allegations disclosed in the complaint squarely attracted the penal provisions of the said Act, as the respondents forcibly dispossessed the applicant through the use of criminal force and threats. Lastly, learned counsel submitted that the impugned order was passed mechanically, without proper application of the judicial mind and thus could not be sustained in law. He prayed that the impugned order be set aside and the matter be remanded to the learned trial Court with direction to take cognisance of the offence and decide the case on merits after recording evidence in accordance with law. In support of his contentions, he relied upon an unreported Judgment dated 02.6.2025, passed in **Crl. P.L.A No.1121/2021, PLD 2010 S.C 725, 2010 SCMR 1254 and SBLR 2007 Sindh 1047.**

3. Learned counsel for respondents No.2 and 3 maintained that the impugned order is unassailable, as the applicant failed to produce any credible material establishing a clear title or settled possession, both being essential

prerequisites under the Act. It is argued that the applicant's ownership is seriously disputed, rendering the complaint legally incompetent. Counsel emphasised that the Act cannot be invoked to resolve complex civil disputes or competing title claims, and the learned trial Court rightly declined to proceed in the absence of *prima facie* proof of forcible dispossession. It is urged that the revision application is devoid of merit and the impugned order warrants no interference. In support of his contentions, he placed reliance on **2025 SCMR 1702, 2025 MLD 1593, and 2025 P. Cr. L.J 1403.**

4. Learned Additional Prosecutor General, appearing on behalf of the State, submitted that the trial Court dismissed the complaint without properly examining the record or conducting the requisite preliminary inquiry. He contended that the material was not adequately evaluated, and essential aspects remained unprobed. In these circumstances, he supported remand of the matter to the trial Court for a fresh and lawful assessment after proper inquiry.

5. Having heard learned counsel for the parties as well as learned Additional P.G and having re-examined the entire record, it is necessary first to delineate the scope of revisional jurisdiction. While this Court does not sit as a Court of appeal, it is empowered to correct jurisdictional errors, misdirection in law and findings that are perverse or based on irrelevant considerations. The question before this Court is whether the trial Court correctly exercised jurisdiction vested in it under the Act, or whether it declined such jurisdiction on grounds not sanctioned by law.

6. The Act is a remedial statute enacted to curb the menace of forcible dispossession and land grabbing. The trial Court, upon receiving a complaint, is required to determine whether the complainant was in lawful possession immediately before the alleged occurrence and whether the accused unlawfully entered with the intention to dispossess. The jurisdiction under the Act is not ousted merely because the parties have competing claims of title or because civil proceedings are pending. This legal position now stands conclusively

settled by the Supreme Court¹. The Supreme Court, while examining the scope of the Act, held in unequivocal terms that the trial Court cannot dismiss a complaint merely because civil litigation is pending or because the dispute involves questions of title and observed:

“Any act which entails civil liability under civil law as well as criminal penalty under criminal law, such as the Illegal Dispossession Act, 2005, then a person can be tried under both kinds of proceedings... No one can be allowed to take law in his own hands and unlawfully dispossess an owner or lawful occupier of an immovable property and then seek to thwart the criminal proceedings initiated against him under the Illegal Dispossession Act, 2005 on the pretext that civil litigation on the issue is pending adjudication...”

[Emphasis is supplied]

7. The Supreme Court further held that the trial Court is under a statutory duty to determine whether dispossession occurred. That dismissal of a complaint solely on the ground of civil proceedings is legally untenable. In para 15 of the Judgment, the Supreme Court declared:

“Any summary dismissal of a criminal complaint solely on the ground of the existence of a pending civil dispute is legally untenable and contrary to the settled jurisdiction, unless the trial court comes to the conclusion that the complainant is abusing the process of the law...”

[Emphasis is supplied]

8. When the impugned order is examined in the light of the above authoritative pronouncement, it becomes evident that the trial Court misdirected itself in law. The trial Court treated the availability of a civil remedy and the pendency of revenue litigation as grounds to decline jurisdiction under the Act. This approach is inconsistent with the law declared by the Supreme Court, which mandates that civil proceedings do not bar criminal prosecution under the Act and that both tracks may proceed concurrently.

9. The trial Court also concluded that the applicant never remained in possession by relying exclusively on the Muktiarkar's report and the order passed in the land grant appeal. However, the SHO's report acknowledged that the applicant possessed all title documents, while the accused relied on

¹ in an unreported Judgment dated 08.8.2025, passed in Crl.PLA No.1121 of 2021 (Qaiser Jabbar v. Syed Mati Ullah Shah)

allotment claims. The possession certificate issued by the revenue authorities stated that the applicant had been in possession for seven years. These materials created a factual controversy requiring judicial determination, not summary rejection. The Supreme Court, in the same Judgment, emphasised that where the police report is incomplete or silent on the core question of possession prior to the alleged occurrence, the trial Court must order further inquiry under the second proviso to Section 5(1). In para 16, the Supreme Court held:

“On account of such deficiency in the said report, the trial court could have ordered for an inquiry in terms of the second proviso to section 5(1) of the 2005 Act. This the trial court did not do and outrightly dismissed the complaint...”

[Emphasis is supplied]

10. In the present case, the SHO's report and the Mukhtiarkar's report were not only inconsistent but also inconclusive on the question of actual possession immediately prior to the alleged dispossession. The trial Court, instead of directing further inquiry, prematurely concluded that the applicant was never in possession. This amounted to conducting a mini-trial at the pre-summoning stage, contrary to the statutory scheme.

11. Moreover, the record reveals that the applicant produced a registered sale deed, revenue entries, a possession certificate and a specific allegation of dispossession on a particular date. These materials were sufficient to require the trial Court to examine whether dispossession occurred. The summary dismissal of the complaint, therefore, reflects a failure to exercise jurisdiction vested by law.

12. The trial Court approach, treating revenue entries and the land grant appeal as conclusive proof of possession was legally flawed. The Act does not require the complainant to establish an indefeasible title; it requires proof of lawful possession immediately prior to the alleged dispossession. Whether such possession existed is a question of fact requiring inquiry, not summary rejection.

13. In view of the foregoing discussion, the impugned order cannot be sustained. The trial Court misdirected itself in law, failed to conduct the inquiry mandated by Section 5 of the Act and declined jurisdiction on grounds not

recognised by the Act. Consequently, this Criminal Revision is **allowed**. The impugned order dated 10.07.2018 is set aside. The matter is remanded to the trial Court with the direction to conduct a proper inquiry under Section 5 of the Act, determine whether the applicant was in possession immediately before the alleged occurrence and proceed strictly in accordance with the law. All observations herein are tentative and shall not prejudice the trial Court.

JUDGE

AHSAN K. ABRO