

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No.943 of 2025

Applicants : Khursheed Jehan Shaikh, & Mehvish Shaikh, Through: Mr. Mansoor Ali Jatoi advocate

Respondents Nos.1 & 2 : The State, Through: Mr. Zahoor Shah, learned Additional P.G. Sindh

Respondent No.3 : Muhammad Daniyal Khan, Through: Mr. Samiullah, advocate

Date of hearing : 17.12.2025

Date of Order : 17.12.2025

O R D E R

Jan Ali Junejo, J:-- This Criminal Miscellaneous Application under section 561-A of the Code of Criminal Procedure, 1898, has been filed by the Applicants, namely (i) Khursheed Jehan Shaikh and (ii) Mehvish Shaikh, seeking exercise of the inherent jurisdiction of this Court for setting aside the Order dated 02.10.2025 (hereinafter referred to as the "Impugned Order") passed by the learned XII-Additional Sessions Judge/Ex-Officio Justice of Peace, Karachi East, in Criminal Miscellaneous Application No.5096 of 2025.

2. The brief facts, as borne out from the record, are that Respondent No.3 moved an application under sections 22-A & 22-B Cr.P.C. before the learned Ex-Officio Justice of Peace alleging that the Applicants had illegally occupied Plot No.184-M, Block-2, PECHS, Karachi, since the year 1987; that they had prepared fake and bogus documents, including a power of attorney and a gift deed; and that they had been extending threats and causing mental harassment to him. On the basis of such allegations, Respondent

No.3 sought directions for registration of an FIR and for provision of protection.

3. The Applicants, on the other hand, asserted before this Court that Applicant No.1 is the lawful and registered owner of the subject property by virtue of a registered Gift Deed dated 25.05.1995, duly executed and registered, and supported by a complete chain of documentary evidence including Form 'A' Sub-Lease issued by PECHS, mutation entries, intimation letters, Form-7, approval of building plan by the competent authority, construction of boundary wall, deployment of a caretaker, and obtaining of utility connections. It was contended that these documents *prima facie* establish lawful title and long-standing possession of the Applicants.

4. It was further asserted that Respondent No.3 failed to produce any registered title document demonstrating ownership or lawful possession of the subject property, and that the allegations levelled in the application under sections 22-A & 22-B Cr.P.C. were vague, general, and devoid of specific particulars such as dates, time, place, or witnesses, thereby failing to disclose commission of any cognizable offence. According to the Applicants, the criminal proceedings were initiated with *mala fide* intent to give a criminal colour to a purely civil dispute relating to title and possession of immovable property.

5. After hearing learned counsel for the parties and upon examining the available record, the learned Ex-Officio Justice of Peace, vide impugned order dated 02.10.2025, made observations

touching upon disputed questions of title, alleged forgery of documents, cancellation of power of attorney, and alleged illegal occupation, and consequently directed the SHO to record the statement of Respondent No.3 under section 154 Cr.P.C. and to proceed in accordance with law if a cognizable offence is made out.

6. Being aggrieved and dissatisfied with the said order, the Applicants invoked the inherent jurisdiction of this Court under section 561-A Cr.P.C. on the grounds that the impugned order was passed mechanically, without lawful application of judicial mind, in excess of jurisdiction, and in abuse of the process of law, thereby necessitating interference to secure the ends of justice.

7. Learned counsel for the Applicants argued that the impugned order dated 02.10.2025 was passed in a mechanical and perverse manner without lawful application of judicial mind, as the learned Ex-Officio Justice of Peace exceeded his jurisdiction under sections 22-A & 22-B Cr.P.C. by adjudicating disputed questions of title and possession. He contended that the dispute is purely civil in nature relating to ownership of Plot No.184-M, PECHS, Karachi, and that the Applicants have established their lawful title and long-standing possession through a complete chain of registered documents, including a registered Gift Deed of 1995, mutation entries, PECHS intimations, and building plan approvals. It was further argued that Respondent No.3 failed to produce any registered title document, and his allegations of threats and harassment are vague, unsupported, and do not disclose any cognizable offence. The learned counsel submitted that criminal law is being misused to

pressurize the lawful owners, amounting to abuse of process, warranting interference by this Court under section 561-A Cr.P.C. to secure the ends of justice and to set aside the impugned order.

8. Learned counsel for Respondent No.3, on the other hand, opposed the application and contended that the impugned order was strictly in accordance with law, as the Justice of Peace is empowered to direct the police to record a statement under section 154 Cr.P.C. where allegations disclose commission of cognizable offences. He argued that Respondent No.3 is the lawful owner in possession of the property pursuant to rent proceedings and official record, and that the Applicants have illegally occupied the property by preparing fake and bogus documents, including a forged power of attorney and gift deed. It was further contended that serious allegations of forgery, criminal trespass, threats, and harassment have been levelled against the Applicants, which require investigation by the police. Learned counsel prayed that the Criminal Miscellaneous Application be dismissed, as no illegality or jurisdictional defect exists in the impugned order.

9. Learned Additional Prosecutor General submitted that the police had acted in accordance with law and that the impugned order merely directed the SHO to record the statement of Respondent No.3 and proceed in accordance with law if a cognizable offence is made out. He argued that at the stage of section 154 Cr.P.C., a detailed appreciation of evidence is neither required nor permissible, and the veracity of documents or rival claims of ownership can only be determined after proper

investigation or by a competent civil court. He therefore supported the impugned order and contended that no interference was warranted by this Court in exercise of its inherent jurisdiction.

10. I have heard the learned counsel for the Applicants, the learned counsel for Respondent No.3, and the learned Additional Prosecutor General for the State, and have carefully perused and examined the material available on record with utmost care. A careful examination of the record reveals that the controversy between the parties is purely civil in nature, revolving around title, ownership, and possession of immovable property, namely Plot No.184-M, Block-2, PECHS, Karachi. The Applicants have placed on record a chain of registered documents, including a registered Gift Deed dated 25.05.1995, Form-A Sub-Lease, mutation entries, intimation letters of PECHS, Form-7, and building plan approval issued by the competent authority. These documents *prima facie* establish lawful title and long-standing possession of Applicant No.1. It is evident from the impugned order that the learned Ex-Officio Justice of Peace ventured into determination of disputed title and factual controversies, which is beyond the scope of jurisdiction under section 22-A & 22-B Cr.P.C. The law is well-settled that while exercising powers as Justice of Peace, the court is required to examine only whether: the information discloses commission of a cognizable offence, and the police have failed to perform their statutory duty.

11. The impugned order contains categorical findings regarding alleged forgery, bogus documents, illegal occupation, cancellation of

power of attorney, and validity of gift deeds, matters which can only be adjudicated by a competent civil court after recording evidence, and not in summary proceedings under section 22-A Cr.P.C. Such findings clearly demonstrate judicial overreach and non-application of lawful parameters.

12. A bare perusal of the application moved by Respondent No.3 shows vague allegations of “threats” and “mental harassment” without specifying dates, time, place, manner, or witnesses. No incident is described which, on its face, constitutes a cognizable offence requiring mandatory registration of an FIR. It is a settled principle of law that criminal law cannot be set into motion to resolve civil disputes, nor can it be used as a tool for pressurizing a party holding lawful title. Mere assertion of criminality without factual foundation does not satisfy the threshold of section 154 Cr.P.C. The record further reflects that Respondent No.3 has repeatedly attempted to create a criminal colour to a civil dispute, including reliance upon alleged rent proceedings and fabricated tenancy claims without annexing any rent agreement or ownership document. Such conduct squarely falls within the mischief of abuse of the process of law, which the inherent jurisdiction of this Court is specifically meant to prevent.

13. It is a settled proposition of law, consistently affirmed by the Superior Courts, that a Justice of Peace cannot assume the role of a trial court; disputed questions of title and possession fall exclusively within the domain of civil courts; directions for registration of an FIR cannot be issued as a matter of routine or in a mechanical

manner; and criminal proceedings are not to be permitted where the dispute is predominantly civil in nature. The impugned order is manifestly inconsistent with these well-established legal principles. It has been observed that Section 22-A, Cr.P.C. has been frequently misused, leading to unwarranted legal actions in numerous cases. The legislative intent behind this provision was never to allow its indiscriminate invocation for harassing individuals who, in the course of their duties, take lawful actions against accused persons. Courts must exercise caution and avoid mechanically entertaining applications under Sections 22-A & 22-B, Cr.P.C., without first assessing whether the applicant has approached the Court with clean hands or if the application is motivated by malice. Failure to do so could have serious consequences, particularly for law enforcement officers performing their official duties, as it may discourage them from taking necessary legal actions. The law must be interpreted in a fair and balanced manner, ensuring that its protection is extended to all individuals without being used as a tool for harassment or coercion. Reliance may be placed on the principle established by this Court in *Intiaz Ahmed Cheema, S.H.O. v. S.H.O., Police Station Daharki, Ghotki & Others* (2010 YLR 189), wherein it was emphasized that courts must exercise due diligence before directing the registration of an FIR. Reference may also be made to the case of *Jamil Ahmad Butt and another v. The State through Prosecutor-General, Sindh and others* (2014 P.Cr.L.J. 1093), wherein this Court emphatically held that: "There are instances of misuse of provisions of section 22-A, Cr.P.C. and, therefore, it is the duty of the Court that such misuse should be taken care of and such application should

not be lightly entertained in a mechanical manner for direction to the police to register a statement of complainant and start prosecuting the alleged accused persons".

14. In view of the foregoing discussion, this Court is satisfied that the impugned order dated 02.10.2025 was passed without lawful authority and without proper application of judicial mind; that the controversy between the parties is essentially civil in nature; that no cognizable offence is disclosed on the face of the record; and that continuation of proceedings pursuant to the impugned order would amount to an abuse of the process of law, resulting in grave injustice to the Applicants.

15. Accordingly, the present Criminal Miscellaneous Application filed on behalf of the Applicants is allowed in the following terms.

- i. *The impugned order dated 02.10.2025 passed by the learned Additional Sessions Judge-XII/Ex-Officio Justice of Peace, Karachi East, in Criminal Miscellaneous Application No.5096 of 2025 is hereby set aside.*
- ii. *Any action taken or proposed to be taken in pursuance thereof is declared to be of no legal effect.*
- iii. *The SHO concerned is restrained from taking any coercive or adverse action against the Applicants on the basis of the said impugned order.*
- iv. *This order shall not prejudice the rights of either party to avail appropriate remedies before a competent civil forum, if so advised.*

These are the detailed reasons of the Short Order dated: 17.12.2025.

JUDGE