

# **IN THE HIGH COURT OF SINDH AT KARACHI**

## **Criminal Revision Application No.284 of 2025**

Applicant : Parveen Khalid, Through:  
Mr. Haider Waheed, Advocate

Respondent No.1 : The State, Through: Mr. Siraj Ali  
Khan Chandio, Addl. P. G. Sindh  
a/w Inspector Rashid Hussain Shah  
of PS Boat Basin.

Respondent No.2 : Fahad Aziz Khan, Through:  
Mr. Irfan Bashir Bhutta advocate

Date of hearing : 15.12.2025

Date of Order : 24.12.2025

## **O R D E R**

**Jan Ali Junejo, J:--** This Criminal Revision Application, filed under Sections 435 and 439-A of the Code of Criminal Procedure, 1898 (Cr.P.C.), seeks to challenge and set aside the Order dated 04.11.2025 (hereinafter referred to as the '*Impugned Order*'), passed by the Learned IXth Additional District and Sessions Judge, Karachi-South (hereinafter referred to as the "*Trial Court*"), in Illegal Dispossession Case No. 3037 of 2025, whereby the Learned Judge dismissed the Applicant's Application under Section 7 of the Illegal Dispossession Act, 2005, for interim relief/restoration of possession. The main complaint remains pending before the Learned Trial Court.

2. The brief facts of the Applicant's case is that the Applicant, Mst. Parveen Khalid, is a senior citizen, an educationist, and the founding President of the 'Parveen Education Society', which owns and operates Clifton High School (the Subject Property) at Plot No. ST-11/B, Block 2, Clifton, Karachi. The Applicant claims to have been in continuous, peaceful, and exclusive

possession of the Subject Property for almost four decades, acting as the President of the Society and Principal of the School since its inception in 1983. The Applicant's possession is supported by extensive documentary evidence, including the Society's Registration Certificate, KDA Allotment and Lease documents, Karachi Building Control Authority's Completion Certificate, and numerous Board Resolutions authorizing her to act on behalf of the Society. The Respondent No. 2, Fahad Aziz Khan, is the Applicant's son, who is engaged in a private security business and has no formal or informal role in the management of the school or the Society. On 08.04.2025, the Respondent No. 2, accompanied by approximately eight to ten armed private security guards from his firm, allegedly forcibly and wrongfully entered the Subject Property, ordered the Applicant to vacate, and illegally dispossessed her from the premises. The Applicant's subsequent attempt to lodge a First Information Report (FIR) at P.S. Boat Basin was refused, leading her to file a complaint under the Illegal Dispossession Act, 2005. The Learned Additional District and Sessions Judge, vide the Impugned Order dated 04.11.2025, dismissed the Applicant's Application under Section 7 of the Act for interim relief, which is the subject matter of this Revision. During the pendency of this Revision Application, a Police Inquiry Report was submitted before this Honourable Court, which, after a thorough investigation, confirmed the Applicant's long-standing possession of the Subject Property and the forcible entry and dispossession by the Respondent No. 2. The report concluded that a clear

case of illegal dispossession was made out against Respondent No. 2.

3. Learned Counsel for the Applicant vehemently contended that the impugned order is illegal, perverse, and has been passed without proper application of mind to the facts and the law, thereby warranting interference under the revisional jurisdiction of this Honourable Court. He argues that the overwhelming documentary evidence, spanning over four decades, conclusively establishes the Applicant's lawful possession of the subject property, and that the forcible entry and dispossession by Respondent No. 2, allegedly with the aid of armed guards, squarely falls within the mischief of the Illegal Dispossession Act, 2005. He further contends that the learned Trial Court committed a grave miscarriage of justice by dismissing the mandatory Application under Section 7 of the Act for interim relief, thereby frustrating the very object of the statute, which is to protect lawful occupiers from violent and illegal dispossession. Lastly, he prays for allowing the present Criminal Revision Application. In support of his submissions, learned counsel has relied upon the case-law reported as PLD 2024 SC 1152.

4. Conversely, learned counsel for Respondent No. 2 opposed the Application. He argues that the dispute is essentially of a civil nature, relating to title and management of the Society, and therefore falls outside the purview of criminal jurisdiction. He further contends that the revisional jurisdiction of this Honourable Court is limited in scope and cannot be exercised as an appellate forum for re-appreciation of evidence, and that since the impugned

order was passed after due consideration of the available material, no patent illegality or perversity has been committed so as to warrant its interference. Lastly, he prays for dismissal of the Criminal Revision Application.

5. Learned Additional Prosecutor General, appearing on behalf of the State, submitted that the Police Inquiry Report conducted during the pendency of the present Revision Application fully corroborates the Applicant's stance. He submits that the report confirms the Applicant's long-standing and peaceful possession of the subject property and the forcible and illegal dispossession by Respondent No.2 on 08.04.2025, concluding that a clear *prima facie* case under the Illegal Dispossession Act, 2005, is made out against Respondent No. 2. He, therefore, supports the setting aside of the impugned order and the restoration of possession to the Applicant strictly in accordance with law.

6. This Court has carefully considered the submissions made by the Learned Counsel for the parties, perused the record, the Impugned Order, and the Police Inquiry Report submitted before it, and examined the matter in light of the relevant legal provisions and precedents. The Illegal Dispossession Act, 2005 was enacted with the specific object of protecting lawful owners and occupiers from being forcibly and illegally dispossessed from their properties by land grabbers or powerful individuals. The crucial element under the Act is the lawful possession of the complainant and the illegal, forcible dispossession by the accused. The question of title is secondary to the question of possession. The record establishes an unbroken chain

of lawful possession by the Applicant in her capacity as the President and Principal of the Society/School for nearly forty years. The documents, including the registered lease and the Completion Certificate, clearly reflect the Society (represented by the Applicant) as the lawful occupier. The Learned Trial Court appears to have failed to give due weight to this overwhelming documentary evidence. The facts alleged by the Applicant, forcible entry by armed guards and immediate takeover, constitute a classic case of illegal dispossession. The Impugned Order, by dismissing the Application under Section 7, of the Act, 2005 despite the strong *prima facie* evidence of long-standing lawful possession and forcible dispossession, has resulted in a miscarriage of justice. The Learned Trial Court erred in treating the matter as a mere civil dispute, overlooking the criminal element of forcible dispossession, a fact further corroborated by the Police Inquiry Report submitted before this Court as well as before the Trial Court.

7. The learned Trial Court's dismissal of the Application under Section 7 of the Illegal Dispossession Act, 2005, thereby denying the Applicant the mandatory interim relief envisaged under the said provision, is legally untenable. Section 7(1) of the Act expressly provides: "*If during trial the Court is satisfied that a person is found prima facie to be not in lawful possession, the Court shall, as an interim relief, direct him to put the owner or occupier, as the case may be, in possession*".

8. The interpretation of the phrase "*during trial*" is of pivotal importance. It is a settled proposition of law that the trial of a

criminal case commences with the framing of charge against the accused, and the concept of "*trial*" is not confined merely to the stage of recording evidence of the complainant. The Honourable Supreme Court has clarified that while the taking of cognizance does not amount to commencement of trial, once the charge is framed, the trial is deemed to have commenced. In the present case, the learned Trial Court, having taken cognizance of the complaint and being seized of overwhelming documentary evidence demonstrating the Applicant's long-standing lawful possession, was under a mandatory statutory obligation, as denoted by the word "*shall*", to consider and grant interim relief under Section 7(1) of the Act upon being satisfied that Respondent No. 2 was *prima facie* not in lawful possession. The dismissal of the Application under Section 7, amounting in effect to a refusal of interim restoration of possession, constitutes a failure to exercise jurisdiction vested in the Court by law. This omission is particularly grave in view of the facts pleaded, the documentary material placed on record, and the subsequent Police Inquiry Report, all of which strongly support the Applicant's entitlement to immediate restoration of possession. The very object and spirit of the Act is to provide prompt and efficacious interim relief so as to prevent an illegal dispossessor from enjoying the fruits of unlawful possession. The learned trial Court has referred to the Order dated 25.07.2025 passed by this Court in C.P. No.610 of 2025, while acknowledging that the said Order pertains only to the financial affairs of the School to be supervised by the Nazir of this Court and has no bearing whatsoever on the Applicant's right to restoration of possession of the subject property.

9. While the revisional jurisdiction under Sections 435/439-A Cr.P.C. is generally exercised sparingly, it is the duty of the High Court to interfere where the order of the subordinate court is patently illegal, perverse, or results in grave injustice. The Honourable Supreme Court of Pakistan has consistently held that the revisional court can correct a patent error of law or fact which has led to a failure of justice. In the present case, the failure to proceed against a clear act of illegal dispossession, supported by substantial evidence, warrants the exercise of this Court's inherent and revisional powers. This Court is guided by the following principles laid down by the August Supreme Court of Pakistan:

- In the case of *Shaikh Muhammad Naseem v. Mst. Farida Gul (2016 SCMR 1931)*, the Honourable Supreme Court emphasized that: "*We may state that the term 'property grabbers' is not one of those terms that is popularly associated with any particular class of offenders such as the terms 'Land grabbers', 'Qabza Mafia' or 'Qabza Group'. In fact none of the popular terms which are identified with a specific category of offenders have been used anywhere in the Act. As the term 'property grabbers' appearing in the preamble of the Act has been used in general sense, it cannot be identified with any particular category of offenders in order to restrict the scope and applicability of the Illegal Dispossession Act, 2005 to a particular category of offenders. Additionally, the substantive provision of Illegal Dispossession Act i.e. section 3 expressly uses general terms such as 'no one' and 'whoever' for the offender. This clearly indicates that the widest possible meaning is to be attributed to these terms. Thus the provisions of section 3 clearly demonstrate that whosoever commits the act of illegal dispossession, as described in the Illegal Dispossession Act, 2005 against a lawful owner or a lawful occupier, he can be prosecuted under its provisions without any restriction*".
- In more analogous circumstances, in the case of *Niaz Ahmed and another v. Aijaz Ahmed and Others (PLD 2024 SC 1152)*, the Honourable Supreme Court clarified that the scope of the Act is sufficiently wide to encompass any illegal occupant and is not confined merely to so-called "Qabza Mafia" or land grabbers. Crucially, Honourable Supreme Court held that the pendency of civil litigation does not operate as a bar to

criminal proceedings under the Act, as both remedies are independent and can proceed concurrently. The Honourable Supreme Court observed: *"Bare perusal of section 7(1) of IDA, 2005 reveals three principal considerations/ conditions; Firstly, the jurisdiction conferred thereby is exercisable during the trial only. Thus, interim relief can be granted by the court when trial is still in progress even when the guilt of accused has not been established; Secondly, the use of expression "prima facie" indicates that court has to only form a prima facie opinion and must be satisfied that accused is "not in lawful possession" of the property. This requirement is less onerous and distinct from reaching a conclusive finding or determination that the accused has entered the property without lawful authority with intent to dispossess, grab, or control the immovable property as specified in the third and fourth elements of section 3 of IDA, 2005. The use of the expression "not in lawful possession" by the Legislature appears to be a deliberate choice reflecting a less stringent criterion to enable interim relief during the trial this is because the offence under section 3 can only be proved/otherwise at the conclusion of the trial; and Finally, if the court finds that section 7 is applicable then it is duty bound to provide interim relief specified therein. Thus, interim order under section 7 of IDA, 2005 can be passed when prima facie it is established to the satisfaction of the Court that the accused is in unlawful possession of the immovable property and complainant is either owner or was in a lawful possession of the immovable property before dispossession".*

In view of the detailed discussion above, this Court is satisfied that the Applicant has established a strong *prima facie* case of being a lawful occupier who was illegally and forcibly dispossessed by Respondent No. 2. The Impugned Order dated 04.11.2025 is unsustainable in law and fact.

10. For the foregoing reasons, the present Criminal Revision Application filed on behalf of the Applicant is hereby ALLOWED in the following terms:

1. *The impugned Order dated 04.11.2025, passed by the learned IXth Additional District and Sessions Judge, Karachi (South), in Illegal Dispossession Case No. 3037 of 2025, is hereby set aside.*
2. *The learned IXth Additional District and Sessions Judge, Karachi (South), is directed to forthwith restore possession of the subject property to the Applicant, Mst. Parveen*

*Khalid, strictly in accordance with Section 7 of the Illegal Dispossession Act, 2005. Such restoration of possession shall remain subject to the final decision of the main complaint.*

3. *The learned Trial Court shall ensure expeditious disposal of the matter, preferably within a period of three months from the date of receipt of this Order.*
4. *A copy of this Order shall be transmitted to the learned Trial Court for compliance.*

JUDGE