

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Revision Application No.302 of 2025

Applicant : Fareedullah Khan through attorney  
Samiullah Khan, Through:  
Mr. Naveed Ali, advocate

Respondent No.1 : Muhammad Rizwan Dossul,  
Through: Mr. Imtiaz Ali, advocate

For State : Ms. Seema Zaidi, Addl. P.G. Sindh,  
along with PI-Mazhar Ali Kango and  
PI-Anees Abro of Police Station  
Baloch Colony, Karachi

Date of hearing : 15.04.2026

Date of Order : 23.04.2026

### ORDER

Jan Ali Junejo, J:- Through the instant Criminal Revision Application under Section 439 Cr.P.C., the Applicant has assailed the legality and propriety of Order dated 23.10.2025 (hereinafter referred to as the "*Impugned Order*") passed by learned Vth Additional Sessions Judge, Karachi South (hereinafter referred to as the "*Trial Court*"), whereby the complaint filed under Sections 3, 4 & 5 of the Illegal Dispossession Act, 2005 (I.D. Complaint No.4175/2025) was dismissed and cognizance was declined.

2. Briefly stated, the Applicant claims to be lawful leasehold owner and occupier of property bearing Plot No.616-A, Mehmoodabad, Karachi, and asserts that after loss of original title documents in February, 2025, certain forged documents including a purported General Power of Attorney and Sale Deed surfaced in favour of Respondents. It is alleged that on 13.06.2025, the Respondents, along with associates, forcibly dispossessed the

Applicant from the subject property. The Applicant initiated civil proceedings, lodged FIRs and complaints, and ultimately filed a direct complaint under the Illegal Dispossession Act, 2005, which was dismissed by the learned trial Court, hence this Revision.

3. Learned counsel for the Applicant argued that the impugned order is patently illegal and contrary to settled law, as the learned trial Court ignored material evidence, particularly the Inquiry Report of DSP Complaint Cell which clearly established that the Applicant was in lawful possession and was forcibly dispossessed. It was contended that once prima facie illegal dispossession is established, the Court is bound to take cognizance under the Illegal Dispossession Act, 2005. He further argued that pendency of civil litigation does not bar criminal proceedings and reliance on such ground reflects misapplication of law. It was also urged that Section 3(2) of the Illegal Dispossession Act explicitly provides that punishment under the Act is “without prejudice” to any other law, thereby permitting parallel proceedings.

4. On the other hand, learned counsel for Respondent No.1 contended that the dispute is purely civil in nature as both parties claim ownership on the basis of documentary evidence. He submitted that the Respondents are bona fide purchasers through a chain of title originating from 1988 and culminating in a registered sale deed of 2023, duly mutated in their favour. It was argued that the Applicant has concealed material facts and instituted multiple proceedings to pressurize the Respondents. He supported the impugned order on the ground that the learned trial Court rightly

declined cognizance in view of pending civil litigation and disputed questions of title.

5. Learned Deputy Prosecutor General submitted that although allegations of dispossession exist, the matter involves competing claims over ownership and possession, which are subject to adjudication before civil Courts. He, however, left the matter to the discretion of this Court while emphasizing that criminal jurisdiction should be exercised cautiously where civil disputes are involved.

6. I have heard learned counsel for the parties at considerable length and have gone through the record with their assistance. The pivotal question for determination is whether the learned trial Court was justified in declining cognizance under the Illegal Dispossession Act, 2005 merely on the ground that civil litigation between the parties is pending and title is disputed. The answer, in the considered view of this Court, is in the negative. It is by now a settled principle of law that civil and criminal proceedings can proceed simultaneously and independently, provided that the allegations disclose commission of a cognizable offence. The Illegal Dispossession Act, 2005 is a special statute enacted with the object to curb the menace of land grabbing and to provide immediate relief to lawful owners and occupiers against unlawful dispossession. Section 3(2) of the Illegal Dispossession Act, 2005 clearly stipulates that punishment under the Act is *“without prejudice to any punishment to which he may be liable under any other law for the time being in force”*, which unmistakably manifests the legislative intent that proceedings under this Act are independent and not

barred by availability or pendency of remedies under other laws, including civil proceedings. Therefore, the reasoning adopted by the learned trial Court that the complaint is not maintainable on account of the pendency of civil suits is legally misconceived and contrary to the express provisions of law. Reliance in this regard is placed on the dictum laid down by the Honourable Supreme Court of Pakistan in the landmark judgment of *Shaikh Muhammad Naseem v. Mst. Farida Gul (2016 SCMR 1931)*, wherein it was observed that: *"In the impugned judgment it was also held that where civil litigation with regard to illegal dispossession from immovable property is pending between the parties, the proceedings under the Illegal Dispossession Act, 2005 cannot be maintained. This finding is also based on the decision of the Lahore High Court in Zahoor Ahmed's case (PLD 2007 Lahore 231, reasoning of which was adopted by three member bench of this Court in Bashir Ahmed's case (PLD 2010 SC 661). We are of the view that such a finding is also not sustainable in law. 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, which are independent of each other. Once the offence reported in the complaint stands proved against the accused within the confines of the provisions of the Illegal Dispossession Act, 2005 then he cannot escape punishment on the ground that some civil litigation on the same issue is pending adjudication between the parties. 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*

*between the parties in a court of law. Therefore, irrespective of any civil litigation that may be pending in any Court, where an offence, as described in the Illegal Dispossession Act, 2005, has been committed, the proceedings under the said Act can be initiated as the same would be maintainable in law”.*

7. A careful perusal of the record further reveals that the inquiry report submitted by the DSP Complaint Cell, duly acknowledged by the learned trial Court, prima facie establishes that the Applicant was in possession of the subject property and was unlawfully dispossessed on 13.06.2025. Once such prima facie material was available on record, the Court was under a legal obligation to take cognizance of the matter and proceed in accordance with law, rather than dismissing the complaint at the threshold. Section 5 of the Illegal Dispossession Act, 2005 pertains to “investigation”, “procedure”, and “local inquiry”, and is reproduced hereunder:

***5. Investigation and procedure.\_\_(1) Upon a complaint the Court may direct the officer-in-charge of a police station to investigate and complete the investigation and forward the same within fifteen days to the Court:***

***Provided the Court may extend the time within which such report is to be forwarded in case where good reasons are shown for not doing so within the time specified in this subsection 1 [:]***

***Provided further that whenever a local inquiry is necessary for the purpose of this Act, the Court may direct a Magistrate or a revenue officer in the district to make inquiry and submit report within a period as may be specified by the Court. The report of the Magistrate or revenue officer, as the case may be, shall be construed as evidence in the case.***

It further provides that the Court may direct a Magistrate or a revenue officer of the district to conduct an inquiry and submit a report within the period specified by the Court. In circumstances

where the Court, seized of such a complaint, is not satisfied with the police report, it is vested with the authority to order a local inquiry through a Magistrate or revenue officer, or even to direct further investigation by another police officer, subject to the condition that such direction is necessary for the purposes of the Act, 2005.

8. The learned trial Court fell into error by entering into deeper questions relating to title and documentary validity, which are indeed matters for civil adjudication. At the stage of taking cognizance under the Illegal Dispossession Act, the Court is only required to assess whether prima facie unlawful dispossession has occurred. The existence of rival claims or disputed title does not oust the jurisdiction of the criminal Court under the said Act. Furthermore, the observation that the Inquiry Report is not a “concrete proof” is misplaced at the stage of cognizance, where only tentative assessment is required. The sufficiency or reliability of evidence is a matter to be tested during trial.

9. It is also significant that the allegations of dispossession are supported by surrounding circumstances, including prior complaints, protection order, FIRs, and medical evidence, which collectively provide prima facie support to the Applicant’s case. These aspects were not properly appreciated by the learned trial Court. The approach adopted by the learned trial Court, in treating the dispute as purely civil and declining jurisdiction, defeats the very purpose of the Illegal Dispossession Act, 2005, which aims to provide swift remedy against illegal occupation irrespective of parallel civil proceedings. In view of the above discussion, it is

evident that the impugned order suffers from legal infirmity, misapplication of law, and failure to exercise jurisdiction vested in the Court.

10. For the foregoing reasons, the instant Criminal Revision Application is allowed. The impugned Order dated 23.10.2025 passed by learned Vth Additional Sessions Judge, Karachi South is hereby set aside and remand the matter to the learned trial Court with direction to assume cognizance of the complaint under the Illegal Dispossession Act, 2005, and thereafter proceed in accordance with law after providing an opportunity of hearing to the parties. It is clarified that observations made herein are tentative in nature and shall not prejudice the case of either party during trial.

11. Before concluding this Order, it is appropriate to observe that the Applicant and his learned counsel have expressed a lack of confidence in the learned trial Court. Therefore, without delving into the merits of the allegations, the learned District & Sessions Judge, Karachi-South is directed to either hear and decide the aforesaid complaint personally or assign the same to another learned Additional Sessions Judge of the District for further proceedings in accordance with law.

**JUDGE**