

**ORDER SHEET**  
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR  
**Cr. Rev. Appln. No. S – 24 of 2018**

Date	Order with Signature of Hon'ble Judge
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**For hearing of case**

- 1. For orders on office objection
- 2. For hearing of main case  
(notice issued)

**09.12.2019**

Mr. Abdul Raheem Jamro Advocate a/w applicant  
Mr. Gulzar Ali Gilal Advocate a/w private respondents  
Mr. Khalil Ahmed Maitlo, DPG for the State  
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**Aftab Ahmed Gorar, J:-** Through instant Criminal Revision application, the applicant/complainant has impugned the order dated 02.12.2017 passed by learned Additional Sessions Judge Gambat, whereby his direct complaint for prosecution of the private respondents under Section 3 and 4 of the Illegal Dispossession Act, 2005, has been dismissed.

2. The facts in brief necessary for disposal of instant Criminal Revision Application are that the applicant/complainant filed direct complaint against the private respondents for their prosecution for having committed an offence punishable under Section 3 and 4 of Illegal Dispossession Act, 2005. It is stated that the applicant/complainant being the co-sharer in the landed property bearing S.Nos. 1483/1, 11, 1485/0-9, 1289/0-13, 431/0-11, 1493, 1492, 16 24/1 & 2, 432 total share (3-14 ½ ) Acres situated in Deh Sobhodero, taluka Sobhodero and he was in possession thereof, whereas, on 14.10.2017 at 10:00 am, the private respondents forcibly dispossessed him from the said landed property in presence of his witnesses namely Sikander Ali and Murad Ali therefore, he

filed the direct complainant with the prayer that the private respondents have committed a cognizable offence, therefore, they may be prosecuted under the Provisions of Sections 3 and 4 of the Illegal Dispossession Act, 2005, for restoration of possession of the aforesaid landed property

3. Learned Additional Sessions Judge, Pano Akil after calling the reports from the Mukhtiarkar (Revenue) Sobhodero, dismissed the direct complaint vide his order dated 02.12.2017, which is impugned by the applicant/complainant before this Court by way of instant Criminal Revision Application.

4. It is contended by learned counsel for the applicant / complainant he is co-sharer and owner of the property from which he has been dispossessed forcibly by the private respondents, whereas, the order passed by learned trial Court is not speaking one, whereas, the report of Mukhtiarkar (Revenue) Sobhodero is also in favour of the applicant/complainant; that the learned trial Court without considering the fact that the applicant/complainant being owner has been dispossessed by the private respondents, but merely observed that the applicant/complainant has given contradictory statement to the contents of para 4 of the complaint; that the applicant is an illiterate person, therefore, he has stated so before the trial Court.

5. Learned DPG for the State and learned counsel appearing for the private respondents contended that the applicant/complainant and the private respondents being the members of one and same family are the co-sharers in the disputed landed property, being brothers inter se, therefore, the question of dispossession does not arise; that the parties have already filed civil suits against each other; that prior to this the applicant / complainant has also got registered FIR Crime No.115/2017 at

Police Station Sobhoderi, in which the present private respondents were acquitted by the trial Court vide Judgment dated 06.04.2018 and the applicant / complainant again want to convert the civil litigation into criminal with in intent to drag the private respondents in false criminal litigations; that there is nothing on record that the private respondents are land grabbers or Qabza group, hence the provisions under the Illegal Dispossession Act are not applicable in the present case. He lastly contended that the impugned order passed by the learned trial Court is very much speaking, hence the same is liable to be maintained.

6. I have considered the arguments of the learned counsel for the respective parties and perused the record. The Illegal Dispossession Act 2005 is a special legislation to protect the lawful owners and occupiers of immovable properties from their illegal or forcible dispossession therefrom by the land grabbers or Qabza group. Admittedly, the private respondents as well as the applicant / complainant are the co-sharers in the disputed property, hence the facts stated by the applicant / complainant do not fall within the definition of land grabbers / Qabza group. The applicant/complainant as well as the private respondents are related to each other being members of one and same family. The parties have already sued each other by filing civil suits, whereas, the applicant/complainant in order to convert the civil litigation into a criminal litigation with intention to drag the private respondents into dual litigation i.e. civil and criminal. In this regard, reliance upon the case of ***Bashir Ahmed vs. Additional Sessions Judge, Faisalabad and 4 others (P L D 2010 SC 661)***, wherein the Honourable Apex Court has held as under;

*“It has been held by a Full Bench of Lahore High Court, Lahore in the case of Zahoor Ahmed and 5 others vs. The State and 3 others 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 sub-judice before civil or revenue Courts. It had 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. It has been conceded before us by the learned counsel for the petitioner that no material is available with the petitioner to establish that respondents Nos.2 to 4 belonged to any Qabza group or land mafia or that they had the credentials or antecedents of being property grabbers.....In the circumstances of this case mentioned above we have entered an irresistible impression that through filing of his complaint under the Illegal Dispossession Act, 2005 the petitioner had 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 Nos. 2 to 4 in order to extract concession from them. Such utilization of the criminal law and process by the petitioner has been found by us to be an abuse of the process of law which cannot be allowed to be perpetuated.”*

7. In view of the above, it could be concluded safely that no illegality is committed by learned trial Court while passing the impugned order which may justify making interference with it by this Court by way of instant Criminal Revision Application, it is dismissed accordingly.

Judge