

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Revision Application No.S-25 of 2025

Applicant : Khan Muhammad Khan son of
Zulfiqar Ali.

Respondents : Suleman Khan son of Jan
Muhammad and 5 others.

Date of hearing : **06.11.2025**

Date of Order : **18.11.2025**

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Rana Raheel Mehmood Rajput, Advocate for the Applicant.
Respondent No.1 in person.
Mr. Dhani Bakhsh Mari, APG.

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ORDER

Shamsuddin Abbasi, J:- Through this Criminal Revision Application filed under Section 439 & 435, Cr.P.C., the applicant has assailed an order dated 13.05.2025, penned down by the learned Additional Sessions Judge-II, Mirpurkhas, in I.D. Complaint No.12 of 2025 {*Re: Suleman Khan v Khan Muhammad Khan and others*}, through which complaint under Sections 3, 4, 5 and 8 of the Illegal Dispossession Act, 2005 {the Act 2005} was admitted, registered and brought on regular file issuing bailable warrants against applicant and proposed accused for their appearance and to face a regular trial under the Act, 2005.

2. Succinctly, the facts as narrated in the complaint are that the respondent No.1 /complainant Suleman Khan is lawful owner of Sikni Plot No.58/B, measuring 2100 square feet, situated in Sagheer Ahmed Colony, Jhudo Town, District Mirpurkhas having purchased the same through registered sale deed from Mst. Mithan Bibi and got the same mutated in his name in the record of rights, however, the proposed accused, who reside in adjacent plot forcibly dispossessed him on 18.04.2025 and occupied the plot, illegally and unlawfully, with the help of armed men. He approached the concerned quarters and made multiple complaints, but to no avail.

3. A complaint under sections 3, 4, 5 and 8 of the Act, 2005 was instituted. After calling a report from concerned Mukhtiarkar, the learned trial

Court took cognizance under Section 3 of the Act, 2005 and issued bailable warrants against applicant and proposed accused as detailed in para-1 {supra}.

4. The applicant challenged that order through his counsel, arguing that the Act, 2005 is designed to curb land grabbers and land mafias and not to criminalize the disputes of civil nature. It is next submitted that the applicant has filed F.C. Suit No.118 of 2017, which has been decreed vide judgment dated 07.11.2018 wherein the Hon'ble Court has given findings to the extent of possession of the plot in question with the applicant, therefore, claim of the applicant that he has been forcibly dispossessed on 18.04.2025 is based upon malafide and the impugned order in the light of such observation is liable to be set-aside.

5. On query posed, the respondent No.1, present in person, was found wanting and could not advance any cogent argument in that regard. He, however, claimed himself to be the owner of the plot by virtue of registered sale deed in his favour. On the other hand, the learned APG admits that the case pertains to civil nature and Civil Court is competent to decide the issue with regard to possession etc.

6. I have given my anxious consideration to the submissions of the respective sides and perused the entire material available before me with their able assistance.

7. The respondent No.1 claims to have purchased the plot in dispute from Mst Mithan Bibi on 04.09.2024 through a registered sale deed and alleged to be dispossessed at the hands of applicant /proposed accused on 18.04.2025. On the other hand, the case of the applicant is that he is in possession of the plot since 2018 and this fact has been affirmed by Civil Court. A bare perusal of the record reveals that applicant filed F.C. Suit No.118 of 2017 against Mst. Mithan Bibi and others seeking specific performance of contract and permanent injunction whereas Mst. Mithan Bibi filed Suit No.119 of 2017 against applicant and others for declaration, possession, cancellation and permanent injunction. Both suits were consolidated and decided through single judgment, handed down by the learned Senior Civil Judge, Digri {Mirpurkhas}. Here it would be appropriate

to reproduce relevant extract of the said judgment, which is reproduced below:-

“It is declared that deceased Ghulam Nabi is lawful owner of suit plot and deceased Ghulam Nabi died issueless. Therefore his seven sisters including Mst. Mitha Bibi, his wife Mst. Bahadra and his cousin Gul Baz are surviving legal heirs for inherit the suit plot under Muhammadan Law. Therefore Faisala of Panchayat only among Mst. Mitha Bibi, Gul Baz and Khan Muhammad in absence of other all above said legal heirs of deceased Ghulam Nabi for deciding ownership of suit plot has no value under the law. Suit plot is in possession of Khan Muhammad who has been failed to prove agreement of sale with deceased Ghulam Nabi, therefore, Khan Muhammad is being directed to hand over the possession of suit plot to Mst. Mitha Bibi who is one of legal heirs of deceased Ghulam Nabi. Mst. Mitha Bibi shall not sale out suit plot prior to proper mutation in record of rights by concern authority. Thereafter all above said legal heirs of deceased Ghulam Nabi shall be owner of suit plot and Mst. Mitha Bibi is bound to handover due share to all legal heirs of deceased Ghulam Nabi accordingly. Meanwhile, defendant Khan Muhammad is being restrained from selling alienating suit plot through himself or his agents”.

8. Reviewing the above findings, it is noted that the judgment was passed on 07.11.2018 wherein a Court of competent jurisdiction has recorded its verdict with regard to possession of the suit plot lying with the applicant. This aspect of the matter has negated the case of the respondent No.1 /complainant with regard to his forcible dispossession on 18.04.2025. Even otherwise, the Act, 2005 is enacted to shield persons in settled possession from land grabbers and violent or lawless ouster, not to furnish a shortcut for private parties in civil or family disputes and its provisions operate as protections and not weapons. The facts before me are that the aggrieved parties went in civil litigation and Civil Court has recorded its verdict. In such a situation, it creates a possibility that the complaint is an afterthought, made out of imagination, thereby dragging innocent persons into criminal litigation and subjecting them to unwarranted harassment. Per verdict of Civil Court the applicant was in possession of plot since 2018, which give rise to a presumption that the respondent No.1/ complainant has approached the Court with unclean and filed complaint under the Act, 2005 by suppressing the true facts.

9. For the foregoing reasons, I am of the view that the matter pertains to civil nature and the respondent No.1/ complainant has attempted to prosecute the applicant party through criminal litigation, which is not permissible as held by Hon'ble apex Court in various pronouncements. No case attracting the provisions of Illegal Dispossession Act, 2005 has been made out. The claim regarding ownership and possession etc. can only be

sifted by a Civil Court. I find that the learned trial Court has passed the impugned order without appreciating the available material and application of conscious judicial mind solely on the basis of concerned Mukhtiarkar, which too finds support the case of the applicant with regard to possession of the plot with him. Accordingly, while allowing the instant criminal revision, the impugned order taking cognizance under Section 3 of the Act, 2005 and issuing bailable warrants against applicant/ proposed accused is set-aside and the complaint, filed by the respondent No.1/ complainant is dismissed. However, the respondent No.1/ complainant shall be free to approach Civil Court for redressal of his grievances, if he is so desired. Needless to state that the Civil Court(s) shall not be influenced by this order in any manner and shall decide the case, involving the plot in question, purely on merits and material made available before it without causing prejudice to either side.

JUDGE