

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT  
HYDERABAD**

Cr. Rev. Appln. No.S-70 of 2026

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
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1. For orders on office objections.
2. For hearing of main case.
3. For hearing of MA-4053/2026.

**06.07.2026.**

Mr. Bashir Ahmed Almani, Advocate for applicant alongwith his Associate Mr. Nizamuddin Veeghio, Advocate.

Syed Tarique Ahmed Shah, Advocate for respondent No.1 alongwith his Associate Ms. Ehda Tarique Qureshi, Advocate.

Ms. Rameshan Oad, Deputy Prosecutor General.

**ORDER**

**SYED FIAZ UL HASSAN SHAH, J.-** Through this Criminal Revision Application, the applicant has challenged the order dated 03.03.2026 passed by the learned Additional Sessions Judge-I / MCTC Hyderabad, whereby the learned trial Court took cognizance in Illegal Dispossession Complaint No.06 of 2026, instituted by the respondent/complainant under Section 3 of the Illegal Dispossession Act, 2005.

2. Learned Counsel for the applicant has argued that the applicant had already instituted F.C. Suit No.92 of 2025 for Declaration, Cancellation of Documents, Damages and Permanent Injunction, concerning the same property against the respondent and others, which is presently pending adjudication before the learned VIIIth Senior Civil Judge, Hyderabad. It is further contended that despite the pendency of the civil proceedings, the learned trial Court passed the impugned order and issued warrants against the applicant and he being lawful owner of the property continues to remain in possession thereof. Learned Counsel argued that the impugned order is unsustainable in law and liable to be set aside..

3. Conversely, learned Counsel for the respondent supported the impugned order and submitted that the same has been passed strictly in accordance with law. He argued that the applicant had already sold the property in question through a registered instrument. It was further submitted that a

compromise between the parties in F.C Suit No.1699 of 2025 was effected in said suit and later on 07.12.2025 at about 1:30 p.m., in the presence of respectable persons, possession of the property was handed over to the respondent. Thereafter, the applicant unlawfully occupied the property, thereby attracting the penal provisions of Section 3 of the Illegal Dispossession Act, 2005.

4. Learned Deputy Prosecutor General also supported the impugned order and contended that the learned trial Court had exercised its jurisdiction strictly within the four corners of the law while taking cognizance of the complaint.

5. I have heard the learned Counsel for the parties as well as the learned Deputy Prosecutor General and have carefully examined the material available on the record.

6. The primary consideration under the Illegal Dispossession Act, 2005 is whether the complainant falls within the definition of a "lawful owner" or "lawful occupant" whether such person has been unlawfully dispossessed or prevented through unlawful occupation as envisaged under Sections 2(c) & 2(d) read with Section 3 of the *ibid* Act. The contention of the learned counsel for the applicant that since a civil suit relating to the same property is pending before the competent Civil Court, the learned trial Court ought not to take cognizance of the complaint. This contention is repelled by the larger Bench of Hon'ble Supreme Court of Pakistan in *SHAIKH MUHAMMAD NASEEM v. Mst. FARIDA GUL* (2016 SCMR 1931) and held that mere pendency of a civil suit does not bar criminal proceedings under the Illegal Dispossession Act, 2005. The Criminal Court is competent to examine whether the allegations, if taken at their face value, constitute the offence contemplated under Section 3 of the Act in the light of definition clause of statute i.e. lawful owner or lawful occupant.

7. A perusal of the impugned order reflects that the learned trial Court, after considering the complaint and the material produced before it, found sufficient grounds to take cognizance of the offence. At the stage of taking cognizance, the Court is only required to determine whether a *prima facie* case exists; it is neither expected nor required to record detailed reasons or conduct a detailed appreciation of the evidence, which is a matter to be considered during trial. No jurisdictional defect, legal infirmity, material irregularity, or perversity has been pointed out in the impugned order warranting interference by this Court in its

revisional jurisdiction. Accordingly, this Criminal Revision Application, being devoid of merit, is **dismissed**. However, the NBWs is set aside and the trial Court shall accept the surety to its satisfaction in order to procure attendance of applicant during trial.

JUDGE

Shahid

