

JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Revision Application No. S-22 of 2026

Applicant : Haresh through Mr. Rasheed Ahmed Panhwar,
Advocate.

Respondent : SHO PS Umerkot, not represented.

Date of Hearing : 25.08.2026

Date of Judgment : 31.08.2025

JUDGMENT

Muhammad Humayon Khan, J.: The Applicant has moved the instant Criminal Revision Application under sections 435 and 439-A read with section 561-A of the CrPC, calling in question the legality and propriety of the Order dated 25.02.2026, passed by the learned 1st Additional Sessions Judge, Umerkot, in Illegal Dispossession Complaint No. 18 of 2025, whereby the learned Court declined to take cognizance and consequently dismissed the complaint instituted by the Applicant under sections 3 and 4 of the Illegal Dispossession Act, 2005 (hereinafter the “2005 Act”).

2. The Applicant claims to be the lawful owner and occupant of 18 acres of Barani agricultural land bearing Survey/Khasra No.21, situated in Deh Umerkot, Taluka and District Umerkot, which according to him stands recorded in the revenue record in the name of his predecessor, Chandu son of Manji Bheel. It is alleged that the private Respondents had been casting an eye upon the said land and repeatedly pressurising the Applicant to sell the same, which he declined. According to the Applicant, on 11.08.2025 at about 08:30 a.m., while he along with his witnesses was present at the subject land, the private Respondents accompanied by certain unidentified persons, allegedly armed with pistols, arrived there and forcibly dispossessed him from the entire 18 acres and extended threats of dire consequences in case he attempted to re-enter or assert his claim over the land. In this background, the Applicant instituted the aforementioned ID Complaint.

3. In the said ID Complaint, the Mukhtiarkar (Revenue), Umerkot and SHO, Umerkot City Police Station filed their reports. According to the Mukhtiarkar's report, the land reflected in the old Khasra Girdwari/Yaksala record for 1968-69 in the name of Chandu son of Manji Bheel was situated about two kilometers away from the land claimed by the Applicant; that the land inspected at the spot was lying vacant; and that the Applicant was not established to be the lawful owner of the land claimed according to the revenue record. Whereas, the report by police showed that the Respondent Uris claimed possession over the land bearing Khasra No. 74 which was allegedly sold in part to the Respondent Usman Rahimoon.

4. Upon considering the material and the aforesaid reports, the learned 1st Additional Sessions Judge, Umerkot, concluded that no *prima facie* case was made out establishing illegal dispossession and as such he declined to take cognisance in the matter as stated above.

5. Mr. Rasheed Ahmed Panhwar, learned Counsel for the Applicant contended that the Order dated 25.02.2026 suffers from misreading and nonreading of the material. He reiterated the case of the Applicant and submitted that there was sufficient material to constitute a case for cognisance which was ignored by the learned Additional Sessions Judge. He stated that the reports of the Mukhtiarkar and the SHO determined the question of title and that the learned Additional Sessions Judge placed undue reliance on the same.

6. The question is whether the complaint and the material collected at the preliminary stage disclosed sufficient ground for taking cognisance of an offence under sections 3 and 4 of the Illegal Dispossession Act, 2005, and whether the learned Court below, in declining cognisance, committed any illegality or material irregularity warranting interference in revisional jurisdiction. The distinction is material because a *prima facie* case is a ground for proceeding; it is not proof of the offence. The Hon'ble Supreme Court has explained this distinction in *Niaz Ahmed and another v Aijaz Ahmed and others* PLD 2024 SC 1152.

7. In *Niaz Ahmed*, the Supreme Court held with regard to cognisance of the offences under the 2005 Act that for attracting Sections 3 and 4, the complainant must *prima facie* show that he is the lawful owner or lawful

occupier of the subject property; that the accused entered into or upon that property without lawful authority; and that such entry was made with the intention contemplated by section 3. In *Muhammad Rajar v The State through Prosecutor General Sindh and others* PLD 2025 SC 40, the Supreme Court emphasized that the complaint jurisdiction requires real judicial scrutiny before criminal process is issued and that the Court must consider the supporting material rather than treating issuance of process as a mechanical consequence of an allegation.

8. Tested on the above touchstone, the difficulty in the Applicant's case is fundamental. His claim is founded upon 18 acres of Barani agricultural land described as Survey/Khasra No. 21, said to stand in the old revenue record in the name of his predecessor Chandu son of Manji Bheel. The report of the Mukhtiarkar, however, recorded that the land reflected in the old Khasra Girdwari/Yaksala record for 1968-69 was situated approximately two kilometers away from the land identified by the Applicant at the spot. The inspected land was further reported to be vacant and unoccupied, while the available record did not establish the Applicant as lawful owner of that parcel. The police material also reflected a claim by Respondent Uris concerning Khasra No. 74, part whereof was stated to have been transferred to Respondent Usman Rahimoon.

9. These matters are significant not because the reports conclusively determine title, they do not, but because they disclose an unresolved break in the elementary nexus between the property relied upon by the Applicant in the documentary record and the property said to have been forcibly occupied by the Respondents. The penal provision is attracted to an unauthorised entry upon the property of a lawful owner or occupier. Where the material relied upon for lawful ownership relates, on the statutory inquiry, to a parcel situated approximately two kilometers from the locus identified by the complainant, the Court is entitled to require material sufficient at least *prima facie* to connect the two before subjecting the persons complained against to criminal process.

10. No such reconciling material has been identified before this Court from the record relied upon in revision. The historical entry in the name of the Applicant's predecessor, considered by itself, does not answer the

reported discrepancy concerning the identity of the land. Nor does the allegation that the Applicant was present upon the land on 11.08.2025, notwithstanding its specificity, remove the requirement of a *prima facie* showing that the parcel allegedly entered upon by the Respondents was the property of which the Applicant was then the lawful owner or lawful occupier within the contemplation of the 2005 Act.

11. Learned counsel has argued that the learned Court below gave undue weight to the reports of the Mukhtiarkar and the SHO and thereby determined disputed questions without trial. The submission is correct to the limited extent that neither report can be treated as a judgment upon title, nor can either replace evidence at trial where sufficient ground for proceeding otherwise exists. It does not follow, however, that such material must be ignored at the stage for which the statute itself provides an investigation. Section 5 authorises the obtaining of an investigative report before the case proceeds to trial. The Court may therefore consider the report for the limited purpose of deciding whether the complaint has sufficient basis to move forward, while refraining from treating it as conclusive proof of the parties' proprietary rights.

12. The dismissal is sustainable on the narrower and legally distinct ground that the material before the Court did not disclose sufficient *prima facie* linkage between the property in respect of which the Applicant asserted lawful ownership or occupation and the parcel said to have been illegally entered upon and occupied by the private Respondents. Without that linkage, an indispensable factual foundation of the offence remained unsupported at the threshold. This is not a final declaration that the Applicant has no right, title or interest in Survey No. 21. It is a determination only that the present criminal complaint, on the material brought before the Court, did not disclose sufficient ground for taking cognisance under the 2005 Act.

13. The revisional jurisdiction of this Court is corrective and supervisory. It is exercised to correct illegality, material irregularity or an error affecting the legality or propriety of the subordinate Court's order. The Supreme Court has described the power under section 439 of the Cr.P.C as corrective jurisdiction requiring intervention where manifest illegality or

miscarriage of justice is shown. Reliance Placed upon *Mushtaq Ahmad v The State* PLD 1966 SC 126 and *Dr Waqar Hussain v The State* 2000 SCMR 735.

14. For these reasons and in the above terms, I hold that no case for interference is made out. I shall be maintaining the impugned Order subject to the clarifications above and as such this revision application is dismissed.

JUDGE

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