ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Crl. Appeal No.409 of 2026

Date | Order with signature of Judge

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1. For orders on MA No.17906/2026.
2. For orders on MA No.12546/2026.
3. For orders on MA No.381/2026.
4. For orders on office objections a/w reply as Flag ‘A’.
5. For orders on MA No.382/2026.
6. For orders on MA No.7948/2026.
7. For orders on MA No.9405/2026.
8. For orders on MA No.9407/2026.
9. For hearing of main case.

03.11.2026.

Appellant present in person.

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1. Urgency granted.

2-9. The applicant challenges the order dated 25.11.2025 passed by the learned XIIIth Additional Sessions Judge, Karachi East, in Illegal Dispossession Complaint No. 33 of 2025. By that order, the complaint was dismissed at the pre-trial stage after consideration of the complaint, its annexures and the report obtained from the police.

The matter was initially presented before this Court as Criminal Revision Application No. 06 of 2026. On 27.06.2026, on an office submission that the matter had been mistakenly instituted as a revision and ought to be treated as an appeal, the proceedings were ordered to be registered as a criminal appeal and were renumbered as Criminal Appeal No. 406 of 2026. At the hearing, however, it became apparent that the impugned order was not passed after trial, conviction or acquittal. It was an order dismissing the complaint before commencement of trial and declining to proceed further on the material then available.

The question of the proper statutory remedy must be decided before considering the challenge to the impugned order. Section 8-A of the Illegal Dispossession Act, 2005 provides an appeal against the orders specified in that section. It does not create an unrestricted right of appeal against every order made under the Act. The impugned order was passed at the threshold, before trial, and did not convict or acquit an accused after trial or direct restoration of possession under section 8(1) of the Act. It is

therefore necessary to determine whether that pre-trial dismissal falls within the limited appeal provided by section 8-A.

In Criminal Revision Application No. 155 of 2021, decided on 30.10.2023, the High Court of Sindh considered a challenge to a Sessions Court order dismissing an Illegal Dispossession Act complaint before trial. It held that an appeal under section 8-A was not called for where the trial had not begun and the complaint had been dismissed in limine; the matter was considered in revisional jurisdiction. That decision directly addresses the procedural character of the order before this Court.

The applicant's matter is governed by the same material distinction. The Sessions Court did not record evidence at trial, determine guilt, acquit an accused or pass an order for restoration of possession under section 8(1). It dismissed the complaint before trial after considering the initial material. In these circumstances, an appeal under section 8-A is not the proper statutory proceeding. The proper course is to examine the impugned order in revisional jurisdiction under sections 435 and 439, Cr.P.C., as applicable.

The fact that the matter was earlier numbered as a revision, later administratively registered as an appeal, or fixed for hearing as an appeal cannot enlarge the right of appeal created by statute. The remedy is determined by the nature and legal effect of the order challenged, not by its registry label. The earlier conversion to an appeal must, therefore, be corrected and the matter treated as a criminal revision.

The conversion of the appeal into a revision is within the Court's power to ensure that a proceeding is considered under the jurisdiction applicable to its substance. The Supreme Court has recognized that an appeal may be converted into a revision where the latter is the proper jurisdiction, subject to the safeguards in section 439(2), Cr.P.C., where an order prejudicial to an accused is contemplated. Reliance is placed on PLD 2024 SC 805[1]. The present order does not impose any sentence, enhance punishment or otherwise pass an order prejudicial to the proposed accused.

A contrary view has been taken by the Peshawar High Court in PLD 2022 Peshawar 237[2], where a summary dismissal was treated as appealable under section 8-A. That decision has been considered. For the

[1] *Noman Mansoor alias Nomi and another v. The State and others.*
[2] *Karim Bakhsh and others v. Zahir Shah Subedar Malakand Levies and others.*

present matter, the direct Sindh High Court authority in Criminal Revision Application No. 155 of 2021 addresses the same procedural situation and is followed. The present order is accordingly to be determined in revisional, rather than appellate, jurisdiction.

The revision is therefore examined within its proper scope, whether the impugned order suffers from an error of law, illegality, material irregularity or impropriety warranting revisional interference. The revisional jurisdiction is supervisory and does not permit this Court to conduct a trial or finally determine disputed title or inheritance rights.

The controversy concerns Flat No. 06, Irfan Terrace, Chandni Chowk, Karachi. The material described in the impugned order shows that the property stands registered in the name of the deceased Mst. Roshan Bai. The complainant claims an interest through his deceased father on the basis of an alleged benami purchase and subsequent inheritance. The complaint refers to the deaths of persons who had resided in or dealt with the flat, the alleged possession of the keys by Iqbal, and their later handover to a Jamat association. It also alleges that the complainant was not being allowed access to the flat or information about property kept there.

The pendency or prior rejection of civil proceedings does not, by itself, exclude the operation of the Illegal Dispossession Act. Nor does the rejection of a plaint under Order VII Rule 11, CPC, amount, without more, to a final adjudication of title. The question here is narrower: whether the material placed before the Sessions Court disclosed the statutory basis to proceed against the proposed accused under section 3 of the Act.

Section 3 requires material disclosing, as applicable, an entry or occupation without lawful authority with the intention to dispossess, grab, control or occupy property from an owner or occupier, or a forcible and wrongful dispossession. The statutory definitions require consideration of the complainant’s status as owner or lawful occupier at the relevant time. At the threshold stage the complainant is not required to prove his case as at trial; nevertheless, the complaint and supporting material must disclose the relevant statutory ingredients and a specific basis for attributing the alleged act to the proposed accused.

On the record described in the impugned order, the complainant’s asserted interest depends on a disputed chain of ownership and inheritance. The initial material, as recorded by the Sessions Court, did

not establish that the complainant was himself in lawful possession immediately before the alleged dispossession, identify when and by what act he was dispossessed, or disclose a specific act of entry, occupation, control or forcible dispossession by the proposed accused. The allegation that access or information was withheld, without the necessary supporting material connecting that conduct to an offence under section 3, did not require the Sessions Court to initiate trial proceedings.

The Sessions Court's order is not being upheld merely because civil proceedings existed or because the property was not registered in the complainant's name. Its stated basis was the absence, in the material then before it, of the foundational facts showing the complainant's relevant status and an identifiable unlawful act attributable to the proposed accused. On the material available for revisional scrutiny, no misreading or non-reading of material evidence, jurisdictional defect, perversity or material irregularity has been demonstrated.

The observations in this order concern only the sufficiency of the material for proceeding under the Illegal Dispossession Act at the stage when the complaint was dismissed. They do not determine the parties' title, inheritance, beneficial ownership or other civil rights, which remain for determination by the competent forum on the evidence and pleadings before it.

For the foregoing reasons:

a) Criminal Appeal No. 406 of 2026 is converted and shall be treated as Criminal Revision Application No. 06 of 2026, retaining its original date of institution.

b) The revision is dismissed. The order dated 25.11.2025 passed by the learned XIIIth Additional Sessions Judge, Karachi East, is maintained.

c) Any pending application whose sole purpose was to facilitate registration or hearing of the matter as an appeal stands disposed of as having become infructuous. Any substantive pending application shall be placed before the Court for an express order.

d) The office shall amend the cause title and register to reflect the matter's status as a criminal revision.

J U D G E

Shahbaz