

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

**Criminal Revision Application No. S-28 of 2024
(Khamiso v. Pahlwan and others).**

Date	Orders with signature of Judge
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1. For orders on office objections 'A'.
2. For hearing of main case.

17-08-2026.

Mr. Abdul Rehman Bhutto, Advocate for applicant.
Manzoor Ahmed, Respondent No. 3, present in person.

Mr. Sardar Ali Solangi, Deputy Prosecutor General.

Ali Haider 'Ada'J:- The applicant, being aggrieved by the impugned order dated 10.05.2024 passed by the learned Additional Sessions Judge-III, Shikarpur, in Criminal Complaint No.10 of 2024, whereby the complaint filed by the applicant under Sections 3, 4, 5, 6 and 7 of the Illegal Dispossession Act, 2005 was dismissed, has filed the instant Criminal Revision Application. Through the impugned order, the learned trial Court declined to take cognizance of the complaint. Hence, the present revision.

2. The crux of the case is that the applicant alleged in the complaint that, on 05.04.2024, Respondents No.1 to 6/accused, by use of force, dispossessed him of the land in question. As regards the record of rights, the applicant annexed the relevant record, which reflects that the land in question stood in his name. The report of the Mukhtiarkar Revenue, Taluka Shikarpur, dated 09.05.2024 also reflects that Entry No.173, about Survey No.107/2, measuring 01-11 acres, stands in the name of the applicant. The learned trial Court, however, after hearing the parties, dismissed the complaint and declined to take cognizance.

3. Learned counsel for the applicant submits that the findings recorded by the learned trial Court for dismissal of the complaint are confined to the observation that the applicant is a co-sharer and that no record was produced to establish that the accused were land grabbers. Learned counsel contends that such findings are contrary to the record and the provisions of the Illegal Dispossession Act, 2005. He submits that the record of rights does not reflect the specific area allegedly occupied by the applicant as being under the co-sharer in the manner observed by the learned trial Court; however, the applicant is the exclusive owner of the property in question of his portion as determined by the Revenue hierarchy. He further contends that the applicant was not required, at the stage of taking cognizance, to establish that the accused were members of any land-grabbing group. He, therefore, submits that the impugned order, on the face of the record, is not sustainable in law and prays for its setting aside.

4. The instant Criminal Revision Application was entertained by this Court on 03.06.2024, whereafter notices were issued to Respondents No.1 to 6/accused. Despite service, none of them appeared before the Court. Today, however, Respondent No.3 is present and submits that, in fact, by virtue of an agreement to sell, the applicant had sold the land in question to him. He, therefore, prays that the impugned order be maintained. Learned Deputy Prosecutor General, Sindh, also supports the impugned order on the ground that the controversy can appropriately be resolved through a civil suit, particularly as the land in question was allegedly sold through an agreement to sell.

5. Heard and perused the record.

6. Firstly, the learned trial Court did not rely upon any agreement to sell, whereas such a version has been introduced before this Court by Respondent No.3 for the first

time. Mere execution of an agreement to sell does not create any title or confer ownership in respect of the property. An agreement to sell, by itself, does not transfer title in the property. Reliance in this regard is placed upon **Muhammad Israr v. Jehanzeb and others (2025 SCMR 841)** and **Muhammad Iqbal and others v. Nasrullah (2023 SCMR 273)**.

7. Furthermore, the record reflects that the Mukhtiarkar as well as the applicant have placed on record documents prima facie showing the entry of the land in question in favour of the applicant. The learned trial Court, however, declined to take cognizance mainly on the ground that no proof had been produced to establish that the respondents/accused were land grabbers. Such finding, at the stage of taking cognizance, amounts to requiring the complainant to establish in advance the entire case against the accused. It is difficult to comprehend how a complainant, at the threshold stage, could be expected to produce conclusive proof of the alleged land grabbing by the accused, particularly when the allegation itself is that the accused have illegally occupied the property. The said approach of the learned trial Court is, therefore, contrary to the object and scheme of the Illegal Dispossession Act, 2005.

8. The object of the Illegal Dispossession Act, 2005 is to provide a speedy mechanism for dealing with illegal dispossession and unlawful occupation of property and to prevent a lawful owner or occupant from being deprived of his property through force or unlawful means. At the stage of taking cognizance, the Court is required to examine whether the allegations contained in the complaint, supported by the material placed on record, prima facie disclose an offence under the Act. It is not necessary at such preliminary stage for the complainant to conclusively establish that the accused are members of a land-grabbing group or Qabza Mafia.

9. The settled principle is that a person who illegally grabs or control of property belonging to another, in circumstances attracting the provisions of the Illegal Dispossession Act, 2005. The Court, at the initial stage, is required to examine whether the accused persons nominated in the complaint have allegedly entered upon or assumed control of the property in question through unlawful means. Reliance in this regard is placed upon **Mst. Gulshan Bibi and others v. Muhammad Sadiq and others (PLD 2016 SC 769) and Noor Khan v. The State (2025 YLR 62).**

10. In view of the foregoing facts and circumstances, the impugned order reflects material irregularity and failure to properly appreciate the record and the scope of the proceedings under the Illegal Dispossession Act, 2005. Accordingly, the instant Criminal Revision Application is allowed. The impugned order dated 10.05.2024 passed by the learned Additional Sessions Judge-III, Shikarpur, is hereby set aside. The matter is remanded to the learned trial Court with a direction to pass a fresh order in accordance with law, after properly appreciating the material available on record and affording an opportunity of hearing to the concerned parties. Consequently, the instant Criminal Revision Application stands disposed of.

JUDGE