

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

CR.REV. NO. 59/2015

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Order with signature of Judge

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FOR HEARING OF CASE

23.11.2015

Mr. Ghulam Rasool advocate for applicant  
Mr. Pir Tariq Ahmed advocate for respondents  
Mr. M. Iqbal Awan APG

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The case of applicant is that he and his brother Muhammad Hanif are owners of 6 shops situated on Plot No. 58, taluka Mipur Bathoro, District Sujawal, which they purchased on 02.7.2012. On 05.1.2014 when applicant alongwith his said brother and others relatives was present at the site of same shops, proposed accused duly armed with Lathi and Hatchets came there and occupied four shops illegally and unlawfully. Initially, the complainant tried to get possession of the said shops through Nekmards of the locality but to no avail. Finally he filed a direct complaint under Section 3/4 read with Section 8 of the Illegal Dispossession Act, 2005. Upon which, the reports from SHO as well as Mukhtiarkar concerned were called by the learned trial Court; thereafter in the light of those reports the said direct complaint was dismissed in limini, against which this revision application has been filed.

Learned counsel for applicant has argued that applicant is the owner of the subject shops and has been dispossessed by the proposed accused on force illegally but the trial Court has not considered these facts. According to him merely on the basis of the reports of the SHO and Mukhtiarkar concerned, the

trial Court has dismissed the complaint of the applicant. He has also referred to the sale deed of the said shops, available at Page 31 of the file, and states that from perusal of the same, it transpires that the possession of the shops was handed over to the applicant by the previous owners.

On the other hand, learned counsel for the respondents (proposed accused) has argued that the respondents have been in possession of the said shops for the last 30/35 years in the capacity of tenants; and since the parties are related to each other the respondents used to pay rent to the applicant without obtaining any receipt thereof. He has further stated that alongwith objections filed by him to this revision application, he has attached certain Photostat copies of the utility bills pertaining to the subject shops, which amply show that the respondents in fact have been in possession of the shops for long and allegations of dispossession against them are false.

Learned APG has supported the impugned order and states that from the report of the SHO, it is obvious that no dispossession of the shops from the applicant has taken place. He further states that the SHO has recorded statements of local persons at the spot, who have confirmed that the respondents have been in possession of the shops since long as tenants, therefore, no case under the provisions of Illegal Dispossession Act is made out.

I have considered the arguments of the parties and perused the material available on record.

The allegation against the respondents are that they dispossessed the applicant on 05.1.2014. The complaint in this regard, however, was filed in the month of July 2014, after almost 7 months of the alleged incident. Nothing has been brought on record to suggest that meanwhile any

complainant or report was lodged by the applicant before any forum to vent his grievance. The report of the SHO shows that he has recorded statements of local persons who have categorically stated that no dispossession of the applicant from the shops at the hands of proposed accused has taken place. On the contrary these statements, which are also available in the file, indicate that for the last many years the respondents have been doing business there. Mukhtiarkar's report is to the effect that the applicant is owner of the said shops and the respondents are in illegal occupations thereof. However, he has not spelt out in his report that the respondents have ever dispossessed the applicant as alleged by him. The possession of the utility bills of the subject shops with proposed accused is also indicative of the fact that the allegations of dispossession of the applicant from the said shops during relevant time are not correct. The applicant, no doubt is the owner of the said shops but to attract provisions of Illegal Dispossession Act, he has to show, prima facie, that he was in possession of the said shops and then was dispossessed as alleged. Ex-facie, there is no such materil fortifying the allegations against the respondents.

In the circumstances, I do not find any merit in this criminal revision application which is dismissed. However, the applicant may file ejectment proceedings against the respondents before proper forum, if he so wishes.