

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr. Rev. A. No.S- 208 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of main case.
2. For hearing of main case
3. For hearing of MA-9145/17

06.09.2019.

Ms. Rozina Qambrani, Advocate for applicant.

Ms. Safa Hisbani, A.P.G for the State.

Mr. Wahid Bux Aajiz Laghari, advocate for respondent  
No.1.

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**Irshad Ali Shah J:-** The facts in brief necessary for disposal of instant criminal Revision Application are that the private respondent filed Direct Complaint for prosecution of the applicant and others for having committed an offence punishable u/s 3/4 of Illegal Dispossession Act, 2005, such complaint came to an end in shape of acquittal of the applicant and others before learned IInd Additional Sessions Judge, Badin vide judgment dated 2<sup>nd</sup> November, 2017. Surprisingly, learned IInd Additional Sessions Judge, Badin while recording acquittal of the applicant and others under the above said judgment directed Mukhtiarkar having jurisdiction to demarcate the disputed land

and put the private respondent in possession whereof if the applicant and others are found to be in its possession. It is in these circumstances, the applicant has impugned the above said judgment before this Court by way of instant Criminal Revision Application only to the extent of direction of learned trial Court to Mukhtiarkar having jurisdiction as detailed above.

2. It is contended by learned counsel for the applicant that the learned trial Court was having no jurisdiction to have directed the Mukhtiarkar having jurisdiction to demarcate the land under dispute and to put the private respondent in possession whereof that too without providing chance of hearing to either of the party, on that particular point. By contending so, she sought of setting aside of the impugned judgment to the extent of above said direction to the Mukhtiarkar having jurisdiction.

3. Learned A.P.G for the State and learned counsel for the private respondent have sought for dismissal of the instant criminal Revision Application by contending that learned trial Court has committed no illegality by directing the Mukhtiarkar having jurisdiction to demarcate the boundaries of the land under dispute and to put the private respondent in possession

whereof, if it is found to be in possession of the applicant and others.

4. I have considered the above arguments and perused the record.

5. The case of the private respondent was to the extent that the applicant and others have occupied his landed property by dispossessing him therefrom, such assertions the private respondent has failed to prove beyond shadow of doubt. Consequently, the applicant and others have been acquitted by learned trial Court of such charge. After recording such acquittal, the learned trial court was having no jurisdiction to have directed Mukhtiarkar having jurisdiction to demarcate the land under dispute and to put the private respondent in possession whereof, if it is found to be in possession of the applicant and others, that too without providing chance of hearing to either of the party, on that particular point, which is against the mandate contained by Article-10/A of the constitution of Islamic Republic of Pakistan, which prescribed chance of fair trial to every citizen for determination of his civil / criminal rights and obligation. Be that as it may, by doing so, learned trial Court even otherwise without lawful justification has assumed the jurisdiction of Civil /

Revenue Court, which are authorized under the law to resolve such dispute between the parties.

6. Based upon above conclusion, the impugned judgment of learned trial Court to the extent of direction against Mukhtiarkar having jurisdiction to demarcate the land under dispute and to put the private respondent in possession whereof, if it is found to be in possession of applicant and others is set-aside.

7. The instant Revision Application is disposed of accordingly.

JUDGE

Ahmed/Pa