

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR  
**Cr. Rev. Appln. No.S- 35 of 2019**

Date	Order with Signature of Hon'ble Judge
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**For hearing of case**

- 1. For orders on office objection
- 2. For orders on MA No.2093/2019
- 3. For hearing of main case  
(notice issued)

**01.11.2019**

Mr. Zulfiqar Ali Channa Advocate for the Applicant  
Mr. Ali Gul Abbasi Advocate for the private respondents  
Mr. Aftab Ahmed Shar, Addl: PG for the State  
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**Aftab Ahmed Gorar, J:-** Through instant Criminal Revision application, the applicant/complainant has impugned the order dated 18.03.2019 passed by learned Additional Sessions Judge Pano Akil, whereby his direct complaint for prosecution of the private respondents under Section 3 and 4 of the Illegal Dispossession Act, 2005, has been dismissed.

2. The facts in brief necessary for disposal of instant Criminal Revision Application are that the applicant/complainant filed direct complaint against the private respondents for their prosecution for having committed an offence punishable under Section 3 and 4 of Illegal Dispossession Act, 2005. It is stated that the applicant/complainant being the co-sharer in the agricultural land inherited from his father i.e. S.Nos.518 (2-09) Acres, 616 (4-36) Acres, 263 (7-02) Acres, 502 (2-14) Acres, all situated in Dehs Baiji Sharif and Ural, Taluka Pano Akil and such record of rights have already been mutated by the Mukhtiarkar Pano Akil. It is further alleged that on 06.8.2017 at about 09:00 a.m he along with is son Ali Raza and relative Asghar Ali went to look-after his landed

property situated in Deh Baiji Sharif, where the private respondents duly armed with weapons forcibly entered in the land and dispossessed him and have occupied an area of 30 Ghuntas from eastern side out of S.No.263 date palm garden, further the private respondents have also occupied an area of 50 Ghuntas of S.No.616 from northern side Banana Orchard and have also issued threats to the applicant/complainant, therefore, he filed the direct complainant with the prayer that the private respondents have committed a cognizable offence, therefore, they may be prosecuted under the Provisions of Sections 3 and 4 of the Illegal Dispossession Act, 2005, for restoration of possession of the aforesaid disputed landed property

2. Learned Additional Sessions Judge, Pano Akil after calling the reports from the Mukhtiarkar (Revenue) Pano Akil as well as SHO Police Station Baiji Sharif, dismissed the direct complaint vide his order dated 18.03.2019, which is impugned by the applicant/complainant before this Court by way of instant Criminal Revision Application.

3. Learned counsel for the applicant/complainant contended that the applicant is co-sharer and owner of the property from which he has been dispossessed forcibly by the private respondents, whereas, the reports furnished by the Mukhtiarkar (Revenue) Pano Akil and SHO Police Station Baiji Sharif are also in favour of the applicant/complainant; that the learned trial Court without considering the fact that the applicant/complainant being owner has been dispossessed by the private respondents, but merely observed that the applicant/complainant wants to convert the civil litigation into a criminal; that there is nothing on record that the private respondents are land grabbers or Qabza group, hence the provisions under the Illegal Dispossession Act do not applicable in the present case.

He lastly contended that the impugned order passed by the learned trial Court is not sustainable, hence the same may be set-aside and the direct complaint shall be brought on record, private respondents may be prosecution in accordance with law.

4. Learned counsel appearing for the private respondents contended that the applicant/complainant and the private respondents being the members of one and same family are the co-sharers in the disputed landed property, whereas, the applicant/complainant has sold out the said property to private respondent No.2 and the applicant/complainant has filed such Suit which is pending *sub judice* between the parties before the Court of learned Senior Civil Judge Pano Akil, but the applicant/complainant has become in greed and wants to recover more money from the private respondents, as the land has been developed by the private respondents in which the date palm and Banana Orchard has been grown; that the applicant/complainant wants to convert the civil litigation into criminal just to develop undue pressure upon the private respondents so that they may fulfill his illegal demands. He lastly contended that the instant Criminal Revision Application is liable to be dismissed.

5. Learned Additional PG for the State has also sought for dismissal of the instant Criminal Revision Application by contending that the applicant and the private respondents are the members of one and same family and co-sharers in the disputed land, therefore, the question of dispossession does not arise; that the alleged incident has been shown on 06.08.2017 whereas the direct complaint has been filed in the month of June 2018, after about one year of the alleged incident without any explanation.

5. I have considered the arguments of the learned counsel for the respective parties and perused the record. The Illegal Dispossession Act 2005 is a special legislation to protect the lawful owners and occupiers of immovable properties from their illegal or forcible dispossession therefrom by the land grabbers or Qabza group. Admittedly, the private respondents through their father being co-sharers with the applicant/complainant in the dispute landed property do not fall within the definition of land grabbers / Qabza group. Learned counsel for the private respondent No.2 has filed statement in which he has stated that the father of private respondent No.2 was co-sharer in the landed property, whereas, the applicant/complainant has sold out his share of property to the private respondent No.2. The applicant/complainant as well as the private respondents are related to each other being members of one and same family. The applicant/complainant has filed First Class Suit for Declaration, Possession, Mesne Profit and Permanent Injunction against the private respondents which is pending adjudication before the Court of Senior Civil Judge Pano Akil, whereas, the applicant/complainant in order to convert the civil litigation into a criminal and after about one year of the alleged dispossession has filed the direct complaint with intention to drag the private respondents into dual litigation i.e. civil and criminal. In this regard, reliance upon the case of ***Bashir Ahmed vs. Additional Sessions Judge, Faisalabad and 4 others (P L D 2010 SC 661)***, wherein the Honourable Apex Court has held as under;

*“It has been held by a Full Bench of Lahore High Court, Lahore in the case of Zahoor Ahmed and 5 others vs. The State and 3 others PLD 2007 Lah. 231 that the Illegal Dispossession Act, 2005 has no application to cases of dispossession between co-owners and co-sharers and also that the said Act is not relevant to bona fide civil disputes which are*

*already sub-judice before civil or revenue Courts. It had also been declared by the Full Bench of the Lahore High Court, Lahore in that case that the Illegal Dispossession Act, 2005 was introduced in order to curb the activities of Qabza groups / property grabbers and land mafia. It has been conceded before us by the learned counsel for the petitioner that no material is available with the petitioner to establish that respondents Nos.2 to 4 belonged to any Qabza group or land mafia or that they had the credentials or antecedents of being property grabbers.....In the circumstances of this case mentioned above we have entered an irresistible impression that through filing of his complaint under the Illegal Dispossession Act, 2005 the petitioner had tried to transform a bona fide civil dispute between the parties into a criminal case so as to bring the weight of criminal law and process to bear upon respondents Nos. 2 to 4 in order to extract concession from them. Such utilization of the criminal law and process by the petitioner has been found by us to be an abuse of the process of law which cannot be allowed to be perpetuated.”*

7. In view of the above, it could be concluded safely that no illegality is committed by learned trial Court while passing the impugned order which may justify making interference with it by this Court by way of instant Criminal Revision Application, it is dismissed accordingly along with listed application.

Judge

ARBROHI