

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Revision Application No.S-73 of 2018

### Hearing of Case

- 1.For hearing of main case.
- 2.For hearing of MA 4823/18

Mr. Soomar Das R.Parmani Advocate for applicant.  
Mr. Allah Bux Gabol Advocate for respondents No. 1 to 3.  
Mr. Shafi Muhammad Mahar, Deputy P.G for the State.

**Date of Hearing: 01-03-2021**  
**Date of Order: 01-03-2021**

### **ORDER**

**Aftab Ahmed Gorar J.** Through captioned Crl. Revision Application, applicant Moran Khan has challenged the validity of impugned order dated 16.08.2018, delivered by learned 4<sup>th</sup> Additional Sessions Judge, Mirpur Mathelo, whereby the application filed by the applicant/complainant in terms of Section 7 of the Illegal Dispossession Act, 2005 in Sessions Case No.304 of 2016 re: Moran Khan v. Ali Nawaz and others, was dismissed with the following observations:

“5. Having considered the submissions raised by parties counsel, I see that in this case cognizance of offence has already been taken, charge has been framed by this Court on 24.3.2017, accused party had filed an application for their acquittal u/s 265-K Cr.PC, which has been dismissed by this Court vide order dated 29.5.2018.

6. Besides above, both the parties are share-holders in the landed property and such civil litigation was pending between the parties, therefore, at this stage possession cannot be handed-over to complainant. The application in hand is hereby

dismissed, however parties are directed to adduce evidence and proceed with the matter, so that matter be disposed off expeditiously”.

2. Learned counsel for applicant has inter alia contended that impugned order is illegal as while deciding application under Section 7 of the Act for interim relief, the trial Court was not competent to dismiss the same as it had already taken cognizance of the offence; that the respondents have illegally occupied the land bearing survey No.282 to the extent of 50 paisa, area 01-37 acres, situated in Deh Sher Khan Bozdar, Taluka Mirpur Mathelo; that charge has been framed, therefore, therefore, impugned order is not maintainable under the Law. In support of his contentions, he relied upon cases of Habibullah and others v. The State **(2009 MLD 1162)**, Pak Carpet Industries Limited v. Government of Sindh **(1993 CLC 334)**, and Edward Henry Louis v. Dr. Muhammad Safdar **(2009 PCr.LJ 1359)**.

3. On the other hand, learned counsel appearing on behalf of the private respondents/accused No.1 to 3 as well as learned Deputy P.G for the State supported the impugned order by arguing that both the parties are share-holders in the landed property and such civil litigation is also pending between parties; that after passing of the impugned order, the parties led their evidence and now the matter is fixed before learned trial Court for arguments. In this regard, learned counsel for respondents/accused places on record certified copy of case-diary dated 31.10.2019 has also been placed on record to show that now the case is fixed for arguments. Learned Deputy P.G also relied upon case of Nadeem Waqar Khan v. Javed Masood Ahmed Khan **(PLD 2020 Sindh 8)**.

4. Heard learned counsel for the parties and perused the entire record carefully. Admittedly, the impugned order was passed long ago on 16.08.2018 and after passing of the impugned order, both the parties led their evidence and after recording the statements of respondents/accused, the matter is now fixed for arguments before learned trial Court, therefore, at this stage when the trial has been concluded and the matter is fixed for arguments so also in presence of admitted fact that both the parties are share-holders in the landed property and such civil litigation was already pending between the parties, therefore, allowing of application under Section 7 of the Illegal Dispossession Act, will not serve any fruitful result. Learned counsel for the applicant has not been able to point out any illegality and illegality in the impugned order calling interference of this Court. There is no cavil to the proposition as laid down in the case laws, relied upon by learned counsel for the applicant, but it has no relevancy to the case in hand.

5. In view of the above, this Crl. Revision Application along with pending application being not maintainable under the law stands dismissed. However, learned trial Court is directed to expedite the trial and conclude the same within a period of one month after hearing both the parties, in accordance with law.

**J U D G E**