

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Revision No. S – 26 of 2017

Date

Order with Signature of Hon'ble Judge

For hearing of main case

10.02.2020

Mr. Rukhsar Ahmed M. Junejo Advocate for private respondents
Mr. Aftab Ahmed Shar, Additional PG for the State

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Mr. Kahif Hussain Shaikh Advocate, holding brief on behalf of Mr. Raj Kumar D. Rajput, learned counsel for the applicant / complainant, requests for adjournment on the ground that the latter is unwell. From perusal of the record, it appears that instant Criminal Revision Application was presented in the office on 14.03.2017, whereas, it was fixed in the Court for the first time on 05.4.2017. Record further reveals that on the last date of hearing, the matter was adjourned in presence of the learned counsel for the applicant / complainant, but today he is absent and request has been made on his behalf for adjournment, which is declared.

2. I have heard the learned counsel for the private respondents as well as learned Additional PG appearing for the State.

3. The perusal of the record reflects that the applicant/ complainant has filed the direct complaint under Section 3 of the Illegal Dispossession Act, 2005 for prosecution of the private respondents on the allegation that they have occupied his plot and have raised construction thereof. The learned Additional Sessions Judge Pano Akil after calling the report from the SHO concerned as well as Mukhtiarkar (Revenue) Pano Akil has passed the well-reasoned and speaking order. It would be conducive to reproduce the relevant portion of the order as under;-

"I have considered the arguments and have perused the material available on record so also documents and investigation report coupled with the statement of

localities taken by SHO during his investigation. ON perusal of report dated 11.01.2017 which shows that during investigation it appears that in the land of complainant situated in Deh Lanajri village Morio Indhar there was no illegal occupation in fact there was no alleged plot in the said village, however, there is land of the complainant bearing S.No.65, 67, 78 and 88 measuring 1-5 Jerabs which is in custody of complainant and there is no other occupant in the said land. The SHO recorded statements of Abdul Rehman and Ghulam Rasool they also second the police report wherein both the persons have stated that there is no house in the name of complainant in the village and there is no alleged plot located in the said area.

In view of the above stated facts and circumstances, it appears that there is no cause of illegal dispossession as the complainant produced the certain documents in respect of land in S.NO.65, 67, 87 and 88 wherein he is occupant and there is no illegal dispossession on the part of the accused persons as investigation report is showing such facts so far the complainant claims about the alleged plot as per report which is not in the said village. The circumstances as came on record are showing to be the civil dispute between parties in respect of such plot, whereas, the illegal dispossession act has been promulgated for the purpose to curb dispossession from immoveable property, if made by certain class of persons who belongs to land mafia needless to mention here that where the contractual obligation are involved then the matter of possession or dispossession purely falls within the ambit of civil Court”.

4. In view of the above, the impugned order dated 20.02.2017 passed by learned trial Court does not call for any interference by this Court, accordingly, the same is maintained. Consequently, the instant Criminal Revision Application is dismissed.

Judge