

ORDER SHEET

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Revision. No. S – 66 of 2019

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

1. For orders on office objection at flag 'A'
2. For hearing of main case
(Notice issued)

09.03.2020

Mr. Ubedullah Ghoto Advocate for the Applicant
Mr. Anwer Ali Lohar Advocate for private respondents
Mr. Khalil Ahmed Maitlo, DPG for the State

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Amjad Ali Sahito, J; By way of instant Criminal Revision Application, the applicant/complainant has impugned the order dated 19.06.2019 passed by learned Sessions Judge, Ghotki, in Criminal Complaint No.15/2019, whereby the direct complaint filed by the applicant/complainant u/s 3(2) of the Illegal Dispossession Act, 2005, has been dismissed.

2. It is contended by learned counsel for the applicant/complainant that vide entry No.96 dated 23.10.2014 the applicant and co-owners Muhammad Murad and Kamoon were in possession of the landed property bearing S.No.394 (4-16) Acres, situated in Deh Gurehlo, Tapa Katta, Taluka Daharki were forcibly dispossessed by the private respondents on the force of weapons on 10.01.2019 at 9:00 am; that the private respondents are influential persons having political support, hence they have trespassed and occupied the lawful landed property of the applicant/complainant; that the learned trial Judge without considering the material aspects of the case has passed the impugned order in a hasty manner. He lastly prayed for setting-aside of the impugned order. In support of his contentions, he has relied upon the ***case of Mst. Gulshan Bibi and others vs. Muhammad Sadiq and others (PLD 2016 Supreme Court 769).***

3. Learned counsel appearing for the private respondents supported the impugned order by contending that the applicant/complainant has not been dispossessed by the private respondents, whereas, the private respondents are in possession of the disputed property since so many years, whereas, the applicant/complainant intends to drag the private respondents in false criminal litigation just to develop undue pressure upon them. He lastly prayed that the order passed by learned Sessions Judge, Ghotki is well-reasoned and speaking one, therefore, the same may be maintained.

4. Learned DPG appearing for the State did not support the impugned order, hence prayed for remanding the case to the trial Court for deciding the same on merits, because the applicant/complainant has produced sufficient documentary proof that they are owners and were in occupation of the landed property in question.

5. I have heard the learned counsel for the applicant/complainant, learned counsel for the private respondents as well as learned DPG for the State and have gone through the record as well as the impugned order. The preamble of Illegal Dispossession Act, 2005 reflects that the Act has been promulgated to protect the lawful owners and occupiers of their immovable properties from their illegal or forcible dispossession therefrom by the property grabbers and to discourage the unauthorized and illegal occupants. From the perusal of the report of the Mukhtiarkar (Revenue), it appears that actually the immovable property as per the revenue record was in the name of one Qasim and after his death the property was transferred in the names of the applicant/complainant and co-owners/witnesses Muhammad Murad and Kamoon. The report was also called from SHO, who has also supported the version of the applicant/complainant. The learned Sessions Judge, Ghotki while passing the impugned order has observed that the Illegal Dispossession Act, has come in existence about 14 years back, whereas, the private respondents are in possession of the property since last 20/25 years,

therefore, the provisions of Illegal Dispossession Act, 2005 are not applicable in the present case, whereas, the claim of the applicant/complainant is that on 10.01.2019 at 9:00 am, the private respondents on the force of weapons trespassed into the landed property and forcibly dispossessed him and his co-owners/witnesses Muhammad Murad and Kamoon. In such circumstances, the instant Criminal Revision Application is allowed and the impugned order dated 19.06.2019 passed by learned Sessions Judge Ghotki is set-aside with direction to the learned trial Court to decide the case on merits after providing an opportunity of hearing to all the parties in accordance with law.

Judge