

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CR. REV. APPLICATION NO.10/2022

Date	Order with signature of Judge
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For hearing of main case.

01.03.2022

Mr. Mustafa Mehdi advocate for applicant.
Mr. Zahoor Shah, AAG alongwith SI Muhammad Israr Khan, SHO,
Chakiwara.

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Heard and perused the record.

Relevant paragraph of impugned order is that :-

“I have heard the arguments and have gone through the available record. It is admitted position that subject property is registered property of M/s Adan Limited and respondent No.1 Ibrahim s/o Abdul Ghafoor has filed suit for declaration, permanent injunction & damages before the Hon'ble High Court of Sindh at Karachi to declare him as tenant. It further appears that respondent No.1 claimed that he is tenant of complainant and complainant now unlawfully dispossess him from the said godown. Therefore, it is yet to be determined whether the relationship between parties as tenant and landlord exists or not. According to report of the ASI Tariq Mehmood, subject property was in possession of Ibrahim s/o Abdul Ghafoor and he is depositing rent before concerned Rent Controller in MRC No.964/2021. Furthermore, concerned Investigating officer recorded statements of locality who deposed that since 15 years Ibrahim is in possession of said godown. Complainant though claimed that there is no rent agreement between parties but for such controversy civil suit is pending before Hon'ble High Court of Sindh and the existence of said relationship is yet to be decided by the Hon'ble High Court of Sindh. Furthermore, complainant has failed to disclose the date, time and manner in which respondent No.1 illegally disposed him.”

Learned counsel has highlighted application for lodgment of FIR which contains that respondents are in illegal possession. Under the Illegal Dispossession Act 2005, main ingredient is forcible dispossession. Here civil litigation was pending

between the parties hence trial court has rightly held that this is not a case of forcible dispossession. Accordingly, this criminal miscellaneous application is dismissed. Applicant would be at liberty to files suit for possession in accordance with law.

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