

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CR. REV. APPLICATION NO.180/2021

Date	Order with signature of Judge
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1. For order on MA No.1786/2022
2. For hearing of main case
3. For hearing of MA No.9290/2021.

15.02.2022

Syed Ahsan Imam Rizvi advocate for applicant.
Mrs. Naila Tabassum advocate for respondent No.2.
Ms. Seema Zaidi, Additional P.G.

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Heard and perused record.

2. Paragraph No.6 of impugned order is that :-

“I have carefully considered the arguments of both the parties and have gone through the record. From the perusal of record it transpires that Learned Hon'ble District & Sessions Court took cognizance against the propose accused/Respondent No. 1 vide order dated: 19.11.2020 after receiving the investigation report wherein respondent No.1 Farhan Ahmed was found in possession of the subject premises. Thereafter charge has been framed against the proposed accused on 07.01.2021. The respondent No:1/proposed accused has himself admitted his possession over the subject plot while the complainant has already filed civil suit in respect of same property, but mere filing of civil suit is not sufficient ground to quash criminal proceedings as the court after having taken cognizance in criminal case under Illegal Dispossession Act, 2005 has to proceed with the case on day to day proceeding which is efficacious remedy provided under the special law to dispossess the innocent owners and occupiers of the property. Thus there is no cavil to proceed with this case beside civil litigation pending in civil court.”

Perusal of above reflects that learned trial judge failed to examine the documents placed by applicant as well as he failed to refer the relevant paragraphs of complaint under Illegal Dispassion Act, hence impugned order is not speaking. Accordingly same is set aside. Case is remanded back to the trial judge who shall hear application 265-K CrPC again by providing opportunity of hearing to both parties and pass judicial order within one month after examining the record and pleadings of the parties.

J U D G E

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