

ORDER SHEET  
**IN THE HIGH COURT OF SINDH  
CIRCUIT COURT HYDERABAD**

Criminal Revision Application No.S-11 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>20-03-2023</u>	For orders on office objection. For hearing of main case.
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Mr. Pir Bux Bhurgri, Advocate for the applicant.

Mr. Shahid Ahmed Shaikh, Additional Prosecutor General Sindh.

Mr. Junaid Ahmed advocate files power on behalf of respondent No.2, which is taken on record.

Mr. Ayaz Karim Memon, Advocate for respondent No.3 along with respondent No.3 and files counter affidavit along with certain documents, which is taken on record.

**Amjad Ali Sahito, J:-** Through instant criminal revision application, the applicant has impugned the order dated 30.12.2022 passed by learned 7<sup>th</sup> Additional Sessions Judge, Hyderabad in I.D. Complaint No.100 of 2022 filed by the applicant/complainant Saiful Malook, whereby the same was dismissed.

**2.** In his complaint, the applicant/complainant has claimed his ownership of the house bearing No.641/2 Pathan Goth, Hussainabad, Hyderabad and alleged that the respondents No.1 to 3/accused have illegally occupied 208.5 Sq yards on 16.11.2022. According to the applicant, on knowing this fact, he informed the police but no action was taken, as such, he filed the complaint.

**3.** Learned counsel for the applicant submits that the applicant is owner of the disputed premises despite that the learned trial Court has failed to consider this aspect. He contends that the learned trial Court has erred by not appreciating the claim of the applicant and allowing his prayer. He, therefore, prayed that possession of the disputed property may be ordered to be restored to the applicant being legal and lawful owner.

**4.** On the other hand, learned counsel appearing on behalf of respondents No.2 and 3 have denied the version of the applicant/complainant. Learned A.P.G. Sindh has also supported the impugned order.

**5.** I have considered the submissions of the learned counsel for the applicant and learned A.P.G. for the State and have gone through the material available on the record with their assistance. Record reflects the learned trial Court inquired into the matter and called report in this regard. The inquiry officer recorded the statements of both sides. As per statement made by

respondent No.3 she denied to have occupied any property of the complainant rather she is residing over such property since so many years which belongs to her on account of inheritance of their maternal grandfather along with her two sisters. Respondent No.3 is present in person, she reiterated her statement before the Court. However, learned counsel has raised a point that the present respondent No.3 is not real Mst. Sahul but the real Mst. Sahul has already been expired. During course of arguments, a specific question was put to the learned counsel as to when and how the applicant/complainant was dispossessed from the property, to which he was unable to reply the question put to him by the Court. Even otherwise, impugned order shows that the applicant shown his alleged dispossession on 16.11.2022 but a legal notice issued by the counsel on behalf of applicant wherein the date of dispossession was shown as 26.10.2021, as such, the conduct of the applicant/complainant does not confirm the exact date, which manifestly negates his claim.

6. Further, the respondent No.3 has filed a F.C. Suit No.408 of 2023 for cancellation, declaration and permanent and mandatory injunction against the applicant/complainant, which is pending adjudication, wherein the applicant has full opportunity to put forward his claim. So far the plea raised by the applicant/complainant that the respondent No.3 is not real Mst. Sahul, he is at liberty to agitate it by filing a suit for declaration before the competent Civil Court of law, if so chooses.

7. In view of the above facts and circumstances, the applicant has failed to point out any illegality or irregularity in the impugned order, which does not require any interference by this Court. Consequently, instant criminal revision application is **dismissed**.

JUDGE