

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Criminal Revision Application No. S- 83 of 2022
(Dr. Moinuddin Shaikh Vs. Farrukh Sehar & others)

1. For Orders on MA No. 4787/2022(Stay).
2. For hearing of main case.

ORDER.

15-11-2023.

Applicant Dr. Moinuddin Shaikh in person.
Syed Iftikhar Ali advocate for respondents No. 1 & 2.
Mr. J.K Jarwar, advocate for the respondents No. 3 & 4.
Mr. Imran Mobeen Khan, Assistant P.G for the State.

It is contended by the applicant that the subject property was in his occupation as tenant, there from he has dispossessed illegally by the private respondents, in such eventuality he filed a complaint for a prosecution of the private respondents, which has been dismissed by learned trial Court in summary manner by making an observation that it is filed and tainted with malice. By contending so, he sought for setting aside of the impugned order with direction to learned trial Court to make further inquiry and to pass fresh order.

Learned Assistant P.G for the State and learned counsels for the private respondents by supporting the impugned order have sought for dismissal of instant Crl. Revision Application by contending that the applicant was having no right to have filed a complaint by resorting to the provisions of Illegal Dispossession Act, 2005.

Heard arguments and perused the record.

Apparently on inquiry, one has to make out a case for trial and burden to do same is light; same could not be equated with trial wherein one has to prove his case beyond shadow of doubt. In the instant matter, the applicant has alleged his dispossession from subject property at the

hands of the private respondents by force and illegal manner, such allegation could not be over looked in summary manner. The status of the applicant over the subject property was occupier; Clause (c) to section 2 of Illegal Dispossession Act, 2005 defines that an occupier means the person, who is in lawful possession of the property. Preamble to the Illegal Dispossession Act, 2005, prescribes that owner and occupier of immovable property may file a complaint on account of his illegal or forcible dispossession therefrom, which as is said above is alleged by the applicant. In these premises the summary dismissal of the complaint of the applicant by learned trial Court is not appearing to be justified; consequently, the impugned order is set aside with direction to learned trial Court to make further inquiry and pass the same afresh by providing a fair chance of hearing to all the concerned.

Instant Crl. Revision Application is disposed of accordingly.

J U D G E

Nasim/P.A