

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Misc. Appln. No.S-102 of 2017.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
--------------------	---------------------------------------

1. For orders on office objection as Flag 'A'.
2. For Katcha Peshi.
3. For Hearing of M.A.No.1930/2017.

18.08.2017.

Mrs. Ghulam Khadeeja Bhatti, advocate for the applicant.

Mr. Khadim Hussain Khooharo, Addl. P. G.

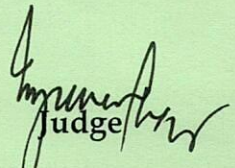
Through this Crl. Misc. Application, the applicant has impugned order dated 15.05.2017, whereby the learned VI-Additional Sessions Judge, Larkana has admitted the application of respondents for proceeding further under the Illegal Dispossession Act 2005.

Learned counsel for the applicant submits that the applicant has purchased the property in question from the respondents on the basis of an agreement dated 01.03.2016 and was handed over possession after paying the entire sale consideration in cash and upon their refusal to register the sale deed, a suit for specific performance has been filed, hence the impugned order be set aside.

On the other hand learned Addl. P. G has supported the impugned order and submits that mere filing of civil suit does not bar the proposed action under the Illegal Dispossession Act and, therefore, the impugned order is correct in law.

I have heard learned counsel for the applicant and the learned D.P.G. Though it is the claim of the applicant that they have purchased the property in question on the basis of an agreement and put in to possession whereas a civil suit for specific performance is pending, however, mere pendency of a suit for Specific Performance does not restricts any action under the Illegal Dispossession Act 2005. It is noted that in the agreement it has been

stated that entire amount of Rs.900,000/- has been paid in cash and possession has been handed over. This requires evidence and the trial and merely on the basis of this averment, the possession of the applicant cannot be proved. It further appears that the learned trial Court before passing the impugned order had sought comments/report from the concerned Mukhtiarkar, who vide his letter dated 03.05.2017 has confirmed that presently the record of rights reflects that the land in question is registered in the name of Anwar Ali who purchased the same through registered sale deed, however, on such date it is in the possession of Zafar Ali, the present applicant since 20.11.2012, This creates serious doubt about the agreement allegedly entered into with the respondents as the same was executed in 2016 and according to the report of Mukhtiarkar, the applicant is in possession since 2012. Both these dates do not corroborate stance of the applicant. In view of such position, I do not see any ground to interfere with the impugned order and accordingly this Crl. Misc. Application is dismissed along with listed application.


Judge
18/8/17

Yousuf Panhwar/**