

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

Criminal Revision Application No.S-75 of 2022

Applicant: Nabi Bux through Mr. Dilbar Khan Leghari, Advocate.

Respondent No.1to3: Haresh, Ramesh and Essar through Mr. Sundar Das, Advocate.

Respondent No.4: None present.

Respondent No.2: The State through Mr. Irfan Ali Talpur, Assistant Prosecutor General Sindh.

Date of hearing: 12.12.2024

Date of Decision: 12.12.2024.

ORDER

AMJAD ALI SAHITO, J. Through this Criminal Revision Application, the applicant has challenged the order dated 25.04.2022, passed by learned 2nd Additional Sessions Judge, Hyderabad whereby dismissed the complaint filed by applicant in terms of Sections 3 and 4 of Illegal Dispossession Act, 2005.

2. The learned counsel for the parties was directed to proceed with the case. However, the counsel for the applicant requested more time to prepare his brief, which was declined as the revision application pertains to the year 2022. Despite being directed to proceed, the counsel for the applicant was reluctant to do so. The counsel for the respondents also expressed that he was not prepared to proceed. However, with the assistance of the learned A.P.G. Sindh, I have perused the record and intend to decide the application

3. It reflects that the complaint under sections 3 and 4 of the Illegal Dispossession Act, 2005 was filed before the learned Sessions Judge, Hyderabad, and was subsequently transferred to

the Court of the 2nd Additional Sessions Judge, Hyderabad. The learned trial Court called for reports from the SHO and Mukhtiarkar concerned. After appraisal of the reports, the trial court passed the impugned order, observing that the complainant failed to establish a *prima facie* case for issuing process against the accused for the offence of illegal dispossession under section 3(2) of the Illegal Dispossession Act, 2005.

4. It further reflects from that the report submitted by Mukhtiarkar to the trial Court indicates that an area of 00-34 ghuntas out of Survey No.502 is entered in the name of Khatedar Nabi Bux, of which he is in possession of 00-20.17 ghuntas. The report also shows that part of the land, 00-0.37 ghuntas is under watercourse, 00-06.17 ghuntas under Survey No. 561 and 00-03.88 ghuntas is under the Mother City Housing Scheme which is sponsored by accused Haresh Kumar, Reva Chand, and Esar Das, which comes within Survey No.502. It also reflects that the government watercourse area on the southern side of Survey No. 502 is occupied by builders of the Mother City Scheme. The report of SHO also confirmed that a wall has been constructed around the land of the Mother City Scheme and some areas of Survey Nos. 502 and 503, as well as the government watercourse, are under the occupation of the accused. However, the SHO did not specify the date or time when the accused made construction on the land. Furthermore, the record shows that the complainant purchased 00-34 ghuntas of land from Kashif Ali through a registered sale deed on 07.02.2022, but the complainant claims that the accused illegally occupied the land on 20.01.2022, which was a month before his purchase and taking possession from the real owner.

5. In view of the above position, it appears that on the day the alleged illegal occupation of the land, the complainant neither was the owner of the land nor was he dispossessed illegally and that the real issue between the parties is a civil dispute over the sale, purchase, measurement and demarcation

of the land. Therefore, the matter does not fall under the Illegal Dispossession Act, 2005 but seems to be a fabricated the story. However, in such circumstances, the applicant should approach the appropriate forum for redressal of his grievance. No offense has been established under the Illegal Dispossession Act, 2005. As a result, the impugned order is upheld and the Criminal Revision Application is **dismissed**.

JUDGE

Abdullah Channa/P.S