

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Misc. Appln. No.S-328 of 2017.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'.
2. For Hearing of case.
3. For Hearing of M.A.No.3274/2017.

11.09.2018.

Mr. Rafique Ahmed K. Abro, advocate for the applicants.

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

Respondent No.2 Rasool Bux bearing CNIC No.43103-6434485-9 is present and states that he has full confidence in learned Addl. P. G, therefore, he does not intend to engage counsel and his case on his behalf may be proceeded by him.

This Crl. Misc. Application is directed against the order dated 21.09.2017 whereby learned Sessions Judge/Ex-Officio Justice of Peace Jacobabad while allowing Crl. Misc. Appln. No.282/2017 filed by the respondent No.2 directed the respondent No.1 i.e. SHO PS Muhammadpur Odho Jacobabad to lodge the FIR against the applicants. The operative part of the impugned order is reproduced as under :

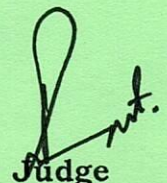
"In the light of above facts & circumstances, I am of the view that the petitioner has made out case that the respondents had occupied the land of petitioner & his sister and extended threats of dire consequences to them . Therefore, the SHO of PS Muhammadpur Odho is directed to lodge FIR of the petitioner and to act in accordance with the law. However, the petitioner & his sister are at liberty to seek legal remedy regarding vacant possession of their land from the competent Civil, as well as, criminal Court having jurisdiction."



Learned counsel for the applicant states that dispute between the parties relates to the title and possession of immovable property, for that, the respondent No.2 has remedy to file civil suit or otherwise direct complaint under Illegal Dispossession Act, however, Ex-Officio Justice of Peace, Jacobabad while passing impugned order has acted illegally. The learned Addl. P. G also does not support the impugned order on the ground that *prima facie* dispute between the applicants and respondent No.2 pertains to title and possession of immovable property and from the facts narrated by the respondent No.2 in his application no offence is made out.

Heard learned counsel for the applicants, learned Addl. P. G and perused the material available on record.

It appears that the respondent No.2 filed Crl. Misc. Application No.282/2017 before the Ex-Officio Justice of Peace Jacobabad alleging therein that the applicants occupied his as well as his sister's agricultural land illegally and unlawfully and they are extending threats of dire consequences to them. It further appears that the learned Ex-Officio Justice of Peace while passing impugned order has also left the petitioner and his sister to seek legal remedy regarding possession of their land from the competent Civil, as well as, criminal Court having jurisdiction. Under such circumstances of the case no cognizable offence is made out against the applicants hence this Crl. Misc. Application is allowed and in consequence whereof the impugned order is set aside.


Judge

M.Y.Panhwar/**