

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

*Criminal Revision Application No. S-221 of 2021*  
*(Rana Muhammad Pervaiz Vs Abdul Rasheed and others)*

*Criminal Revision Application No. S-222 of 2021*  
*(Rana Muhammad Pervaiz Vs Abdul Aziz and others)*

| DATE                                   | ORDER WITH SIGNATURE OF JUDGES |
|--|--------------------------------|
| 1. For orders on MA No. 10824/2021     |                                |
| 2. For orders on office objection at A |                                |
| 3. For hearing of Case                 |                                |
| 4. For hearing of MA No. 10568/2021    |                                |

**09.12.2025**

Mr.Muhammad Farooq, Advocate for the Applicant Rana Muhammad Pervaiz in both Revision applications.  
Mr. Muhammad Aslam Bhutta, Advocate for the Respondent No.1.  
Mr. Muhammad Mohsin Mangi, Assistant Prosecutor General.

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**Ali Haider 'Ada'** By this single order, both Criminal Revision Applications are being disposed of as they arise out of the same impugned order dated 27.08.2021 and involve identical questions of facts and law. The present Applicant, being the complainant, has assailed the said order passed by the learned Additional Sessions Judge- XII, Karachi West, whereby Direct Complaint Nos 92 of 2021 and 93 of 2021 were dismissed after calling reports from the concerned quarters, and cognizance was declined. The subject matter of both revisions pertains to the properties bearing Shop No.1 and Shop No.6, situated at Gulshan Market, Plot No.6/10-A, Aligarh Colony, Manghopirngi town, Karachi.

2. Briefly stated, the Applicant initiated rent proceedings against Respondent No.1, wherein he succeeded up to this Court. However, at the time of execution of the rent order, certain hurdles were created, leading to registration of FIR No.290 of 2021 against Respondent No.1 and others. Subsequently, possession of the premises was handed over to the Applicant through a writ of possession. After about two months, it was alleged that Respondent No.1 along with other persons again dispossessed the Applicant, resulting in registration of FIR No.503 of

2021 for offences punishable under sections 448, 380, 506 and 34 PPC, which is presently pending trial.

3. Thereafter, the Applicant initiated Direct Complaint No.92 of 2021 and 93 of 2021 under sections 3 and 5 of the Illegal Dispossession Act, 2005, seeking restoration of possession. The learned trial Court, after calling for reports from KMC and other concerned departments, dismissed the complaint at the threshold and declined to take cognizance, which has given rise to the present Criminal Revision Applications.

4. Learned counsel for the Applicant contended that after the promulgation of the Illegal Dispossession Act, a special remedy has been provided for restoration of possession, independent of other criminal proceedings, and that pendency of FIR No.503 of 2021 does not affect proceedings under the said Act. He further submitted that during inquiry proceedings, one Liaquat and Javed appeared before the trial Court and produced alleged lease deeds issued by KMC to claim ownership of the subject properties. According to learned counsel, the said documents are forged and manipulated, and their validity is already under challenge before the Civil Court. He argued that the Applicant has been enjoying lawful title and possession since 2003 and that the KMC report relied upon by the learned trial Court could not have been accepted without recording evidence. It was further argued that disputed questions of title can only be determined after a full-fledged trial, whereas the learned trial Court dismissed the complaint in limine without initiating proceedings.

5. Conversely, learned counsel for the Respondents submitted that during the inquiry it transpired that the documents relied upon by the Applicant were false and managed, and that he had succeeded in rent proceedings due to misrepresentation. He argued that Civil Suit No.276 of 2021 and Civil Suit No.277 of 2021, involving the same properties and the same title documents, are pending before the Civil Court; therefore, the question of ownership and possession is sub judice. It was submitted that Respondent Liaquat has prima facie legal title over the property

and no offence of illegal dispossession is made out. Learned counsel placed reliance upon 2016 MLD 1238 and 2014 P.Cr.L.J. 1150.

6. Learned Assistant Prosecutor General supported the impugned order and submitted that multiple FIRs relating to the same dispute are already pending and civil litigation regarding title and possession is also ongoing. He argued that criminal proceedings under the Illegal Dispossession Act cannot be allowed to proceed when civil Courts are already seized of the matter, and that the learned trial Court rightly declined cognizance.

7. In rebuttal, learned counsel for the Applicant prayed that, at least during the pendency of the civil suits and the present revision applications, the subject properties be attached so that no party may take undue advantage or alter the status of the property.

8. Heard and perused the material available on record with due care and circumspection.

9. First of all, sections 447 and 448 of the Pakistan Penal Code are reproduced as under: —

*447. Punishment for criminal trespass: Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand five hundred rupees, or with both.*

*448. Punishment for house-trespass: Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to three thousand rupees, or with both.*

10. From the above provisions, it is evident that the penal law criminalizes the unlawful act of entering upon or occupying property by way of criminal trespass or house-trespass. For proper appreciation, reference may also be made to sections 441 and 442 PPC, which define the scope and nature of house-trespass and aggravated forms thereof. For ready reference, the same are reproduced as under: —

*441. Criminal trespass: Whoever enters into or upon property in the possession of another with intent to commit an offence or to*

*intimidate, insult or annoy any person in possession of such property, or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass".*

*442. House-trespass: Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".*

11. It is a settled principle of law that where a special statute occupies the field, the same prevails over general law. The Illegal Dispossession Act, 2005, being a special law, has been promulgated with the specific object to curb the menace of forceful and unlawful dispossession from immovable property, and thus ordinarily prevails over the general provisions of the Pakistan Penal Code relating to trespass. However, invocation of the special law is not automatic or unconditional. Certain foundational requirements must exist before the jurisdiction under the Illegal Dispossession Act can be validly exercised. The complainant must prima facie establish lawful possession at the relevant time and an act of dispossession falling strictly within the ambit of the special statute. Where possession itself is disputed, or where serious questions relating to title and lawful occupancy exist and are subject to adjudication by the civil Court, the application of the special law becomes circumscribed. Therefore, while criminal trespass and house-trespass under the Penal Code and illegal dispossession under the special law may appear similar in nature, the latter can only be invoked when the statutory pre-conditions are clearly satisfied. In the absence thereof, the dispute remains governed by the general criminal law or civil remedies, as the case may be, to ensure that the special statute is not misapplied or used as a substitute for civil adjudication.

12. Moreover, the documents relied upon by the Applicant are admittedly sub judice before the Civil Court, and even the concerned functionaries have not supported the version of the Applicant, it has come on record through official reports that the ownership documents produced by the Applicant are not genuine, whereas the documents pertaining to contesting respondent have prima facie been found to be

genuine. The correctness and legal effect of such documents are already subject to adjudication before the competent Civil Court. It is, therefore, evident that under the Illegal Dispossession Act, 2005, the genuineness and validity of title documents cannot be examined, as the same fall strictly within the domain of civil jurisdiction.

13. Furthermore, the report submitted by the SDPO is also against the present Applicant. Such report was called for under the provisions of the Illegal Dispossession Act to ascertain the factual position on the ground, and it carries considerable weight as compared to the self-serving assertions of either party. The said report further reflects that the present Applicant is required to seek declaration regarding his alleged ownership and documents of the property in question, which remedy lies within the exclusive jurisdiction of a Civil Court and not a criminal forum.

14. A complaint under the Illegal Dispossession Act, 2005 is maintainable against a person who forcibly dispossesses a lawful occupier or owner; however, such a remedy is never meant to resolve civil disputes or to act as a substitute for a civil suit. Reliance in this regard is placed upon the case of **Nadeem Waqar Khan versus Javed Masood Ahmed Khan (PLD 2020 Sindh 8) and Manzoor Ali and another versus The State and another (2020 MLD 1138)**. Reference may also be made to the principle laid down in **Muhammad Feroz-ud-Din Hilali versus Nadir and others (2025 SCMR 1702)**.

15. As regards the contention of the learned counsel for the Applicant concerning the attachment of property, the same is misconceived. Attachment under section 6 of the Illegal Dispossession Act can only be ordered where proceedings under the Act are pending, and the statutory requirements are fulfilled. In the present case, since cognizance itself was declined and the complaint was dismissed, there existed no occasion to pass an order of attachment.

16. In view of the foregoing discussion, the present Criminal Revision Applications have failed to demonstrate any illegality, irregularity, perversity, or arbitrariness in the impugned orders. Consequently, there

is no justification for interference by this Court. Accordingly, both Criminal Revision Applications stand dismissed.

***JUDGE***

*Amjad PS*