

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Crl. Acquittal Appeal No. S- 73 of 2018

Muhammad Akhtar..Appellant

Versus.

Abdul Qudoos and others..... Respondents

Fresh Case

1. For orders on MA 2701/2018.
2. For orders on MA 2702/2018.
3. For hearing of main case.

Mr. Rab Nawaz Soomro Advocate files Vakalatnama on behalf of the appellant.

Date of hearing: 08-04-2019

Date of decision: 08-04-2019

ORDER

ZAFAR AHMED RAJPUT J., This Crl. Acquittal Appeal is directed against the order dated 18.04.2018, passed in Sessions Case No.290 of 2016, arising out of Direct Complaint filed by the appellant / complainant under Section 3(2) of the Illegal Dispossession Act, 2005, whereby learned II-Additional Sessions Judge, Ghotki acquitted the respondents No.1 to 3 of the charge under Section 265-K Cr.P.C.

2. Briefly stated, the facts of the case are that the appellant herein filed aforementioned Direct Complaint against the respondents alleging therein that he is owner of agricultural land measuring 0-26-½ Ghuntas out of revenue Survey No. 5(03-36 acres) situated in Deh and Tapo Band Taluka and District Ghotki. It was further alleged that the land in question was originally belonged to grand maternal father of the complainant, namely, Muhammad Nawab while the complainant together with his mother used to live with him, who died

in the year 2009. It was also alleged that in the year 2000, the Liberty Power Plant Management started installing gas treatment plant adjacent to the said land, on that the complainant and his maternal grandfather raised objections as the same was being constructed without making payment of compensation, but neither the company management was prepared to pay the compensation or they stop the work, on the contrary respondent No.1, who was the Manager of the gas treatment plant and his other staff members with the help of police and members of law enforcement agencies forcibly and illegally on 08.12.2006 started building of compound wall and raised other construction work by driving out them from the land.

3. During course of trial, learned trial Court examined the complainant and his witness Muhammad Ibrahim. Learned counsel for the private respondents, who are serving in different capacities in the power plant, filed application under Section 265-K Cr.P.C, for their pre-mature acquittal. Learned trial Court after hearing the learned counsel for the parties and observing the fact that the complainant in his cross-examination has admitted that he has filed a Civil Suit regarding same land for declaration, mesne profit and mandatory injunction, which is still pending adjudication before the Court of learned Senior Civil Judge, wherein he has not cited private respondents as defendants in the Civil Suit, acquitted the private respondents by observing that the provision of the Illegal Dispossession Act has been introduced only for the land-grabbers and the persons, who forcibly dispossess the owners of the property or

illegally occupy the same, which provision in the instant case does not attract.

4. Heard learned counsel for the appellant.

5. It is an admitted position that neither complainant nor his mother is the owner of the aforementioned land on the record. Besides the fact that the alleged incident of occupying the land, as per facts narrated by the complainant, took place in the month of December, 2006, when the alleged maternal grandfather of the complainant was alive who later on died in the year 2009, but he during his life time did not initiate any proceedings against the respondents No.1 to 3 who are the employees of the power plant. It is also an admitted position that said respondents have not been made defendants by the complainant in his Civil Suit filed by the complainant for declaration, mesne profit and mandatory injunction. It has been pleaded that the management of power plant have not paid the compensation to the maternal grandfather of the complainant which itself indicates that prima facie the complainant is the claimant of the compensation for that he has already maintained a Civil Suit. Hence, no case of interference in the impugned order has been made out. Accordingly, this Crl. Acquittal Appeal being devoid of any legal merit is dismissed in limine along with listed applications.

JUDGE