

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Misc. Appln. No. S-466 of 2025

Applicants : 1) Muhammad Ayub s/o Ismail  
2) Abdul Samad s/o Abdul Qayoom  
3) Bilal s/o Abdul Qayoom  
4) Ibrar s/o Abdul Qayoom  
5) Ibrahim s/o Abdul Qayoom  
All by caste Memon  
Through Syed Zaffar Ali Shah Bukhari, Advocate

Respondent No.1 : Ashraf Ali s/o Kareem Bux  
Through Mr. Muhammad Imran Khan, Advocate

The State : Through Mr. Muhammad Raza Katohar, DPG

Date of hearing : 19.02.2026  
Date of order : 12.03.2026

## **ORDER**

**KHALID HUSSAIN SHAHANI, J.—** Applicants named above have invoked the inherent jurisdiction of this Court to assailing the order dated 02.08.2025, passed by the learned 3<sup>rd</sup> Additional Sessions Judge/Ex-Officio Justice of Peace, Sukkur, in Criminal Miscellaneous Application No.2392 of 2025, whereby the SHO concerned and other police officials were directed to record statements and to undertake inquiry/investigation against the present applicants and their associates, on the complaints of respondent No.1 regarding his alleged forcible dispossession from the ground-floor shop of property bearing City Survey No. B-919, Miani Road, Sukkur, and removal of goods therefrom.

2. Respondent No.1, Ashraf Ali, asserts that he has been in continuous possession as a tenant of the ground-floor shop of C.S. No.B-919 since 1980, running his business under the name “*Al-Karim Tiles*”; that on the night of 25.07.2025, the applicants, in concert with unknown persons, allegedly entered the premises by use of force, threatened him, illegally dispossessed him, and removed merchandise and

materials claimed to be worth more than rupees one crore; and that, despite repeated recourse to the police authorities, no efficacious action was initiated, compelling him to approach the Ex-Officio Justice of Peace under Sections 22-A and 22-B Cr.P.C, who then passed the impugned order directing initiation of criminal process.

3. The parameters governing the exercise of jurisdiction by an Ex-Officio Justice of Peace under Sections 22-A(6)(i) and 22-B, Cr.P.C stand authoritatively delineated by the august Supreme Court, *inter alia*, in *Muhammad Bashir v. Station House Officer, Okara Cantt and others* (PLD 2007 SC 539), *Younas Abbas and others v. Additional Sessions Judge, Chakwal and others* (PLD 2016 SC 581), and in subsequent pronouncements reaffirming the supervisory, facilitative and limited nature of such jurisdiction. It has been consistently held that while the Justice of Peace is empowered to ensure that the police perform their statutory duty under Section 154 Cr.P.C, he cannot, under the guise of such jurisdiction, usurp the functions of the Investigating Agency, nor convert a purely civil or proprietary dispute into a criminal proceeding by issuing mechanical directions for registration of an FIR or investigation. The words “may” and “appropriate directions” in Section 22-A(6), Cr.P.C oblige the Justice of Peace to apply judicial mind to the facts of each case, and to decline intervention where the underlying dispute is civil in character or where the criminal process is being invoked as a pressure tactic, a principle flowing from the ratio in *Muhammad Bashir* (supra) and *Younas Abbas* (supra).

The applicants’ case is that respondent No.1 has resorted to the forum of Justice of Peace with mala fide intent, weaponizing a long-standing, hotly contested civil and proprietary dispute to create a false criminal narrative and

to overawe the investigative machinery, thus attracting the well-recognized principle that criminal law cannot be used to enforce or secure civil rights.

4. Learned counsel for the applicants submits that the learned 3rd Additional Sessions Judge/Justice of Peace proceeded in a mechanical and perfunctory manner in allowing the criminal miscellaneous application of Ashraf Ali, without a meaningful scrutiny of the record, documentary instruments, or the subsisting civil and constitutional litigation. The subject premises, C.S No.B-919, Miani Road, Sukkur, was originally reflected as a "Temple" in the City Survey record; it subsequently passed through various chains of private ownership and was ultimately purchased by Mst. Naseem Akhtar wife of Abdul Qayoom Memon, vide Registered Sale Deed No.1673 dated 16.12.2004, and in 2023 the competent authority, namely, the Chairman, Evacuee Trust Property Board, Government of Pakistan, purportedly declared the property to be Evacuee Trust Property, with corresponding mutation in the City Survey record on 05.01.2023.

Notwithstanding such declaration, the applicants assert that they and their predecessors-in-interest including those through whom Ashraf Ali traces his tenancy have subsisting claims of title, tenancy and lawful possession over the ground-floor shop, arising out of prior ownership and tenancy arrangements. They further submit that the allegation of forcible dispossession is misconceived, vexatious and premature, as the status of title and possession is already sub judice before competent forums through civil suits, rent proceedings and constitutional petitions, *inter alia*, Constitution Petition No.D-1073 of 2023 and Constitution Petition No.D-1478 of 2024; that Rent Application No.136 of 2023, culminating in an order dated 08.05.2025 regarding arrears and possession, is under challenge in appeal before the learned Additional Sessions Judge-III,

Sukkur; and that site inspections, the Mukhtiarkar's report, the City Survey Officer's record and statements of local residents corroborate that the applicants were in lawful possession at the relevant time. On this premise, it is urged that the learned Justice of Peace has, by the impugned order, given a criminal complexion to a quintessentially civil and proprietary controversy, contrary to the principles enunciated by the superior Courts that civil disputes over title, tenancy and possession cannot be permitted to be converted into criminal proceedings.

5. Contrariwise, learned counsel for respondent No.1 and the learned DPG have strenuously supported the impugned order, contending that it is well-reasoned and intra vires Sections 22-A and 22-B, Cr.P.C, as interpreted by the Supreme Court in *Younas Abbas* (supra), wherein the facilitative and protective role of the Justice of Peace was underscored. They reiterate that Ashraf Ali has been a lawful tenant in the ground-floor shop of C.S No.B-919 since 1980, conducting business as "*Al-Karim Tiles*"; that on 25.07.2025, at night, the applicants, accompanied by others, forcibly entered the demised premises, dispossessed him, and removed valuable stock and fixtures worth more than one crore rupees; that he and his family were present in the premises and were coerced, threatened and physically forced out with his employees; and that this narrative stands corroborated by independent eye-witnesses from the locality, namely, Muhammad Adnan, Junaid Ahmed, Zahid Ahmed and Mohammad Babar, as well as by official verification and reports prepared by the Mukhtiarkar and City Survey Officer, Sukkur.

It is further contended that, despite multiple attempts at amicable resolution and repeated approaches to the police, the applicants did not accede to lawful demands; that the applicants have not produced any cogent material

to dislodge the allegations of forcible dispossession or to impeach the credibility of the witnesses; and that their pleas of title and civil rights are disputed matters presently engaging the attention of competent forums. In such circumstances, it is argued, the order directing recording of statements and investigation is indispensable for protection of the respondent's statutory rights, and, following the scheme delineated in *Muhammad Bashir* (supra), should not be interfered with in proceedings under Section 561-A Cr.P.C.

6. I have heard the respective learned counsel and meticulously examined the available record. The impugned order dated 02.08.2025, whereby the learned Ex-Officio Justice of Peace directed the SHO and police officials to entertain and investigate the complaints of Ashraf Ali, is demonstrably rooted in a controversy which is, in its substratum, civil and proprietary in nature and already sub judice. The property bearing C.S. No. B-919, Miani Road, Sukkur, has a chequered history, encompassing original survey entry as a Temple, subsequent private transfers, a registered sale deed in favor of Mst. Naseem Akhtar (No.1673 dated 16.12.2004), and, later, its declaration as Evacuee Trust Property in 2023.

7. The record further reveals that, on the date of the alleged occurrence (25.07.2025), Rent Application No.136 of 2023 in respect of arrears and possession was pending before the learned Rent Controller-I, Sukkur, and that Execution Application No.02 of 2025 had been instituted to enforce a civil judgment rendered in favor of Mst. Naseem Akhtar. Likewise, constitution petitions, namely, C.P. No. D-1073 of 2023 and C.P. No. D-1478 of 2024, concerning title and possession of the same premises, were also engaging the consideration of competent constitutional forums. The co-existence of such civil, rent and constitutional proceedings, on

identical subject-matter and between substantially the same parties, calls for considerable circumspection before permitting the criminal process to be set in motion, a principle recognized in a long line of precedents where the superior Courts have deprecated the tendency to employ criminal law as a means to enforce civil or contractual liabilities.

8. It is further of significance that, during the pendency of the present proceedings, the learned Rent Controller-I, Sukkur, in Execution Application No.02 of 2025 arising out of Rent Application No.136 of 2023, issued a Writ of Possession on 08.12.2025, thereby directing the Court Bailiffs, Ghulam Rasool and Javeed Ahmed, to have the demised premises vacated and to deliver possession to the decree-holder in accordance with law; that, in execution of the said writ, on 09.12.2025, the bailiffs vacated the demised shop from the judgment-debtor(s) and handed over possession to Bilal Ahmed, son of Mst. Naseem Akhtar, under a Mashirnama/Memorandum drawn in the presence of mashirs; and that this Mashirnama has been produced before this Court with the statement of learned counsel for the applicants dated 20.01.2026, *prima facie* evidencing that possession of the disputed premises stands delivered through due process of law in execution of a decree passed by the competent Rent Court.

9. The reports of the Mukhtiarkar and the City Survey Officer, together with statements of local witnesses, further illuminate that the property in question has long been embroiled in civil and tenancy disputes, with multiple stakeholders asserting historical and competing claims. The allegation of forcible dispossession, therefore, is not an isolated criminal occurrence; it is embedded within a matrix of ongoing civil litigation and contested possession. Jurisprudence is uniform that criminal law is not to be invoked as a convenient substitute for civil remedies, nor to be used as

a stratagem for exerting pressure in matters of title, tenancy or possession already pending before civil or constitutional forums; indeed, the Supreme Court, in quashment jurisprudence under Section 561-A, Cr.P.C. and Article 199 of the Constitution, has repeatedly held that where an attempt is made to convert a purely civil liability or dispute into a criminal case, continuation of criminal proceedings would amount to abuse of process of Court.

10. The jurisdiction reposed in a Justice of Peace under Sections 22-A(6) (i) and 22-B, Cr.P.C is essentially supervisory, meant to ensure that the statutory obligation of the police to attend to information about cognizable offences is not frustrated by inaction or arbitrariness. It does not, however, extend to converting inherently civil or proprietary disputes into criminal cases, absent a clear, *prima facie* demonstration of ingredients of a cognizable offence under the Pakistan Penal Code, independent of and distinct from the underlying civil controversy. Where the gravamen of the complaint primarily relates to title, tenancy, rent arrears and possession already sub judice before competent forums, the Justice of Peace is required to exercise circumspection and refrain from issuing directions which effectively result in a parallel or collateral adjudication of issues already seized by civil courts.

11. Viewed in the cumulative perspective of the pending rent proceedings, execution process, constitutional petitions, documentary material, site reports and local statements, it is manifest that the impugned order dated 02.08.2025 came to be passed without due advertence to the intricate civil context and without adequate judicial application of mind to the question whether the controversy disclosed an independent criminal offence warranting the registration of an FIR. The directive, couched in

broad and mechanical terms, to proceed with criminal investigation in such circumstances is liable to occasion harassment, prejudice, and an unwarranted encroachment upon the domain of civil and rent courts seized of the matter, thus attracting the settled test that criminal process should not be allowed to be used as an instrument of oppression in disputes dominantly civil in nature.

12. In the result, this Criminal Miscellaneous Application No.S-466 of 2025 is allowed. Consequently, the impugned order dated 02.08.2025, passed by the learned 3<sup>rd</sup> Additional Sessions Judge/Ex-Officio Justice of Peace, Sukkur, in Criminal Miscellaneous Application No.2392 of 2025, is hereby set aside. The applicants shall stand absolved of, and relieved from, the directions contained therein, and no further criminal action shall be initiated or pursued against them on the basis of the said order. Inasmuch as the controversy between the parties essentially revolves around questions of ownership, tenancy and possession of immovable property already the subject of pending civil and constitutional proceedings, the same cannot be adjudicated or resolved through the criminal process. The parties shall remain at liberty to seek such relief as they may be advised before the competent civil or other relevant forums, which shall adjudicate their respective claims strictly in accordance with law, uninfluenced by the impugned order or by this order to the extent it relates to the criminal proceedings.

**J U D G E**