

JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Cr. Acquittal Appeal No. S-54 of 2025

Appellant	:	Sooro through Mr. Haji Qalandar Bux Laghari, Advocate
Respondents	:	Syed Wali Muhammad Shah and others not represented
		Mr. Neel Parkash, Deputy Prosecutor General Sindh for the State
Date of Hearing	:	02.09.2026
Date of Judgment	:	14.09.2026

JUDGMENT

Muhammad Humayon Khan, J.: This Appeal against acquittal is against the Judgment dated 25.10.2025 passed by the learned Additional Sessions Judge-II, Tharparkar at Mithi, in Sessions/ID Case No. 142 of 2024 originating from Direct Complaint No. 46 of 2024 under ss. 3 and 4 of the Illegal Dispossession Act, 2005 (hereinafter “ID Act”), whereby the Respondents were acquitted of the charge.

2. The Appellant asserted that agricultural land comprising Survey No.84 measuring 10-00 acres, Begoti No.101 measuring 10-00 acres and Begoti No.107 measuring 10-00 acres, situated in Deh Janjhear, Tapa Jorano, Taluka Mithi, District Tharparkar, was his ancestral property. His immediate claim at trial and in the charge, however, centred upon Survey No. 84 measuring 10-00 acres. According to him, the revenue entry relating to Survey No.84 had been made in the name of his father Majnoo through foti khata badal, while proceedings concerning the revenue entries had travelled before the revenue authorities and were also the subject of civil litigation. The occurrence alleged in the complaint was that on 04.10.2024 at about 06:15 p.m. the Appellant was present at the agricultural land with his brothers Sawai and Ranjho. Some crop had already been harvested while the remaining crop was standing in the field. The seventeen Respondents, allegedly armed with different deadly weapons, were said to have arrived in two long-chassis jeeps and tractor trolleys, entered the land without lawful authority, dispossessed the Appellant, removed 100 maunds of bajra and 10 maunds of guwar and threatened the complainant party with murder. The Appellant claimed that he approached the concerned police station and the Mukhtiarkar but obtained no redress. The Appellant instead instituted a direct criminal complaint under the special Act. By letter No.4371/2024 dated 21-10-2024, the learned Sessions Court called reports from the concerned authorities. The Mukhtiarkar (Revenue), Taluka Mithi, furnished report No.Mukh/778/2024 dated 04-11-2024 after obtaining a

report from the Tapedar, examining the revenue record and referring to a site visit. The police inquiry report bearing No.1360 was thereafter submitted on 27-11-2024. Upon consideration of those reports, the complaint was brought on the regular file by the learned Sessions Court. No arrest, weapon or crop recovery, mashirnama, medical examination or forensic proceeding was relied upon in this direct-complaint trial.

3. The private Respondents appeared pursuant to process, furnished the required sureties and were supplied the relevant papers. The case was transferred to the learned Additional Sessions Judge-II, Tharparkar at Mithi on 26-02-2025. A charge under section 3(2) of the ID Act was framed against all seventeen Respondents; their respective pleas were recorded at Ex.05/A to Ex.05/Q. They pleaded not guilty and claimed trial. The Appellant then examined five complainant witnesses, described in the record as CWs, and the oral and documentary evidence may be noticed separately. During the trial, the Appellant/complainant examined the following five witnesses:

CW-1 Sooro, complainant (Ex.5): The Appellant stated on oath that on 04-10-2024 he was at home and that on the next day at about 06:00 a.m. he went to Survey No.84 measuring 10-00 acres, where all seventeen Respondents were already present with different weapons. He attributed a double-barrel gun to Syed Wali Muhammad Shah and another double-barrel gun to Premsingh, named the remaining Respondents collectively, and stated that they removed half of the harvested crop, quantified by him as 100 maunds of bajra and 10 maunds of guwar, in two long-chassis jeeps and one tractor trolley. He further stated that the police and Mukhtiarkar did not redress his grievance, whereafter he filed the complaint. He produced the original computerised Form VII-B at Ex.5/A. He also produced photocopies of an application moved by accused Bagh and Kewal before the Mukhtiarkar, the order passed thereon, the order dated 03-10-2018 of the Deputy Commissioner/Additional Deputy Commissioner, Tharparkar, and the order dated 02-03-2021 passed by the Additional Commissioner-I, Mirpurkhas, in Appeal No.13/2020; the deposition does not assign separate exhibit numbers to those photocopies. In cross-examination he admitted that the accused also claimed ownership in Survey No.84 and that the controversy had proceeded before the Additional Deputy Commissioner-I, Tharparkar, the Additional Commissioner-I, Mirpurkhas and the Board of Revenue, Sindh. He further admitted that Kewal and others had challenged the relevant revenue decision before the Senior Civil Court-I, Mithi, in F.C. Suit No.103/2025. He had not produced the applications allegedly made to the SHO and Mukhtiarkar, nor any TCS receipt; the application did not

specify the date and time at which he approached the police or the names of the persons accompanying him, and the complaint did not state when he went to the Mukhtiarkar. He acknowledged that Sawai and Ranjho were his real brothers and that no firearm injury was suffered by the complainant party. He denied that the occurrence was fabricated to exert pressure in the revenue litigation.

CW-2 Ranjho (Ex.6): Ranjho, one of the Appellant's real brothers and an asserted eye-witness, supported the allegation of occupation and stated that the accused made firing. The impugned judgment records that he acknowledged the existence of mutations in favour of the accused side, though he described them as bogus. He produced no document. His version became material in reappraisal because the complainant himself had not spoken of firing and had placed the Respondents already upon the land when he reached there the next morning.

CW-3 Sawai (Ex.7): Sawai, the Appellant's other real brother and asserted eye-witness, also supported the complaint. The impugned judgment records his specific assertion that Syed Wali Muhammad Shah fired directly upon the complainant party. It further records his sequence that the complainant party visited the land on the evening of 04-10-2024, found it occupied, returned the following morning and was then fired upon. He produced no document. That sequence and the specific attribution of firing were not stated by CW-1 in his examination-in-chief.

CW-4 Muhammad Haroon, SHO/Inspector, Police Station Chelhar (Ex.8): This witness had not personally conducted the inquiry. He produced report No.1360 dated 27-11-2024, prepared and submitted by his predecessor, at Ex.8/A and identified it as an official record. According to that report, both sides claimed ownership in the ancestral landed property and the controversy was a revenue matter. Neither his chief nor Ex.8/A, as described in evidence, verified the alleged armed entry, firing, removal of crop or dispossession by the seventeen Respondents. In cross-examination he acknowledged the relationship of certain persons with the complainant party and denied deposing falsely; he supplied no first-hand account of the occurrence.

CW-5 Shahid Mustafa, Mukhtiarkar, Taluka Mithi (Ex.9): He likewise appeared as the successor officer and produced the inquiry report No.Mukh/778/2024 dated 04-11-2024, prepared by his predecessor, at Ex.9/A. The report referred to VF-X Book No.1064, entry No.69, under

which Survey No.84 stood in the name of Chando son of Ranmal Bheel as a full-rupee joint-family holding; its transcription through entry No.35 dated 05-03-1985; succession entry No.21 dated 13-10-2017; order No.860 dated 03-10-2018 of the Additional Deputy Commissioner-I, Tharparkar cancelling that entry and directing a fresh foti khata badal in Jalsa Aam; the open katchery held on 27-12-2018; and entry No.24 in favour of Majno son of Naharo Bheel, which was maintained by order No.640 dated 02-03-2021 of the Additional Commissioner-I, Mirpurkhas. The report further stated that an appeal before the Member, Board of Revenue, Sindh, was then pending. As to possession, the report recorded the Tapedar's account that Survey No.84 was in the possession of Sooro son of Majnoo and, on information from local sources, that crop had been taken by an opposing Bheel family. In cross-examination, however, CW-5 expressly admitted that the disputed land was joint property of the complainant and accused party and that Deh Form X, entry No.69, stood in the name of Chando Mal and his joint family. He did not claim personal knowledge of the alleged occurrence and the Tapedar who inspected the site was not examined.

4. After CW-5, learned counsel for the complainant closed the complainant's evidence through statement at Ex.10. Statements of all seventeen Respondents under section 342 of the Cr.P.C. were recorded at Ex.11 to Ex.27; the statements available in the record bear the date 22-10-2025. The Respondents denied that they had illegally dispossessed the Appellant on 04-10-2024 at 06:15 p.m., asserted that the case was false and described CW-1 to CW-3 as related and interested witnesses. Several of the Bheel Respondents additionally claimed to be shareholders in the disputed survey number. None elected to testify on oath under section 340(2) of the Cr.P.C, and none produced a defence witness or document. Their plea was one of innocence and false implication against the background of the admitted revenue dispute.

5. By the impugned judgment dated 25-10-2025, the learned Trial Court held that the Appellant had failed to prove illegal occupation and removal of crop through reliable and confidence-inspiring evidence. It considered material the conflict between CW-1's omission of firing, CW-2's allegation of firing and CW-3's specific allegation that Syed Wali Muhammad Shah fired directly; the different sequence introduced by CW-3; the absence of any injury or medical support; the non-production of the applications allegedly submitted to the authorities; and the police and revenue reports showing a long-standing joint-family/revenue dispute. It also noted F.C. Suit No.103/2025 and the proceedings before the revenue hierarchy. The Court concluded that the statutory charge had not been proved beyond reasonable doubt and acquitted all Respondents under section 265-H(1) of

the Cr.P.C.; their bail bonds were cancelled and sureties discharged. The Court also reasoned that the special Act was aimed at land grabbers and ought not to criminalise an ordinary civil or revenue dispute.

6. Mr. Haji Qalandar Bux Laghari, Advocate for the Appellant contended that the impugned judgment is the product of material misreading and non-reading of evidence. He argued that Ex.5/A and the orders produced through CW-1 supported the Appellant's title, while Ex.9/A affirmatively recorded the Appellant's possession of Survey No.84 and the taking of crop by the opposing Bheel family. According to learned counsel, CW-1, CW-2 and CW-3 were natural witnesses and substantially agreed that the Respondents had entered the land and removed the crop; the variations concerning firing, the precise time and the number of tractor trolleys were attributable to ordinary errors of observation and memory. The absence of injury was said to be immaterial because no injury formed an ingredient of section 3 of the ID Act. It was further submitted that pending civil or revenue litigation did not authorise forcible self-help and that, under the binding law, the Act is not confined to persons having antecedents as professional land grabbers. Learned counsel maintained that the Trial Court had allowed the civil dispute to eclipse proof of the criminal act and prayed that the acquittal be reversed or the matter remanded.

7. On the other hand Mr. Neel Parkash, the learned Deputy Prosecutor General for the State supported the ultimate conclusion of acquittal and submitted that the Respondents had acquired a reinforced presumption of innocence which could be displaced only by demonstrating perversity, not merely by proposing another possible view. He argued that the date, time and sequence of the alleged occurrence shifted between the complaint and ocular evidence; firing was omitted by CW-1 but progressively introduced by CW-2 and CW-3; all three ocular witnesses were brothers interested in the same disputed holding; no contemporaneous application or dispatch receipt was produced; neither official witness had personal knowledge; and the officers who actually conducted the inquiries and site visit were withheld. Ex.8/A did not verify the occurrence, whereas Ex.9/A disclosed competing revenue entries, joint-family ownership and, significantly, recorded the Appellant himself as being in possession after the alleged dispossession. The D.P.G. further submitted that the collective nomination of seventeen persons, without a consistent account of individual acts, recovery or independent corroboration, did not prove the charge beyond reasonable doubt. He therefore prayed for dismissal of the appeal.

8. It is by now well-established that a finding of acquittal carries a double presumption of innocence and may not be interfered with in an acquittal appeal simply because a different view of the material can be taken. In fact, the scope of

an appeal against acquittal is quite narrow and limited to circumstances of perversity, misreading and nonreading of evidence, which are well-settled and need not be repeated. Therefore, the Court will have to look into the matter in this perspective and not otherwise.

9. Before examining the evidence, one aspect of the Trial Court's legal reasoning requires correction. To the extent that the impugned judgment treated the absence of professional land-grabber antecedents, the relationship of the parties as co-sharers, or pending civil/revenue litigation as an absolute exclusion of the ID Act, that proposition is too broad. In *Mst. Gulshan Bibi and others v Muhammad Sadiq and others* PLD 2016 SC 769, a larger Bench of the Honourable Supreme Court held that sections 3(1) and 3(2), by using the expressions 'no one' and 'whoever', attach no condition that the accused must previously be known as a member of a Qabza group or land mafia. *Niaz Ahmed and another v Aijaz Ahmed and others* PLD 2024 SC 1152 reaffirmed that the Act is not restricted to organised land grabbers and may apply to any person who commits the defined act.

10. I have had the opportunity to discuss the ingredients of the offences under the Illegal Dispossession Act in my judgment in *Haji Jumoon Khan v Diyal Das and another* Cr. Acquittal Appeal No. S-08 of 2026 (unreported) the relevant portion of which reads (para 7; emphasis in original):

“7. In *Muhammad Akram and 9 others v Muhammad Yousaf and another* 2009 SCMR 1066 the Hon’ble Supreme Court interpreted Section 3 of the 2005 Act, the provision that defines the prohibition of illegal dispossession. The ingredients of the offence and possible defences to the same, as interpreted by the Hon’ble Supreme Court, may be stated in the following manner. They have to be proved beyond reasonable doubt by the prosecution, as in any other criminal matter:

Ingredients constituting the offence under Section 3 of the 2005 Act (mandatory and all must be proved)	Defence line for the accused (as stated in <i>Muhammad Akram</i>)
1. That the complainant is the actual owner (or occupier i.e. in lawful possession) of the immovable property in question 2. That the accused has entered into or upon the said property 3. That the entry of the accused into or upon the property was without lawful authority 4. That the entry of the accused into or upon the property was with the intention to dispossess the complainant (i.e. to grab or control or occupy the property)	1. That the complainant is not the actual owner of the property 2. That the entry into or upon the property was not to dispossess the complainant 3. That the entry was lawful 4. That the accused had no intention to illegally dispossess the complainant”

11. The Appellant did establish a genuine claim connected with Survey No.84. Ex.5/A and Ex.9/A cannot fairly be read as showing that he was a complete stranger to the land. The revenue report traces the original joint-family entry in the name of Chando son of Ranmal Bheel, later succession entries, their cancellation by the Additional Deputy Commissioner-I on 03-10-2018, a fresh entry No.24 in favour of Majno after the open katchery of 27-12-2018, and its maintenance by the Additional Commissioner-I on 02-03-2021. At the same time, those very documents show that the entries were contested and that the matter had reached the Board of Revenue and thereafter the civil Court. CW-1 admitted F.C. Suit No.103/2025, while CW-5 admitted that Deh Form X, entry No. 69 reflected Chando Mal and his joint family and described the land as joint property of the complainant and accused side. Thus the record supports a bona fide claim by the Appellant, but not a simple, undisputed and exclusive title from which the Respondents' lack of authority necessarily follows. Ex. 9/A must also be read as a whole. Its statement that Survey No.84 was in the possession of Sooro is a circumstance favourable to the Appellant's claim of lawful possession. The Trial Court was therefore not correct if it intended to say that the official material wholly negated every aspect of the Appellant's case. Yet the same statement creates a serious difficulty for the allegation that the Appellant had been completely dispossessed on 04-10-2024, because the report was furnished on 04-11-2024 after the Tapedar's reported site visit and continued to describe Sooro as the person in possession. The further recital, based on unspecified local sources, that crop had been taken by an opposing Bheel family neither identified all seventeen Respondents nor proved when, by whom, in what quantity or by what force it had been removed. The Tapedar who visited the site and the predecessor Mukhtiarkar who conducted the inquiry were not examined. Ex.9/A consequently supplies contextual support for possession, but it is not direct proof of the charged occurrence.

12. The most serious defect lies in the time and sequence of the occurrence. The complaint and the charge fixed the act on 04-10-2024 at about 06:15 p.m., when the Appellant was allegedly present with Sawai and Ranjho. CW-1, however, stated on oath that on 04-10-2024 he was at home and that he went to the land on the next day at about 06:00 a.m., where the Respondents were already present. This is not a minor variation in minutes. It shifts the Appellant from the scene at the charged time, moves his observation to the following morning and changes the alleged act from an entry and dispossession witnessed by him to a situation discovered after the Respondents were already on the land. That difference goes directly to the occurrence which section 3 required the complainant to prove.

13. The account of firing developed in the same manner. CW-1 attributed firearms to Syed Wali Muhammad Shah and Premsingh but did not state that either fired. CW-2 stated generally that the accused occupied the land and made firing. CW-3 advanced the matter further by asserting that Syed Wali Muhammad Shah fired directly upon them, and he introduced a sequence under which the party visited the land in the evening, returned the next morning and was then fired upon. A specific direct fire is not an incidental embellishment easily attributable to fading memory; it is a striking feature which a person narrating an armed dispossession would ordinarily mention consistently. *Muhammad Mansha v The State* 2018 SCMR 772 cautions that material improvements designed to strengthen a prosecution version undermine reliance upon the improved testimony. The progressive addition here affects the core manner of occurrence. The present defects are not confined to peripheral detail: the Appellant's presence, the date and time at which he first saw the Respondents, whether he witnessed their entry, whether firing occurred and who fired are all narrated differently. No empty cartridge, damaged article, weapon, medical material or independent circumstance was produced to resolve those differences.

14. The removal of crop also lacks dependable particulars. The complaint, as reproduced in the impugned judgment, referred to two long-chassis jeeps and two tractor trolleys; CW-1 spoke of two jeeps and one tractor trolley. No vehicle was identified by registration number, no driver was named, no crop, trolley, weighing record or sale record was recovered, and no disinterested person from the locality was examined. The alleged quantity - 100 maunds of bajra and 10 maunds of guwar - was not supported by cultivation, harvesting, storage or market documentation. These omissions might not each be fatal in isolation, but they assume significance where seventeen named persons are collectively charged and the ocular version is already unstable on the time and manner of the act.

15. The Appellant's conduct after the alleged occurrence does not supply the missing assurance. He said that he approached the police and the Mukhtiarkar, but admitted that neither application was produced and that no TCS or dispatch receipt was brought on record. He further admitted that the application omitted the date and time of approaching the police and the names of the accompanying persons, while the complaint omitted the date and time of approaching the Mukhtiarkar. The direct complaint was evidently before the Sessions Court by 21-10-2024 and therefore the case is not being rejected merely for delay. The point is narrower: documents which could have preserved the earliest version of the occurrence, and tested the later allegations of firing, timing and witnesses, were not produced. The official evidence does not independently corroborate the occurrence. CW-4 merely produced his predecessor's police report at Ex.8/A, which recorded competing

ownership claims and characterised the matter as one for the revenue authorities; it did not confirm armed dispossession or crop removal. CW-5 similarly proved the office record prepared by his predecessor. Neither officer witnessed the occurrence, conducted the underlying inquiry, visited the site for that purpose or recorded the local information upon which the reports rested. The non-examination of the predecessor officers and the Tapedar deprived the Respondents and the Court of the persons who could explain what was seen, who was present, and how the conclusions were reached. The reports remain relevant official records, but their recitals cannot be treated as a substitute for proof of the criminal act by admissible and tested evidence.

16. The parties were known to one another and this was not a case requiring a test identification parade. Nevertheless, recognition of named rivals does not dispense with proof of participation. Apart from attributing double-barrel guns to Respondent No.1 and Premsingh, CW-1 grouped the remaining fifteen Respondents together as persons carrying different weapons and removing crop. CW-2's and CW-3's versions, as recorded in the impugned judgment, likewise do not furnish a stable allocation of acts. Against the background of pending revenue litigation, omnibus nomination of the entire opposing side required particularly dependable evidence. Motive from the land dispute is double-edged: it could explain a confrontation, but equally furnished a reason for broad implication. It could not cure deficiencies in proof.

17. The Appellant has thus not discharged the heavy burden required to displace the Respondents' double presumption of innocence. Nor has he demonstrated an outcome-determinative non-reading which, if corrected, leaves guilt as the only reasonable conclusion. Ex.9/A has been given its full favourable weight, but it does not prove the charged unlawful entry and dispossession by all seventeen Respondents.

18. For these reasons, I find no perversity, misreading or nonreading in the impugned Judgment which is maintained subject to the above discussion. Consequently, this appeal is dismissed.

JUDGE

Faisal