IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No. 217 of 2026

Applicants	:	1. Najeebullah S/o. Misal Khan 2. Khan Wali S/o. Ghulam Hussain Through Mr. Muhammad Ibrar Arain, advocate
Respondent-1	:	Saleemullah S/o. Misal Khan Through Mr. Waheed Afzal, Advocate.
Respondent No.3 & 4	:	3. SSP Malir, Karachi. 4. SHO of PS Sukhan, Karachi.
The State	:	through, Mr. Sharafuddin Kanhar, APG and Mr. Muhammad Javed K.K, AAG.
Date of hearing	:	20.10.2026.
Date of Order	:	20.10.2026.

O R D E R

Jan Ali Junejo, J:-- Through this Criminal Revision Application under Sections 435 Cr.PC R/w Section 439 & Section 561-A Cr.P.C., the applicants/accused Najeebulalh and Khan Wali seek setting aside of the order dated 19.09.2026 (hereinafter referred to as the *"Impugned Order"*) passed by the learned Additional District & Sessions Judge-III, Malir at Karachi, in Illegal Dispossession Complaint No. 93 of 2026 [Re. Saleemullah Vs. SSP Malir & Ors], whereby the learned Additional District & Sessions Judge was pleased to register the complainant against the accused persons and bailable warrants was ordered to be issued against the applicants/accused.

2. The genesis of the matter emanates from a complaint filed by Saleemullah/Respondent No.1 under Sections 3, 4 and 7 of the Illegal Dispossession Act, 2005, wherein he alleged that he is the lawful and absolute owner of House No. A-94, Street No.07, Bhains Colony, Commercial Area, Block-A, District Malir, Karachi, comprising three floors, duly supported by title documents, including KMC challan, mutation and other relevant documents, and that he has regularly paid the utility bills in respect thereof. His sister was residing on the first floor, his brother Gul Mast on the second floor, while he himself was residing on

the third floor, and the shops situated on the ground floor had been rented out to tenants. It is alleged that on 24.03.2026, he proceeded to Tableeghi Markaz, Lahore, leaving his family at his in-laws' residence, and during his absence, on 31.03.2026, respondents No.3 and 4, along with other persons, unlawfully broke open the locks of the third floor of the said property and forcibly occupied the same. It is further alleged that the respondents removed cash amounting to Rs.200,000/-, two tolas of gold, important documents and title documents of the property lying inside the house. Thereafter, Respondent No.1 approached the elders of the locality for an amicable settlement through a jirga scheduled for 15.04.2026; however, respondents No.3 and 4 deliberately failed to attend the same. He further alleged that the said respondents were demanding extortion money and threatening to murder him and his family, including his children, in case of non-compliance with their unlawful demands. Despite his repeated efforts to regain possession of the property and his approach to respondent No.2 for redressal of his grievance, no action was taken, compelling him to approach this Honourable Court by filing the instant complaint under the Illegal Dispossession Act, 2005, seeking restoration of possession of the said property.

3. During the trial proceedings, the learned Additional Sessions Judge, after calling reports from the concerned Station House Officer and conducting necessary inquiries, formed a prima facie opinion that a case against the accused persons was established and accordingly took cognizance against the accused persons to facilitate a fair and just conclusion.

4. Learned counsel for the applicants contends that the impugned order dated 19.09.2026, whereby the learned Trial Court took cognizance against the applicants under the provisions of the Illegal Dispossession Act, 2005, and issued bailable warrants in the sum of Rs.50,000/- each, is illegal, arbitrary and suffers from material irregularity. He submits that the ownership and title of the subject property are seriously disputed between the parties and Civil Suit No.10/2026 is already pending adjudication before the competent Civil Court. He further contends that, as reflected from Mutation Letter/Annexure A-1, the property stands mutated in the name of Samiullah son of Abdul Qayyum Khan, whereas the complainant claims his title through Misal Khan; therefore, the question of ownership and inheritance requires proper adjudication by the

Civil Court. He argues that the learned Trial Court, despite taking notice of the pending civil litigation, proceeded to take cognizance without examining whether the essential ingredients of the alleged offence were prima facie made out against each applicant. He further submits that the applicants have been falsely implicated and that no independent material is available to establish their involvement in breaking open the locks, forcibly dispossessing the complainant or illegally occupying the subject property. He maintains that the impugned order is based on misreading and non-appreciation of the material available on record. Lastly, he submits that execution of the bailable warrants would cause unnecessary humiliation and hardship to the applicants, who undertake to appear before the learned Trial Court as and when directed, and that no prejudice would be caused to the complainant if execution of the warrants is suspended; hence, he prays that the impugned order be set aside.

5. On the contrary, learned counsel for respondent No.1 contends that the impugned order dated 19.09.2026 has rightly been passed by the learned Trial Court after proper appreciation of the material available on record. He submits that the applicants have illegally and forcibly occupied the subject property belonging to respondent No.1 and that the pendency of a civil suit regarding ownership or title does not, by itself, bar criminal proceedings under the Illegal Dispossession Act, 2005. He further contends that the learned Trial Court, after examining the complaint and supporting material, has rightly taken cognizance, as the allegations prima facie disclose the commission of an offence punishable under the said Act. He maintains that the applicants are attempting to give a civil colour to their unlawful acts in order to avoid criminal liability and that no illegality or material irregularity has been pointed out in the impugned order warranting interference by this Honourable Court. He, therefore, prays that the instant Criminal Revision Application be dismissed and the proceedings before the learned Trial Court be allowed to continue in accordance with law.

6. Learned Assistant Prosecutor General Sindh learned Assistant Advocate General supported the cognizance order and submitting that the learned trial court had sufficient material before it to conclude that a

prima facie case was established against the accused persons under the provisions of the Illegal Dispossession Act, 2005. They further contended that the inquiry conducted by the concerned SHO provided adequate foundation for the trial court to exercise its jurisdiction under the Act.

7. I have heard the learned counsel for the applicants, learned counsel for respondent No.1, learned Assistant Prosecutor General, Sindh, and learned Assistant Advocate General, and have gone through the available record with their assistance.

8. The primary question requiring determination in the instant Criminal Revision Application is whether the impugned order dated 19.09.2026 passed by the learned Trial Court suffers from any illegality, material irregularity or jurisdictional defect warranting interference by this Court in its revisional jurisdiction.

9. Perusal of the record reflects that respondent No.1, through his complaint under the Illegal Dispossession Act, 2005, has specifically alleged that he is the lawful owner and occupant of the subject property and that the applicants, along with other persons, forcibly entered the third floor thereof during his absence by breaking open the locks and illegally dispossessed him. The allegations are further supported by the documents relating to the property and the material placed before the learned Trial Court. The learned Trial Court, after calling reports from the concerned police authorities and examining the material available on record, formed an opinion that sufficient grounds existed for proceeding against the applicants and accordingly took cognizance of the complaint.

10. The contention of learned counsel for the applicants that the ownership of the subject property is disputed and Civil Suit No.10/2026 is pending adjudication before the competent Civil Court has been considered. However, mere pendency of civil proceedings concerning title or ownership of the property does not, by itself, extinguish or bar criminal liability where the allegations disclose forcible and unlawful dispossession. The proceedings under the Illegal Dispossession Act, 2005, are intended to provide protection against unlawful occupation and dispossession otherwise than through due process of law. Therefore, the question whether the applicants have committed an offence under the said Act is required to be examined on the basis of evidence to be

produced during trial, and the mere existence of a civil dispute cannot, at this preliminary stage, be treated as a ground to terminate the criminal proceedings.

11. So far as the contention regarding mutation of the subject property in the name of Samiullah son of Abdul Qayyum Khan, whereas respondent No.1 claims ownership through Misal Khan, is concerned, the same relates to the rival claims of title and inheritance, which cannot be conclusively determined in the present revisional proceedings. At this stage, this Court is only required to examine whether the learned Trial Court has acted within its jurisdiction and whether the material available before it provides sufficient basis for proceeding with the complaint. The applicants shall, of course, be at liberty to raise all their factual and legal objections before the learned Trial Court during the course of proceedings.

12. It is also a settled principle that at the stage of taking cognizance, the Court is not required to conduct a detailed examination or undertake a meticulous appreciation of the evidence as would be required at the stage of final adjudication. The Court is only required to determine whether the allegations contained in the complaint, supported by the material available on record, prima facie disclose commission of an offence requiring further proceedings. In the instant case, the allegations regarding breaking open the locks, forcible occupation of the subject property and dispossession of respondent No.1, if established through evidence, may attract the relevant provisions of the Illegal Dispossession Act, 2005. Consequently, the learned Trial Court cannot be said to have committed any illegality merely by taking cognizance of the complaint.

13. The plea of the applicants that no independent material is available against them is also a matter requiring examination during trial. At this preliminary stage, the veracity of the allegations, the credibility of the witnesses and the respective claims of the parties cannot be finally determined. Similarly, the issuance of bailable warrants, in the circumstances of the case, is a procedural measure to secure the attendance of the applicants before the learned Trial Court and does not, by itself, reflect any illegality or prejudice warranting interference by this Court.

14. I have also considered the submissions advanced by learned counsel for respondent No.1 and the learned state counsels, who have

supported the impugned order. The applicants have failed to point out any jurisdictional defect, misreading or non-reading of material evidence, or any material irregularity in the exercise of jurisdiction by the learned Trial Court. The impugned order, when examined in the light of the available record and the allegations contained in the complaint, does not suffer from any such infirmity as would justify interference by this Court in exercise of its revisional jurisdiction.

15. In view of the foregoing discussion, I am of the considered opinion that the impugned order dated 19.09.2026 passed by the learned Additional District & Sessions Judge-III, Malir at Karachi, does not suffer from any illegality, material irregularity or impropriety warranting interference by this Court. Consequently, the instant Criminal Revision Application, being devoid of merit, is hereby dismissed. The impugned order is maintained, and the learned Trial Court is directed to proceed with the complaint in accordance with law and decide the same expeditiously, without being influenced by any observations made herein, which are tentative in nature and confined solely to the disposal of the instant revision application.

16. The Criminal Revision Application stands dismissed in the above terms.

JUDGE