

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

Criminal Revision Application No.S-01 of 2025

Applicants/Complainants: 1. Roopchand s/o Geno.  
 2. Dano s/o Malo.  
 Through Mr. Jeeloji Rajput advocate.

Respondents: 1. Dhengo s/o Kheto.  
 2. Devji s/o Kheto.  
 3. Dhano s/o Amro.  
 4. Devo s/o Madhro.  
 5. Madhro s/o unkown.  
 6. Mukhtiarkar (Revenue) Nangerparkar.  
 7. SHO PS Nangerparkar.  
 8. Ld: Additional Sessions Judge-II, Tharparkar @ Mithi.  
 9. The State.  
 Official respondents through Mr. Ghulam Abbas Dalwani, DPG and private respondents through Mr. Meer Muhammad Nohri advocate.

Date of hearing: 11.06.2025.

Date of Order: 11 .06.2025.

**ORDER**

**Jan Ali Junejo, J.**— This Criminal Revision Application, under Section 439 read with Section 435 of the Code of Criminal Procedure, 1898 (Cr.P.C.), has been filed by the applicants, Roopchand and Dano, challenging the Order dated 13-12-2024 (hereinafter referred to as the “*Impugned Order*”), passed by the learned Additional Sessions Judge-II, Tharparkar at Mithi (hereinafter referred to as the “*Trial Court*”), in I.D. Complaint No. 56 of 2024 (Re: Roopchand and another vs. Dhengo and others), whereby the learned Additional Sessions Judge-II dismissed the I.D. complaint filed by the Applicants/ complainants.

2. The applicants claim to be the lawful owners of agricultural land bearing Survey No. 453, area 07-24 acres, to the extent of 0-50 paisa share, situated in Makan/Deh Kharario, Tapa Adhigam, Taluka Nangarparkar. Specifically, applicant Roopchand claims to have purchased a 0-50 paisa share of the subject land (area 3-32 acres) from Veero S/o. Govo through a registered sale deed No.1186 dated 19-12-2023, which was subsequently mutated in his name in D.F. VII-B vide entry No. 51 dated 10-06-2024. Applicant Dano claims to have purchased a 0-50 paisa share of the subject land (area 3-32 acres) from Kheto

S/o. Tejo through registered sale deed No. 700 dated 03-06-2010 (MF Roll No. 200 dated 24.11.2010), which was mutated in the record of rights vide entry No. 3 dated 26.03.2011 of D.F. VII-B of Makan/Deh Kharario, Tapa Adhigam, Taluka Nangarparkar. The applicants allege that private respondents Nos. 1 to 5, who are stated to be land grabbers/qabza mafia, have illegally dispossessed them from the subject land on 04-11-2024, forcibly occupying the cultivated area. The applicants further allege that despite approaching Mukhtiarkar Nangarparkar and SHO PS Nangarparkar, no action was taken, compelling them to file a complaint under Sections 3/4 of the Illegal Dispossession Act, 2005, before the learned Sessions Judge, Tharparkar at Mithi. This complaint was subsequently transferred to the learned Additional Sessions Judge-II, Tharparkar.

3. The learned Additional Sessions Judge-II, Tharparkar at Mithi, on receipt of the complaint, directed the SHO PS Nangarparkar and Mukhtiarkar (Revenue) Taluka Nangarparkar to conduct inquiries and submit their reports. The SHO PS Nangarparkar submitted a detailed report bearing No. PS-168 dated 05-12-2024, which, as per the trial Court's order, revealed that the land in question was purchased by the complainants, but was occupied by the proposed accused who had constructed houses and were cultivating the land since the last two years. The inquiry report of Mukhtiarkar (Revenue), Taluka Nangarparkar, bearing No. Mukh/NPK/1048/2024, dated 04-12-2024, confirmed that the disputed land was purchased by the complainants from Kheto & Veero and was mutated in their favour in the record of rights. Crucially, the concluding paragraph of the Mukhtiarkar's report stated that, as per statements of nekmards of the locality, the land in question was in possession of accused Dhengo & others since two (02) months. The learned Additional Sessions Judge-II, vide the impugned order dated 13-12-2024, dismissed the I.D. complaint, reasoning that the version of the complainants regarding dispossession on 04-11-2024 was negated by the concerned SHO and

Mukhtiarkar's reports, and that no single piece of evidence supported the alleged occurrence. The learned trial court concluded that the grievance was of a civil nature and no prima facie case of illegal dispossession was made out.

4. The learned counsel for the applicants vehemently argued that the impugned order is contrary to the principles of natural justice and is a result of non-reading and mis-reading of the material available on record. He contended that both the reports from the Mukhtiarkar Nangarparkar and the SHO PS Nangarparkar unequivocally supported the applicants' claim of illegal occupation by the private respondents. He particularly highlighted the Mukhtiarkar's report (Annexure "I") which clearly stated that the applicants' ownership was established through valid registered sale deeds and mutation entries in D.F. VII-B, duly acknowledged by the Mukhtiarkar Nangarparkar. He emphasized that the Mukhtiarkar's report, while mentioning the private respondents' possession for two months, did not validate such possession but rather confirmed the illegal nature of their occupation in light of the applicants' established ownership. Furthermore, the learned counsel submitted that the trial court erred in dismissing the complaint without affording the applicants an opportunity to produce evidence. He argued that in criminal matters, evidence is recorded after framing of charges, and the dismissal of the complaint at a preliminary stage, despite supportive official reports, was illegal and unlawful. He reiterated that the private respondents are in illegal possession without any title documents, and the learned trial Court failed to consider this crucial aspect. Lastly, the learned counsel has prayed for allowing the Criminal Revision Application.

5. During the course of arguments, the learned counsel for the Respondent No.1, candidly conceded and raised no objection if the possession of the subject land is handed over to the applicants through Mukhtiarkar Nangarparkar, as per metes and bounds, and in accordance with the record of rights.

6. I have carefully considered the arguments advanced by the learned counsel for both parties and have thoroughly examined the impugned order, the contents of the revision application, the annexures, including the registered sale deeds and mutation entries, as well as the reports submitted by the Mukhtiarkar, Nangarparkar, and the SHO, Police Station Nangarparkar. It is an undeniable fact, as borne out by the record and specifically acknowledged in the Mukhtiarkar's report and the trial Court's order itself, that the applicants, Roopchand and Dano, are the lawful owners of the subject land to the extent of their respective shares by virtue of valid registered sale deeds and subsequent mutation entries in Form VII-B. The Mukhtiarkar Nangarparkar, the custodian of revenue records, has duly acknowledged and confirmed the validity of these documents and the mutation of the land in the applicants' names. This conclusively establishes the applicants' ownership rights over the subject land. The reports submitted by both the Mukhtiarkar Nangarparkar and the SHO PS Nangarparkar, while indicating the possession of the private respondents, do not in any way suggest that such possession is lawful or based on any valid title. On the contrary, when read in conjunction with the established ownership of the applicants, these reports implicitly confirm that the private respondents' possession is without lawful authority. The Illegal Dispossession Act, 2005, aims to curb the menace of illegal dispossession by individuals who, without any right or title, forcibly occupy land belonging to others. The learned Additional Sessions Judge-II appears to have misdirected himself by focusing solely on the date of alleged dispossession and the lack of immediate evidence thereof, without adequately appreciating the prima facie case established by the official reports regarding the applicants' lawful ownership and the private respondents' unauthorized possession. The scheme of the Illegal Dispossession Act, 2005, is primarily to restore possession to the lawful owner where illegal dispossession is found to have occurred. The confirmation of lawful ownership by the revenue authorities, coupled with the admitted possession of the private respondents, was a crucial factor that ought to have led to a different conclusion. The most

compelling factor in this revision application is the unequivocal concession made by the learned counsel for the private respondents. This concession effectively resolves the dispute regarding possession and acknowledges the applicants' superior right to the subject land. A statement made by learned counsel on behalf of the private Respondents, especially in open Court, carries significant weight and can be taken as a binding admission. The willingness of the private respondents' counsel to agree to the handing over of possession to the applicants through the Mukhtiarkar Nangarparkar, as per metes and bounds and in accordance with the record of rights, removes any ambiguity regarding the disputed possession and ownership. Given the comprehensive findings regarding the applicants' lawful ownership, duly acknowledged by the Mukhtiarkar Nangarparkar, and the clear understanding that the possession of the private respondents is without lawful authority, coupled with the no-objection statement from the learned counsel for the private respondents, it is evident that the impugned order rendered by the learned Additional Sessions Judge-II cannot be sustained. The purpose of the Illegal Dispossession Act, 2005, is to provide a swift remedy against land grabbers, and the facts of the present case squarely fall within its ambit. The scope of the Illegal Dispossession Act, 2005, is not restricted to organized land mafia or Qabza groups but extends to all forms of illegal occupation, as reaffirmed in the **case of *Niaz Ahmed and another v. Aijaz Ahmed and others* (PLD 2024 Supreme Court 1152)**. Further reliance is placed on the dictum laid down by the Honourable Supreme Court of Pakistan in the case of ***Mst. Gulshan Bibi and others v. Muhammad Sadiq and others* (PLD 2016 Supreme Court 769)**, wherein it was observed that: *"Reading of section 3(1) the Illegal Dispossession Act, 2005 shows that terms like dispossess, grab, control or occupy had been used which clearly meant that illegal dispossession in all forms had been made an offence and by the use of the terms 'no one' and 'whoever' in sections 3(1) & (2), anyone and everyone who committed such an offence was made liable for punishment. The very use of the terms like 'no one' and 'whoever' were clearly intended to convey the widest*

*possible meaning for the offenders. Thus without any distinction any person who illegally dispossessed, grabbed, controlled or occupied property of a lawful owner or occupier shall be liable for prosecution under the provisions of the Illegal Dispossession Act, 2005*’.

7. In view of the detailed findings and reasons, and in the absence of any objection from the private respondents, the Revision Application is hereby allowed. Accordingly, the Impugned Order dated 13-12-2024, passed by the learned Additional Sessions Judge-II, Tharparkar at Mithi in I.D. Complaint No. 56 of 2024, is set aside. The matter is remanded to the trial Court with direction to ascertain whether the private respondents are in possession of the subject property. If they are found to be in illegal possession, they shall be proceeded against and tried under the provisions of the Illegal Dispossession Act, 2005. However, if they are not found in possession, the peaceful possession of the subject property shall be restored to the Applicants through the concerned Mukhtiarkar forthwith, strictly in accordance with the metes and bounds of the said property.

**JUDGE**

\*Saleem\*

