

**ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

Criminal Revision Application No.S-42 of 2016

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For Katcha Peshi.

08.05.2017.

Mr. Hameedullah Dahri, Advocate for applicant.  
Mr. Imamuddin Otho, Advocate for private respondents.  
Mr. Shahid Ahmed Shaikh, A.P.G.

Through this Criminal Revision Application the applicant has assailed the legality and propriety of the order dated 16.02.2016 passed by the learned 2<sup>nd</sup> Additional Sessions Judge Shaheed Benazirabad in Direct Complaint No. 59 of 2016 filed by applicant under Illegal Dispossession Act for taking cognizance against the respondents as according to the applicant he has been illegally dispossessed from the premises in question, whereby the learned Trial Court after hearing the parties dismissed the said complaint which is impugned before this Court.

Heard learned Counsel for the parties. They have reiterated the same submissions which they submitted before the Trial Court.

The learned Trial Court dismissed the complaint of the applicant by observing as under:-

“Heard the learned Counsel for the complainant.

The complainant in his complaint stated that he is owner of 1.12 acrs out of S.No.46/4 situated in Deh 21 Dadh, Taluka Sakrand, District Shaheed Benazir Abad, which is mutated in his name, the complainant was in use, occupation and possess of the above land as owner. On 15.11.2015 complainant along with Sajid and Muhammad Siddique was present on his above land when at about 09.00 a.m. all accused persons duly armed with lethal weapons came on the above land of the complainant and started indiscriminate firing and asked the complainant to leave the lands, else they would be killed and on gun point complainant was compelled to leave the land, hence complainant filed the instant complaint under Illegal Dispossession Act.

Report was called from the concerned S.H.O and concerned Mukhtiarkar. Perusal of reports of S.H.O and Mukhtiarkar concerned, it reveals that regarding this matter, civil suit is also pending before learned 2<sup>nd</sup> Senior Civil Judge Nawabshah between parties, therefore F.C.Suit No. 130/2012 was filed between parties with title suit for Declaration, Cancellation, Partition, Possession and Injunction, then selling of suit property by one of share hold to present complainant is doubtful, as when jointly so many share holder are in possession of the land in question then dispossession of present complainant there is no proof. Due to these reasons this direct complaint is dismissed.

It appears from the record that applicant has already filed civil suit bearing 1<sup>st</sup> Class Suit No. 130 of 2012 for declaration, cancellation, partition, possession and injunction. Since the civil suit is already pending before the competent Court for the same survey numbers/premises in question, therefore, impugned order appears to be perfect in law which does not require interference.

It is an admitted fact that a civil suit in between the parties in respect of the property in question is already pending before the Trial Court therefore, at this stage it is difficult to hold that the respondents have illegally occupied the land of the applicant. However, this question is left for the Trial Court to adjudicate after recording the evidence of the parties in accordance with law.

I have perused the case file alongwith impugned order with the able assistance of the learned counsel for the parties but did not find any illegality or irregularity in it therefore, the same does not require any interference. Hence this Criminal Revision Application has got no merit which is dismissed.

JUDGE