

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Cr. Revision Appln. No. S-80 of 2023

Applicant : Wali Muhammad son of Raheem Bux Bhanbhro  
Through Mr. Sohail Ahmed Khoso Advocate

Respondents : 1. Piryaro Khan son of Muhammad Alam  
2. Habibullah  
3. Ahmed Din  
4. Ghaffar alias Jabbar all three sons of Piyaro Khan  
5. Mst. Shareefan w/o Ahmed Din  
6. Guhram son of Bilawal, All by caste Pitafi,  
Through Mr. Rukhsar Ahmed Junejo advocate

The State : Through Mr. Muhammad Raza Katohar,  
Prosecutor General

Date of hearing : 02.09.2025  
Dated of order : 02.09.2025

### **ORDER**

**KHALID HUSSAIN SHAHANI, J.** By way of the present application, the applicant seeks to invoke the revisional jurisdiction of this Court, challenging the order dated 12.09.2023, passed by the learned IIIrd Additional Sessions Judge, Khairpur, in Direct Complaint No. 06 of 2023 Re (Wali Muhammad v. Piyaro Khan & others). The impugned order relates to a complaint under Sections 3(2) of the Illegal Dispossession Act, 2005, which was dismissed by the trial court.

2. Upon hearing learned counsel for the parties as well as the learned Deputy Prosecutor General for the State, it was contended on behalf of the applicant that, pursuant to Section 5(1) of the Illegal Dispossession Act, 2005, reports were duly called from the Mukhtiarkar and the SHO concerned. These reports confirmed that the property in question was allotted to Mst. Hakeeman under the land grant policy in the years 2008/2009; she had paid all installments and maintained peaceful possession. However, certain portions of the property had been unlawfully encroached upon by the proposed accused,

who had constructed houses thereon. The applicant's counsel submitted that the learned trial court wrongly declined to assume cognizance based only on the assertions of the proposed accused that they resided far from the disputed land, resulting in an impugned order that was not in accordance with law.

3. Contrarily, counsel for the respondents, on several occasions, expressed their agreement that the matter be remanded to the learned trial court, permitting a report to be called from the Barrage Mukhtiarkar, and that the trial court should independently determine whether cognizance should be taken, without being influenced by the respondents' contentions. The learned Deputy Prosecutor General for the State also concurred that the case ought to be remanded for a fresh order.

4. In view of the consensus reached by the learned counsel for both parties and the learned Deputy Prosecutor General, the instant Criminal Revision Application is hereby allowed. The impugned order dated 12.09.2023, passed by the learned IIIrd Additional Sessions Judge, Khairpur, is set aside. The case is remanded to the trial court with specific direction to call a report from the Barrage Mukhtiarkar and, based on such report, to form an independent opinion and pass an order in accordance with law after providing all parties with an opportunity to be heard.

**J U D G E**