

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

Cr. Rev. Application No.S-76 of 2025
[Abdul Shakoor Arain vs. Bashir Ahmed Naz & Ors]

DATE	ORDER WITH SIGNATURE OF JUDGE
1.	For orders on application for urgent hearing
2.	For orders on office objection(s)
3.	For orders application for exemption
4.	For hearing of main case
5.	For orders on stay application
<u>28.08.2025</u>	

Mr. Ishrat Ali Lohare, advocate for the applicant

1. Urgency is granted.

2to5. Applicant has impugned the Order dated 20.08.2025 passed by learned VIIIth Additional Sessions Judge Hyderabad in Criminal I.D Complaint No.16 of 2025 preferred by respondent No.1, whereby the said Complaint has been allowed and directions have been issued to SHO concerned to put complainant in possession of the disputed Marriage Halls.

Learned counsel at the very outset contends that the complaint filed by Bashir Ahmed under the Illegal Dispossession Act, 2005 was not maintainable; that since the Complainant had already instituted a civil suit for restoration of possession, he could not simultaneously invoke the jurisdiction of the Special Court under the Act; that the impugned order under Section 7 contains observations prejudicial to the present applicant, who is presently in occupation of the premises after being inducted by respondent No.3, Mir Rafique Ahmed Khan.

At the threshold, however, the maintainability of this revision falls to be determined. The record reflects that the impugned proceedings were contested between the complainant and respondent No.3. The present applicant was not impleaded before the trial Court. His possession, if any, stems only derivatively from respondent No.3 after the dispossession complained of.

Revisional jurisdiction under Sections 435 and 439, Cr.P.C is confined to “aggrieved persons,” namely those whose legal rights have been directly curtailed by the impugned order. A stranger to the lis, who was not a party to the proceedings and whose possession is claimed through a party whose conduct stands impugned, cannot ordinarily be accorded that status.

It may further be observed, in general, that the existence of civil remedies does not bar recourse to special remedies provided by statute. The Illegal Dispossession Act, 2005 was enacted to afford speedy protection against unlawful dispossession, and the availability or pendency of civil proceedings does not, by itself, exclude the jurisdiction of the Special Court. Both civil and statutory remedies may, in appropriate cases, be invoked concurrently. Reliance in this regard is placed on the case of Shaikh Muhammad Naseem vs. Mst. Farida Gul reported as 2016 SCMR 1931, whereby the Apex Court while dilating upon the issue held as under:

“5. In the impugned judgment it was also held that where civil litigation with regard to illegal dispossession from immoveable property is pending between the parties, the proceedings under the Illegal Dispossession Act, 2005 cannot be maintained. This finding is also based on the decision of the Lahore High Court in Zahoor Ahmed's case (PLD 2007 Lahore 231, reasoning of which was adopted by three member bench of this Court in Bashir Ahmed's case (PLD 2010 SC 661). We are of the view that such a finding is also not sustainable in law. Any act which entails civil liability under civil law as well as criminal penalty under criminal law, such as the Illegal Dispossession Act, 2005 then a person can be tried under both kinds of proceedings, which are independent of each other. Once the offence reported in the complaint stands proved against the accused within the confines of the provisions of the Illegal Dispossession Act, 2005 then he cannot escape punishment on the ground that some civil litigation on the same issue is pending adjudication between the parties. No one can be allowed to take law in his own hands and unlawfully dispossess an owner or lawful occupier of an immovable property and then seek to thwart the criminal proceedings initiated against him under the Illegal Dispossession Act, 2005 on the pretext that civil litigation on the issue is pending adjudication between the parties in a court of law. Therefore, irrespective of any civil litigation that may be pending in any Court, where an offence, as described in the Illegal Dispossession Act, 2005, has been committed, the proceedings under the said Act can be initiated as the same would be maintainable in law”

(Underlined for emphasis)

In the present matter, since the core dispute remains pending adjudication before the competent forum, this Court refrains from entering upon issues which may touch the merits of the lis. It is sufficient to hold that the present applicant, not being a party to the proceedings culminating in the impugned order, does not qualify as an “aggrieved person” in terms of the revisional provisions. On that ground alone, the revision is incompetent. Accordingly same stands dismissed in limine alongwith listed applications.

JUDGE

Sajjad Ali Jessar