

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

Cr. Rev. A. No.S-100 of 2016.

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For katcha peshi.
2. For hearing of M.A. 4236 of 2016.

24.10.2016.

Mr. Ghulamullah Chang, Advocate for applicants.

Mr. Shahid Ahmed Shaikh, A.P.G.

Mr. Bharat Kumar Suthar, Advocate for respondent No.2.

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Through instant criminal revision application, applicants have assailed order dated 24.05.2016, passed on application under section 7 of Illegal Dispossession Act, 2005, whereby trial Court while allowing such application, directed the accused persons to handover possession of the subject land to the complainant.

2. At the outset, learned counsel for applicants contends that I.D. complaint filed by respondent shows survey No.39, admeasuring 5-00 Acres, situated in Deh Chhaho, Tapo Bapuhar, Taluka Islamkot, District Tharparkar, whereas such survey number is their property by way of sale deed dated 21.08.2004, purchased from Moorji and Devraj by caste Thakur; whereas learned counsel for respondent contends that such property is purchased by the respondent from same persons/owners through registered sale deed, which he has appended through statement. While examining such sale deed, it shows that total area from survey No.39 purchased by respondent is 01-28 acres in paisas (shares) while title of the applicant is claiming title of whole survey number on the basis of agreement. The land *however* is not partitioned. The case of the respondent *however* is that possession of the land was handed over to him by the original owners. The applicant does not deny or disputes the legal status of respondent who *otherwise* is a co-sharer in land with a claim

of being put in possession of such purchased area hence order passed under Section 7 of the Act appears to be sustainable because requirement for exercise such jurisdiction is dependent upon satisfaction of the Court that one is '**not in lawful possession**'.

Accordingly, instant criminal revision application is disposed of with modification in impugned order dated 24.05.2016 with directions to the applicants that they shall handover possession of 01-28 acres of land to private respondent. Mukhtiarkar Islamkot is directed that compliance is made in letter and spirit positively to the trial Court. Needless to mention that trial Court shall not be influenced by this order while passing final judgment.

Criminal Revision Application stands disposed of alongwith listed application.

JUDGE

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