

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

Criminal Revision Application No.S-61 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. 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 2nd Additional Sessions Judge Shaheed Benazirabad in Direct Complaint No. 1941 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, perused the report of S.H.O and Mukhtiarkar.

As per report of Mukhtiarkar, he called the report from concerned Tapedar who submitted report before Mukhtiarkar that from 87/2 area admeasuring 2.04 acres, from S.No.45/2 area admeasuring 0-24 acres, from S.No.46/1 area admeasuring 01-23 acres, and from S.No.46/4 area admeasuring 01.12 acres, total area admeasuring 05.23 acres have been shown as purchased by one Qabool s/o Gunbo Khan Unar on 28.05.2015 but civil suit is pending before the learned 2nd Senior Civil Judge Nawabshah therefore, only an entry No. 109 in register No.7 area has been shown as preached by Qabool from Arbab Ali but not record of rights has been changed due to pendency of civil suit between

share holders. As per this report of concerned Tapedar and Mukhtiarkar said Qabool purchased 5.23 acres from one of share holder Arbab Ali but he did not succeed to get possession as other share holder are also in possession jointly, therefore seller/share holder Arbab Ali given possession to said Qabool an area 5.23 acres whereas from land purchased by said Qabool one Ghulam Rasool is in possession along with other persons. Due to above reasons when the above parties are already facing the trial before the civil Court as per Form-VII, then till disposal of civil litigation this direct complaint under Dispossession Act is not maintainable, hence same is dismissed.

It appears from the record that a civil suit is already filed before the learned 2nd Civil Judge Nawabshah between the parties. 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