

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

CrI. Rev. A. No.S-73 of 2009.

Muhammad YounusApplicant.

Versus.

Muneer Ahmed and others.Respondent.

Mr. Muhammad Sulleman Unar, Advocate for the applicant.

Ms. Safa Hisbani, APG.

Ms. Kaneez Fatima Shaikh, Advocate for private respondents.

Date of hearing and order: 29.06.2018.

ORDER

IRSHAD ALI SHAH, J. The facts leading to passing of instant order are that the applicant filed a direct complaint under sections 3/4 of Illegal Dispossession Act, 2005, it was dismissed by the learned trial Court by way of judgment dated 23.05.2009 by making an observation that the applicant has failed to disclose that the proposed accused are land grabbers and belong to “Qabza” group. Such dismissal of his direct complaint the applicant has impugned before this Court by way of instant criminal revision application.

2. It is contended by the learned counsel for the applicant that learned trial Court has dismissed the direct complainant without any justification on the basis of wrong observation. By contending so, he sought for remand of the matter for its trial by learned trial Court in accordance with law.

3. It is contended by the learned counsel for the private respondents (the respondent No.1 has died now) that the complaint of the applicant was dismissed by learned trial Court by way of judgment, which could be impugned by way of filing an appeal and civil litigation between the parties is going on. By contending so, she sought for dismissal of the instant criminal revision application.

4. Learned APG did not support the impugned judgment.

5. I have considered the above arguments and perused the record.

6. Section 367 Cr.P.C. provides that; every judgment shall contain the points for determination, the decision thereon and reasons for such decision. In the impugned judgment no point for determination was framed by learned

trial Court. What to talk of decision thereon with reasons. In that situation, the impugned judgment being violative of above said section of law could not be sustained on legal premises. On perusal of the contents of the impugned judgment, if it is presumed to be an order, which in fact it is, even then it could not be maintained, simply for the reason that; it is settled by now that whosoever commits the act of illegal dispossession against the lawful owner or lawful occupier could be prosecuted under the provisions of Illegal Dispossession Act, 2005, without any restriction, irrespective of pendency of civil litigation. In that respect, useful reference may be made upon the case of **Shaikh Muhammad Naseem v. Mst. Farida Gul (2016 SCMR 1931)**.

7. In view of the facts and reasons discussed above, the impugned judgment of the trial Court could not be sustained. It is set aside. The case is remanded to learned trial Court for passing of an appropriate order after due hearing to all the concerned.

The instant criminal revision application is disposed of in above terms.

JUDGE

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