

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Misc. A. No.S- 316 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For hearing of main case.

15.10.2020

Mr. Faisal Nadeem Abro, Advocate for applicant.

Miss Safa Hisbani, A.P.G Sindh alongwith ASI Shahzado Khan on behalf of SHO P.S Market Hyderabad.

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ZULFIQAR AHMAD KHAN, J.-Through instant criminal miscellaneous application, applicant Muhammad Shakir impugns the order dated 11.07.2020, passed by III-Additional District Judge / Ex-Officio Justice of Peace, Hyderabad, in Cr. Misc. Application No.1433 of 2020 (re: Muhammad Shakir v. SP Complaint Cell and others), wherein the aforementioned application was dismissed.

2. In nutshell, applicant being owner and builder of the subject property i.e. Al-Razzaq Avenue situated at Government College Hyderabad Road, has moved a complaint before SP Complaint Hyderabad against proposed accused, stating therein that he is owner of the said building and proposed accused after breaking the locks of flat No.2 of the said Project, occupied the same illegally and unlawfully. The SP concerned after conducting an inquiry dismissed such application. Consequently, the applicant has moved application u/s 22-A & B Cr.P.C, for direction to register an F.I.R. against the accused; however, same was also dismissed vide order 11.07.2020. Being aggrieved with this order, applicant has moved instant criminal miscellaneous application.

3. Arguments heard and record perused.

4. Perusal of record reveals that applicant has launched a project under the name and style of Al-Razzaq Avenue, situated at Government College Hyderabad Road, and proposed accused Mst. Talat Fatima

booked flat No.2 of the said project for consideration of Rs.23,00,000/- and development charges of Rs.3,50,000/- which were to be paid in installments; however, after payment of an amount of Rs.16,50,000/- she did not make any further payment for which applicant made many efforts by making phone calls as well as giving notice; but she instead of making remaining payments on 22.06.2020 came at the said flat alongwith proposed accused No.2 and after breaking its locks occupied the same. Perusal of record further reveals that prior to said alleged incident a complaint with regard to fraud allegedly committed by the applicant with proposed accused Mst. Talat Fatima was made to Mukhtiarkar Headquarters Estate Hyderabad and during proceeding the applicant was directed to attend the office of said Mukhtiarkar alongwith all relevant documents and register deed, but applicant failed to comply with such direction.

5. During proceedings before Ex-Officio Justice of Peace, SP Complaint Cell filed his report, which shows that there is dispute in between both parties over payment of transaction / sale consideration of subject property / flat, which is apparently a matter of civil nature; however, the applicant is trying to convert the same into criminal one. The applicant in the given circumstance, has efficacious remedy to get his grievance redressed by filing a direct complaint under section 3/4 of Illegal Dispossession Act, 2005 before the competent forum. At this stage, the applicant has failed to make out a case for issuance of direction to the SHO in terms of section 22-A & B Cr.P.C.

6. In view of above, instant criminal miscellaneous application is dismissed; however, the applicant may file appropriate proceedings / application before the competent Court of law.

JUDGE

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