

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CrI. Rev. Application No. 21 of 2020.

Date	Order with signature of Judge
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1. For orders on office objection at "A".
2. For hearing of main case.
3. For hearing of M.A. No. 952 of 2020.

23rd February 2022.

Mr. Hakim Ali Khan, advocate for the applicant.
Mr. Muhammad Zareen Satti, advocate for Respondent No.1.
Mr. Zahoor Shah, DPG.

Heard and perused record.

Applicant filed complainant under Section 3, 4 read with Section 7 of Illegal Dispossession Act, 2005, which was dismissed by the trial Court by order dated 17.12.2019. Paragraph-4 of the impugned order is reproduced as under:-

"4. In view of above legal position, the request of applicant/purchaser(s) is considered and Entry bearing No. 1342, dated 26.11.1977 in respect of 00-11 ghuntas bearing Survey No. 139 of Deh Mehran Karachi in favor of M/s Ghulam Sarwar & Others as well as subsequent entries are hereby cancelled with immediate effect."

Further reveals that an application dated 17-12-2018 moved by the respondent No.01 (Shahnawaz) to the Deputy Commissioner Malir, Karachi, stating therein that he is the real owner of the above land entered in entry No.035 dated 20-01-2012 VF-VI of Deh Mehran-I and requested to direct the Mukhtiarkar Airport, Malir Karachi, to hand over the possession of above mentioned land as early as possible in the interest of justice, Such application was referred to AC/ mukhtiarkar. In this connection, on 22-02-2019, SHO Anti Encroachment and Mukhtiarkar Airport approached at the said plot and took away the petitioner's servants from the plot and sealed the main iron gate of said plot.

Keeping in view the above all relevant documents submitted by the SHO concern along with report. It is crystal clear that the entry No.971/1342 dated 20-11-77 and entry No.278 dated 29-08-2014 have been canceled by the secretary land utilization department and subject property was taken over by the Respondent No.2 (Mukhtiarkar Airport) as well as respondent

No.03 (SHO Anti Encroachment) as per report of Mukhtiyarkar available on record in their official capacity, therefore, the provision of section 3 /4 of Illegal Dispossession Act cannot be invoked against the officials respondents who acted in their official capacity, I am of the considered view that since the entries in respect of the applicant has already been canceled in the record of Mukhtiyarkar by the order of secretary land utilization department. Therefore, I declined to take cognizance under section 3, 4 of Illegal Dispossession Act, 2005. However, applicant is at liberty to approach to the competent court of law having jurisdiction, if so desired.”

At this juncture, learned counsel for the respondents contends that respondents No. 1 and 2 are no more alive in this world. However, applicant is insisting to proceed this case on the plea that both may be tried under Illegal Dispossession Act 2005 despite their deaths. Besides, he contends that Respondent No.3 Faizan Ahmed Shaikh (SHO Encroachment) is also accused in this case. However, it has come on record that civil litigation is pending, hence, there is no illegality or irregularity in the impugned order which requires interference by this Court. Accordingly, present Criminal Revision Application is dismissed.

J U D G E