

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**Cr. Revision. No. S – 113 of 2018**

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<b>Date</b>	<b>Order with Signature of Hon'ble Judge</b>
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**For hearing of main case**

(Notice issued)

**09.03.2020**

None present for the applicant  
Private respondents present in person  
Mr. Khalil Ahmed Maitlo, DPG for the State  
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**Amjad Ali Sahito, J;** By way of instant Criminal Revision Application, the applicant/complainant has impugned the order dated 22.11.2018 passed by learned 3<sup>rd</sup> Additional Sessions Judge, Naushahro Feroze in Criminal Complaint No.40/2018, whereby the direct complaint filed u/s 3 and 4 of the Illegal Dispossession Act, 2005, has been dismissed.

2. The record reveals that the instant Criminal Revision Application was presented in the office on 22.12.2018 and for the first time fixed in Court on 23.01.2019. Thereafter on 08.2.2019, 13.09.2019 and 11.11.2019 the applicant and his counsel was called absent, whereas, on 02.03.2020, the private respondent No.1 filed an application for early hearing of the matter, hence it was granted and matter was adjourned for today i.e. 09.3.2020 with notice to applicant and intimation notice to his counsel with direction that if on the next date of hearing, the applicant and his counsel failed to appear before this Court, this criminal Revision Application will be heard and decided in presence of the parties in accordance with law. But today neither applicant nor his counsel are in attendance, therefore, the matter is being proceeded now.

3. I have heard the private respondents as well as learned DPG for the State and have gone through the record as well as the impugned order. It would be advantageous to reproduce the impugned order as under;

*“The complainant has filed an application u/s ¾ of Illegal Dispossession Act, claiming that he is lawful owner of property viz. land area 03-10 acres, out of S.No.252 and 90, situated in Deh Wasayo by way of purchase in the year 2000, alleging therein that accused have occupied their land. This application was strongly contested by Mr. Shoukat Ali Bohio advocate appeared on behalf of accused persons. Learned advocate pointed-out that parties are affectee of Motorway constructed between Karachi and Lahore. Learned advocate in his behalf pointed-out that report of Mukhtiarkar dated 11<sup>th</sup> February, 2014 clearly speaks that out of S.No.252 and an area of 1-06 acre of S.No.92, total an area 3-10 acres deh Wassayo through registered sale deed No.1165 dated 17.7.2000 were entered into the record of rights. According to Form-B issued by Survey Superintendent Khairpur an area of 1-30 acre out of S.No.90 Deh Wassayo had gone under double carriage and area of 0-09 ghuntas out of S.No.252 of Deh Wassayo had gone under bypass road, as such 1-39 acre out of both S.Nos. utilized for bypass road purpose. These facts are disclosing that the land of complainant has not been encroached by proposed accused besides this; the Mukhtiarkar in his report has mentioned that complainant is in habit of filing applications against officers as well as citizen and creating nuisance for them for reasons best known to him.*

*From the above discussion, it is clear that land of complainant has not been encroached by proposed accused, but the same has bcome under construction of bypass road. Learned advocate for proposed accused contends that the same problem suffered by proposed accused as land of both parties are situated on the site of motorway bypass.*

*In the attending circumstances of the case, I am of the view that no case of interference u/s ¾ of Illegal Dispossession Act has been made out by the complainant as complaint is not entertainable.*

*In the light of above position, I am of the clear view that the application u/s ¾ Illegal Dispossession Act is not maintainable against the accused, therefore, the same being devoid of merits is hereby dismissed. However, complainant is at liberty to seek remedy by filing civil suit, if so advised.”*

4. The applicant/complainant seeking restoration of the possession of disputed land from the private respondents has actually come under the Motorway as well as bypass road which is being constructed from Karachi to Lahore, whereas, the Mukhtiarkar concerned has clearly reported that the applicant/complainant is in habit of filing applications against the officers as

well as citizens and creating nuisance for them for reasons best known to him. Further it appears that the land of the applicant/complainant has not been encroached by the private respondents, but the private respondents are also the affectees of the Motorway, which is being constructed from Lahore to Karachi. In view of the above, I do not find any illegality or infirmity in the impugned order dated 22.11.2018 passed by learned 3<sup>rd</sup> Additional Sessions Judge, Naushahro Feroze, calling for interference by this Court, which is accordingly maintained. Consequently, the instant Criminal Revision Application is dismissed.

Judge