

**Order Sheet**  
**IN THE HIGH COURT OF SINDH,**  
**BENCH AT SUKKUR**

**Cr. Misc. Appln. No. S – 195 of 2019**

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

1. For orders on office objection at flag 'A'
2. For hearing of main case  
(Notice issued)

**06.09.2021**

Mr. Sohail Ahmed Khoso Advocate for the Applicant  
 Mr. Zulfiqar Ali Jatoi, Additional PG for the State

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**AMJAD ALI SAHITO, J**:- Through instant Criminal Miscellaneous Application, the applicant has impugned the order dated 06.04.2017 passed by learned Additional 2<sup>nd</sup>. Additional Sessions Judge, Khairpur, whereby the direct complaint filed by the applicant under Sections 3 and 4 of the Illegal Dispossession Act, 2005 was dismissed.

2. The facts in brief are that the applicant/complainant was owner and in possession of the agricultural land admeasuring (2-15) Acres out of Survey numbers 999(1-14) and 1000 (1-01) Acres situated in Deh Khairpur by virtue of registered sale deed No.2237 Book No.1, dated 30.06.2016 before Sub-Registrar, Khairpur and such record of rights was also mutated in his favour vide entry No.197 dated 07.11.2016 by the Mukhtiarkar (Revenue), Khairpur and he was in possession of the land. Thereafter on 12.03.2017 at about 10:00 am, the private respondents duly armed with weapons came at the said land and dispossessed the applicant/complainant by force of weapons in presence of witnesses. The applicant/complainant then approached the SHO Police Station A-Section Khairpur for taking legal action against the private respondents/accused, but all in vain, hence finding no other remedy, the applicant/complainant approached the trial Court by way of filing the instant direct

complaint, which was dismissed vide order dated 06.04.2017, which he has impugned before this Court.

3. Per learned counsel for the applicant/complainant that he has purchased the land from the private respondents and possession was delivered to him but subsequently the private respondents/accused forcibly ousted him from the said land, hence the ingredients of Sections 3 and 4 of the Illegal Dispossession Act, 2005 are very much applicable, but the same was not considered by the learned trial Court while passing the impugned order; that the private respondents/accused have committed a cognizable offence, therefore, they are liable to be prosecuted under the law. He lastly prayed that the impugned order may be set-aside.

4. Learned Additional PG for the State prayed for dismissal of the instant Criminal Miscellaneous Application and at the very inception drawn the attention of the Court to the ground No.4 and submits that there was dispute between the parties over the purchase of lands and the proper course for the applicant/complainant is that he may file civil suit for redressal of his grievance.

5. I have heard the learned counsel for the applicant/complainant and learned Additional PG for the State and perused the record. The perusal of the record reflects that the documents which have been in the possession of the applicant/complainant are annexed with the memo of complaint showing ownership of the complainant in respect of the property. The applicant/complainant has purchased the land through registered sale deed after full payment of sale consideration but even then the possession of the land was not handed over to him, hence the ingredients of Sections 3 and 4 of the Illegal Dispossession Act, 2005 are missing in instant case. It would be conducive to reproduce the relevant portion of the impugned order passed by learned trial Court, as under;-

*“The complainant has claimed ownership through registered sale deed dated 30.06.2016 and mutation entry No.197 dated 07.11.2016. Mukhtiarkar Taluka Khairpur has also confirmed mutation entry No.197 dated 07.11.2016. SHO PS A-Section Khairpur in his inquiry report has stated that as per documents the complainant is owner but the proposed accused have claimed that the said documents are false. However, material available on the*

*record shows ownership of the complainant in respect of property in question but the complainant in person is present and has told that he has purchased the land through registered sale deed after payment of full sale consideration to the sellers who have still not handed over possession of the said land to him. In these circumstances when possession of the land was not delivered to the complainant then how the complainant can say that he has been dispossessed by the proposed accused. Therefore, I have come to the conclusion that the complainant has failed to establish that the proposed accused have forcibly occupied the said land on 12.03.2017 by dispossessing the complainant on gun point as alleged. Accordingly I dismiss this Criminal Miscellaneous Application.”*

6. In view of the above, the impugned order dated 06.04.2017 is well-reasoned and does not call for any interference by this Court. Consequently, the instant Criminal Miscellaneous Application fails and it is dismissed. However, the applicant/complainant is at liberty to avail his remedy provided under the law, if so advised.

Judge