

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Appeal No.436 of 2023
(*Muhammad Yaseen v. XIV Addl. District & Sessions Judge Karachi East and others*)

DATE: ORDER WITH SIGNATURE OF THE JUDGE

For hearing of main case

06.05.2024

Mr. Abdul Shakoor, advocate for the appellant
Mr. Muhammad Anwar Mahar, DDPP for the State

The facts in brief for disposal of the instant Crl. Appeal are that the appellant filed a complaint for prosecution of the private respondents for an offence punishable under Section 3/4 of the Illegal Dispossession Act, 2005; it was dismissed by learned XIVth-Additional Sessions Judge Karachi East vide order dated 08.08.2023, which is impugned by the appellant before this Court by preferring the instant Crl. Appeal.

It is contended by the learned counsel for the appellant that the burden to make out a case for trial was light and such aspect has been lost sight of by the learned trial Court while dismissing the complaint of the appellant in a summary manner by way of impugned order, which is liable to be examined by this Court.

Learned DDPP for the State by supporting the impugned order has sought dismissal of the instant Crl. Appeal by contending that the title of the appellant on the subject property is in-perfect and such litigation between the parties is pending adjudication before the Civil Court having jurisdiction.

Heard arguments and perused the record.

The learned trial Court while dismissing the complaint of the appellant has validly observed that:

“In the case in hand the Complainant claims that he has been dispossessed by the Respondents from the subject property, however, neither any sufficient material has been produced by the Complainant in support of his claim that the Respondent No.2 illegally took possession over the subject property nor the enquiry report submitted by the enquiry officer supports such claim of the Complainant that he has been illegally dispossessed by Respondent No.2. Moreover, no documentary proof has been produced by the complainant side to suggest that the complainant was even in possession of the subject property. The complainant claims to be the owner of the subject property by virtue of the lease deed, however, it is pertinent to mention here that as per the enquiry report the Respondent No.1 being attorney of one Raisa Khatoon has filed a Civil Suit No.1275/2023 for declaration, cancellation of documents, partition and permanent injunction against the Complainant which is pending before the concerned Court.

Therefore, keeping in view of the above discussion, I am of the considered view that the dispossession of complainant at the hands of respondents has not been made out, therefore, the matter does not warrant cognizance. Accordingly, the illegally dispossessed complaint is hereby dismissed and disposed off accordingly.”

No illegality is noticed in the impugned order which may justify this court to interfere with the same by way of instant Crl. Appeal; it is dismissed accordingly.

JUDGE