

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Miscellaneous Application No.211 of 2023

Date	Order with signature of Judge
------	-------------------------------

Priority case:

1. For order on MA No.3974/2023 (Ex/A)
2. For hearing main case

23.08.2024

Mr. Muhammad Javed Tanoli, Advocate for the applicant.
Mr. Khadim Hussain, Additional Prosecutor General Sindh.

ZAFAR AHMED RAJPUT,J:- This Criminal Miscellaneous Application (**Cr. M.A**) is directed against the order dated 13.03.2023, whereby the learned Sessions Judge/Ex-Officio Justice of Peace, Malir Karachi, dismissed the Criminal Miscellaneous Application No.691/2023 (**Misc. Application**), filed by the applicant under Section 22-A & B, Cr.P.C., by observing that apparently the dispute is over the plots between the parties, which is purely of civil nature; therefore, the applicant may file civil suit before the competent Court of law for redressal of his grievance, if so advised.

Learned counsel for the applicant contends that prior to filing of the Misc. Application before the Ex-Officio Justice of Peace, the applicant submitted an application on 02.03.2023 before the SSP District Malir, requesting for an action against the proposed accused for taking possession of the plots, demolishing the boundary walls, and for protection (*copy of the application is available as Annexure-B, page 45 of the memo of the instant Cr. M.A*); however, as no action was taken by the said SSP, the applicant filed the Misc. Application. He further states that the applicant made out a prima facie case for the registration of an FIR against the proposed accused persons, but the Ex-Officio Justice of Peace did not exercise its jurisdiction and instead directed the applicant to avail his remedy before the civil Court vide impugned order, which is not sustainable in law.

On the other hand learned Additional Prosecutor General Sindh fully supports the impugned order.

Heard and perused the record.

It appears that the applicant claims ownership of two plots under the scheme “Abdullah Green City” and in support of his contention he has filed copies of the Application Forms, Certificates of Allotment, Letters of Possession, and Site Plans. However, these documents do not mention if the scheme is duly approved by the Sindh Building Control Authority. Even, the complete locations of the subject plots are not mentioned in the said documents. Furthermore, it reflects from the perusal of the application submitted to SSP Malir that the applicant had already sold out the subject plots to one Hamid Ali S/o. Abdul Ghafoor, who has lodged an FIR. The said application does not bear the date of the alleged incident. However, it appears that when the alleged incident took place, the applicant was no longer the owner of the subject plots.

For the foregoing facts and reasons, I do not find any illegality or irregularity in the impugned order requiring any interference by this Court. Hence, the instant Cr. M.A is dismissed, accordingly, along with the listed application.

JUDGE

Tahseen