

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Revision Appl. No.311 of 2021

Date	Order with signature of the Judge
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For hearing of main case

25.10.2024.

Ms. Lali Tabassum, Advocate for applicant.

Ms. Rahat Ahsan, Addl. P.G.

Mr. Rehman Ghous, advocate for respondents.

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MUHAMMAD IQBAL KALHORO J: Applicant filed a complaint under illegal Dispossession Act 2005 in respect of first floor of Plot No.A-32, Sector 14-B, Shadman Town, North Karachi, against amongst others, respondents No.1 & 2, who are her step sons claiming that said floor was rented out to respondent No.4 namely Azhar Hussain, who in connivance with respondents No.1 & 2 handed over possession of the same to them although the property is owned by her having been gifted to her by her late husband. On this complaint, the preliminary reports were called and by impugned order dated 30.11.2021 it has been dismissed. Hence this application.

2. Learned counsel for applicant has questioned the validity of this order in which learned Judge while relying upon PLJ 2017 Lahore 765 has dismissed the complaint mainly on the ground that the respondents No.1 & 2 do not belong to any group of land grabbers or Qabza Mafia, hence law of illegal dispossession is not applicable to them.

3. Learned Judge has however ignored the fact that very law was set-aside by the full bench of Honourable Supreme court in the case of Shaikh Muhammad Naseem Vs. Mst. Farida Gul reported as 2016 SCMR 1931. This legal position has not been disputed by any of the parties that the law of illegal dispossession is not restricted to the people who have any antecedents of land grabbers or are known as Qabza Mafia group. Other questions, i.e. whether possession of tenant can be considered as possession of the landlord and whether handing over possession of the premises by the tenant to respondents No.1 & 2 would amount dispossession of applicant, have not been dealt with by the learned trial court in the impugned order.

4. In these circumstances, the impugned order is set-aside and matter is remanded back to the trial court to decide it afresh within the period of one month by discussing above two issues and replying them properly.

The Cr. Revision. Application stands disposed of.

JUDGE

