

IN THE HIGH COURT OF SINDH, KARACHI

Crl.Rev.Appln.No. 131 of 2021

Before

Mr.Justice Ali Haider Ada

Mudassar Khan, applicant/
complainant, through : Mr.Saeed Ahmed Awan advocate

Allah Bux, respondent No.1,
through : Mr. Ayaz Ali, advocate

Respondent No.2&3, through : Syed Mumtaz Ali Shah, APG

Date of hearing : 31.01.2025

Date of Order : 31.01.2025

ORDER

ALI HAIDER ADA---J., This Criminal Revision Application has been directed against the impugned order dated 15.04.2021 passed by the learned VIth Additional district & session Judge, Karachi West, as the Direct Complaint No. 04 of 2021 was filed by the applicant, wherein stated that the property bearing House No. KE-29/O/A-78-3, Block 5, situated at Gulshan-e-Sikandarabad, Street No.2, Karachi whereby he was illegally dispossessed at the hands of respondent before filing of complaint, as he filed a Civil Suit No. 1634 of 2019 before the learned V-Civil Judge Karachi [West], on the main point that to grant injunction, in which on behalf of the respondent, a statement was filed that the **legal process be adopted and will not be dispossessed without due course of Law.**

2. Learned counsel for the applicant mainly argued that he was dispossessed on 09.01.2021 at the hands of respondent as on 26.07.2021 when the respondent in his Ejectment Application filed a statement that he obtained possession from him but there is nothing mentioned that under what process of law he obtained possession or got possession, therefore, being tenant he has right of lawful possession.

3. On the other hand learned counsel for the respondent appeared and contended that, the witnesses were presented by the applicant who are not residing at the same locality. Prima facie the case has not been established, whilst, the respondent being owner is entitled for and to keep the possession; and in this regard, the possession was handed over by managing, the applicant has got thrown household articles outside the house that's why he obtained and got the possession.

4. Learned APG supported the impugned order dated 15.04.2021 and mainly relied upon the report of learned Magistrate which is available on record and submits that during course of inquiry the learned Magistrate concluded that complainant/applicant has another house on rent and manage to keep his some household articles in the street and planted story.

5. Heard arguments and perused the material available on record.

6. Owner has no right to obtain possession by any way while owner/Respondent himself submitted statement that he has to adopt the legal recourse. Record shows that he obtained possession without adopting any legal order by any legal forum and such aspect is not considered by the learned trial Court as well as by the Magistrate. The statement of the witnesses is a second part, as a first part is that, the Court should scrutinize the material and circumstances, once, when it was admitted by the respondent that he obtained possession without any legal process.

7. In view of the above circumstances, the order dated 15.04,.2021 is set aside and is remanded back to the learned trial Court to pass afresh order on the point that to consider the aspect that under what circumstances Respondent keep the possession and which kind of legal

process is adopted by the respondent regarding the Suit property.
Learned trial Court shall decide the fate of this aspect within one month
and decide the matter on merits.

J U D G E

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