

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Criminal Revision Application No.S-158 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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<u>02-12-2022</u>	For order on office objection. For hearing of main case. For hearing of MA No.10587/2022.
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Mian Taj Muhammad Keerio advocate for applicant.

Mr. Faheem A.Ghaloo advocate files Vakalatnama on behalf of respondent No.1, taken on record.

Ms. Rameshan Oad, Assistant Prosecutor General Sindh.

MUHAMMAD IQBAL KALHORO, J: - Applicant has impugned order dated 15.11.2022 passed by learned Additional Sessions Judge, Dadu in S.C No.347/2022 on an application by respondent under section 7 of Illegal Dispossession Act, 2005 directing applicant to put respondent in possession of subject plot before next date of hearing without fail. In fact respondent has filed a direct complaint under section 3 of Illegal Dispossession Act, 2005, during pendency of which he filed application under section 7 of Illegal Dispossession Act, 2005 seeking interim possession of property bearing Survey No.807/4 admeasuring 563-7 square yards Ward-B situated at Jagatabad Mohallah Dadu, his ancestral property, which allegedly applicant by means of forgery in the relevant record, and after death of father of respondent on 09.01.2021, has illegally occupied by dispossessing him.

2. Learned counsel for applicant has argued that subject property is registered in the name of applicant and he is owner thereof by way of purchase and that he has not committed any forgery or dispossessed the respondent/complainant. The said property does not belong to respondent or his ancestors. There is a civil litigation between the parties over the property and in record the property stands in the name of applicant.

3. Learned counsel for the respondent No.1 has supported the impugned order and has submitted by way of a statement following documents to show that the respondent is owner of the said

property and applicant by way of cheating and fraud has come to occupy the same after death of his father in the year 2021.

1. Original photo of the plot showing Cattle Farm & three original photos showing newly constructed two storeys Bungalow taken on dated 12.11.2022.
2. Photocopy of mashirnama of the disputed plot dated 05.03.2022.
3. Photocopies of CTCs of property extract form of the year 1950, 55, 1960 of property obtained from Sindh High Court Karachi on dated 29.04.2022.
4. Attested photocopy of the map of Karkhana.
5. Photocopy of the CTC of bail dismissal order of Honourable High Court of Sindh, Circuit court Hyderabad dated 29.09.2022 in crime No.63/2022 u/s 467, 468, 420, 448, 380 whereby the pre-arrest bail of the co-accused Ghulam Akbar Solangi was recalled.
6. Photocopy of income tax returns of applicant Amir Solangi for tax year 2020 in which the subject property bearing Survey No.807/4 is not mentioned in list of assets.

4. Learned Assistant Prosecutor General Sindh has also supported the impugned order.

5. I have considered submissions of the parties and perused the record. Direct complaint filed by respondent has been brought on regular file. During pendency thereof, on an application under section 7 of Illegal Dispossession Act, 2005 the impugned order has been passed. Learned trial Court has recorded cogent reasons in the impugned order in favour of allegation against applicant and has directed the applicant to put respondent into possession until the fate of direct complaint is decided. Along with this criminal revision application, applicant has not submitted any record to show as to how the property has come to be registered in his name, from whom he had purchased the same, how the seller had become its owner, and when and how he came into its possession thereof as against the case setup by the respondent. Whereas, *prima facie* in the papers produced by learned counsel for respondent, the same property is shown to be standing in the name of his forefathers.

6. It is also important to mention that apart from filing direct complaint, the respondent had lodged an FIR against applicant party bearing crime No.63/2022 under section 467, 468, 420, 448, 380 PPC. When the bail application in the same crime and offence filed by co-accused Ghulam Akbar came up for hearing before this Court, however before another bench, as Bail Application No.S-267/2022 the same was dismissed vide order dated 29.09.2022. In

the said order this Court has referred to *prima facie* evidence against the accused regarding allegations viz.a.viz forgery in the relevant record of the property on the pretext of the same having been burnt in December, 2007 in the wake of martyrdom of Benazir Bhutto.

7. All such facts and circumstances show that there is *prima facie* case against the applicant which is being probed by the learned Additional Sessions Judge-I, Dadu and *prima facie* there is no justifiable explanation as to how the applicant has come to be owner of the property and how he has acquired its possession. The impugned order and application under section 7 of Illegal Dispossession Act, 2005 does not suffer from any illegality, therefore. This being the position this application has no merits and is accordingly **dismissed** along with listed application.

JUDGE