

ORDER SHEET  
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR  
Cr. Rev. Application No.S-41 of 2014

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

For hearing of main case

----

Mian Mumtaz Rabbani, Advocate for the applicant  
Mr. Shafi Muhammad Mahar, DPG

----

Date of hearing: 30.05.2019  
Date of order: 30.05.2019

**ORDER**

**ZAFAR AHMED RAJPUT, J:-** This Criminal Revision Application impugns the order dated 16.04.2014 whereby the learned 3<sup>rd</sup> Additional Sessions Judge, Mirpur Mahelo dismissed the Direct Complaint No.59/2013 filed by the applicant under section 3(2) of Illegal Dispossession Act 2005, leaving the applicant at liberty to exhaust remedy through Civil Court, by observing as under:

*“The complainant neither filed any objection nor rebutted the report of Mukhtiarkar (Revenue) Mirpur Mathelo and SHO PS concerned. Learned counsel for complainant submitted the entry No.22 dated 30.8.2008 at 1330 hours along with statement showing that the documents No.378 dated 27.5.2008 has been misplaced at Mirpur Mathelo and inspite of fair efforts he could not succeed to trace out the same. This document of entry produced by the complainant is admitting the facts that the father of complainant issued sale certificate No.378 dated 27.5.2008 and this document produced by the complainant is supporting the report of Mukhtiarkar, that there was sale transaction of land shown in the direct complaint between the parties in May 2008 and in pursuance of such sale possession was delivered to purchaser as reported in Mukhtiarkar and SHO. Thereafter, it seems that the ingredients of section 3(2) of Illegal Dispossession Act, 2005 are backing in the present direct complaint.*

*The complainant has made out by story only to misuse the above provision of law instead of seeking the relief from civil Court.”*

2. The above findings of the learned Court below is based upon the report of Mukhtiarkar (Revenue) Mirpur Mathelo, dated 06.01.2014, which reflects that an area of 1.00 acres from S. Nos.605 (02-02) acres and S.No.45 (02-13) acres, situated in deh Wahi Mubarak is under the possession of respondent Nasrullah Mahar and others. He further reported that the said area was privately sold out by Ali Akbar (father of the applicant) and sale certificate was also got issued by him vide No.378 dated 27.5.2008 and sale deed was also prepared in the name of purchaser Ayaz Ahmed son of Nasrullah Mahar and the parties appeared before Sub-Registrar and paid District Council Fee vide report No.489 while in the meantime, Ali Akbar refused to execute the sale deed and sold the same to applicant. He further reported that said land is not in possession of applicant and there is no any reality in the event of possession dated 5.9.2013, mentioned by the applicant.

3. Learned counsel for the applicant at the very outset failed to point out any illegality and infirmity requiring any interference of this Court under its revisional jurisdiction. His only contention is that the applicant misplaced the sale deed executed in his favour by his father in the year 2009 and the learned Court below has unnecessarily given weight to so called claim of the respondents/accused. Suffice to say that if the applicant has lost his so called title document in respect of subject land, what stopped him to obtain certified true copy of the same from the concerned office of Sub-Registrar/Microfilm Section and to produce the same before the Court below in support of his claim. Merely the alleged misplacement of so called title document of the applicant, does not cast any cloud over the possession of the private respondents given by the father of the applicant. Hence no case of illegal

dispossession of applicant made out under the Provision of Illegal Dispossession Act, 2005.

4. This Criminal Revision Application is, therefore, being devoid of any legal merit is dismissed accordingly.

JUDGE

Suleman Khan/PA



