

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Rev. App. No. S – 62 of 2025

*(Ali Muhammad v. The State and others)*

Date of hearing : **08.09.2025**

Date of decision : **08.09.2025**

M/s Qurban Ali Malano, Israr Ahmed Shah and Syed Naimat Ali Shah, Advocates for applicant.

Mr. Achar Khan Gabol, Advocate for respondents No.1 to 4.

Mr. Aftab Ahmed Shar, Additional Prosecutor General.

## **ORDER**

**Mahmood A. Khan, J.** – This criminal revision application has been filed in respect to the impugned order dated 27.06.2025, as passed by the Court of Additional Sessions Judge-II, Ghotki in Sessions Case No.666 of 2024, whereby the application under Section 7 of the Illegal Dispossession Act, 2005, filed by the applicant, who was the complainant before the learned trial Court, in the said proceedings was dismissed on the assertion that the respondents are in possession being co-sharers and acquiring rights from Kamaluddin, wherein the respondents had claimed possession since last 10 years.

2. Learned Counsel for the applicant contended that the exercise under Section 7 of the Illegal Dispossession Act, 2005, requires an order to be passed on merits, and in the present case, there was nothing material on record to show the legal entitlement of the respondents to hold the possession of the subject property. He further contends that the applicant having acquired registered document from his predecessor-in-interest Kamaluddin, and the exercise of powers mandated under Section 7 requires that where the other side could not show legal entitlement at the preliminary stage, the possession is to be ordered in favour of the party legally entitled thereto.

3. Learned Counsel for the private respondents, however, contended that the respondents and the applicant are related to each other. That Kamaluddin is a relative of both the parties, and the applicant having acquired a sale deed in his favour, Kamaluddin has authorized him for the possession, and where Kamaluddin has not come up to file the complaint, the applicant cannot claim entitlement for the whole of the land, wherein the respondents are in possession since last 10 years, in respect of which affidavits of earlier tenants have been filed. He lastly contended that the incident as reported by the applicant has never taken place, as the possession of the parties is available to them for a long period of time.

4. Learned Additional Prosecutor General, however, does not find much room to support the impugned order and further states that the affidavits filed in the matter, irrespective to the time given therein, do not show entitlement of possession.

5. Having heard the learned Counsels and gone through the record, after going through the impugned order, wherein the learned trial Court has been pleased to have an understanding that the respondents have acquired the entitlement from Kamaluddin, and the period of 10 years has also been referred therein, I have specifically called upon the learned Counsel for the respondents to show any material, whereby the respondents can claim legal entitlement of Kamaluddin, to which none has been shown rather learned Counsel for the respondents has contended that Kamaluddin is relative, and that he is yet to provide the same in a legal format.

6. The requirement of the Illegal Dispossession Act and Section 7 thereof, which is to deal with an interim order, has been made out in presence of Sections 9 and 10 of the Specific Relief Act on account of a quick legal remedy for persons since dispossessed and the possession being enjoyed without any legal authority in this regard. The respondents till now as such are not shown any legal entitlement in their own right or coming to them from the person entitled in this regard.

7. In the said circumstances, where the learned trial Court has even preferred not to keep the application pending for providing an opportunity to any of the parties to bring forth any material witness for determination of the said application, it is found suitable to set aside the order as no material in support of the contentions, as taken in the impugned order, is available favouring the respondents. However, this is a tentative finding, and the parties having yet to adduce evidence. In case parties are able to bring forth evidence in their favour, they may acquire further decision in respect to the possession.

8. Resultantly, this application is **allowed**. The **application under Section 7** deemed to be pending before the learned trial court is **also allowed**, and the possession of the subject property is to be handed over to the applicant till the material is brought forwarded as to any conclusion available otherwise. Learned Counsel for the private parties contending that three witnesses each may be available on their part, whereas two officials required therein, it is reasonably expected that the learned trial Court shall attempt to conclude the matter within two and a half months hereof.

J U D G E

Abdul Basit