

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Revision Appln. No.S-69 of 2026
Crl. Transfer Appln. No.S-55 of 2026

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE.
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- 1. For orders on O/objection at flag-A.
- 2. For hearing of M.A No.4777 /26
- 3. For hearing of main case.

07.09.2026

Syed Sardar Ali Shah Jillani, Advocate for Applicants.
Mr. Sikandar Ali Junejo, Advocate for Respondent No.1 in Crl. Revision No.S-69 of 2026.
Syed Sardar Ali Shah Rizvi, Addl.P.G. for State.

ORDER

By this common Order both the title cases are decided, that is Criminal Revision Application and Criminal Transfer Application.

2. In Criminal Revision Application the Applicants have challenged the Impugned Order dated 16.06.2026, in which cognizance has been taken on the complaint No.36 of 2026, filed by Respondent No.1 (Hasnain Nawaz), under Section 3 and 4 of the Illegal Dispossession Act, 2005 **(the said Law)**. Applicants' Counsel, Syed Sardar Ali Shah Jillani, contends that the jurisdiction was exercised illegally, because civil litigation is pending, *inter alia*, in which the status of Respondent No.1 as biological son of Rabnawaz is seriously disputed; that undisputedly the deceased Rabnawaz, the elder brother of the Applicants, passed away in the year 1997 and subsequently his wife, Mst. Ghulam Sarwar Khatoon also expired; both were issueless and the present Respondent No.1 is the adopted son who does not have any inheritable right in the built-up Property, bearing City Survey No.3598/7. Contends that the late Brother purchased the said Property through Registered Sale-deed from its previous owner and now it is to be devolved upon the present Applicants

being the surviving legal heirs/real brothers of the deceased Rabnawaz. Has referred to his F.C. Suit No.43 of 2021 and F.C. Suit No.161 of 2020 filed by the present Respondent No.1, in respect of the above said Property; that in his pleadings, the Respondent No.1 has mentioned the Applicants as licensee and in the possession of the said Property and therefore, they cannot be termed as illegal occupants. Referred to the earlier litigation and the Order dated 04.11.2024, of this Court passed in Civil Revisions No.S-200 and 202 of 2022 preferred by Respondent No.1, *inter alia*, remanding the Suits to the learned Trial Court for decision, including determining the status of present Respondent No.1. Argues that not only this, but vide a subsequent Order dated 31.07.2026, the Applicants have been dispossessed from the said Property, by the learned Trial Court, purportedly exercising powers under Section 7(1) of the said Law for which a separate CMA No.4777 of 2026 is filed, seeking suspension of the operation of the said Interim Order, which was granted on the last date.

3. The above arguments are disputed by Mr. Sikandar Ali Junejo, the learned Advocate for the Respondent No.1. Has placed on record during hearing, the Property extract that since, 2019 the said Property is in the name of Respondent No.1, which is purchased by his above named deceased Father. States that both civil and criminal proceedings can be filed and decided simultaneously; there is no prohibition in law for taking cognizance under the said Law on the Complaint of the Respondent No.1, as he has been continuously deprived of his right and interest in the said Property.

4. Learned Additional Prosecutor General supports the arguments of Applicants' Counsel and states that the Impugned Order is not sustainable.

5. Arguments heard and record perused.

6. The Police report and that of the Mukhtiarkar, available in the record has been perused, in which Police has stated that the Applicants have not illegally dispossessed the Respondent No.1 who is the adopted Son of late Rabnawaz. Statement of neighbors were also recorded while preparing the report and it is mentioned that Civil litigation (*ibid*) is pending; whereas Report of Mukhtiarkar dated 11.06.2026 confirms that the said Property is in the name of Respondent No.1, but, at the same time the neighbors have stated that Respondent No.1 was not dispossessed.

7. **Paragraph No.3 and 5** of the plaint of the above Suit filed by Respondent No.1 states that present Applicants were in possession of the said Property, but their licence to occupy has been revoked, whereafter they are not handing over the possession since 31.08.2019 and that is why mesne profit is also claimed by the Respondent No.1 in his Suit. When the learned Counsel was confronted with this undisputed factual aspect (which is part of pleadings of the Respondent No.1) he could not answer satisfactorily and only replied that status of Respondent No.1 is accepted by the Applicants themselves when in cross-examination Respondent No.1 has been asked that whether the deceased Father filed any Complaint against the present Applicants or not. This reply of the Counsel cannot cure the admitted position, that the present Applicants were in occupation as family members of late Rabnawaz and they have not dispossessed the present Respondent No.1.

8. It is also a settled rule that a complaint filed under the said Law cannot be entertained or maintainable where the title of the property is of competing nature. The recent view of the Apex Court is that even every dispossession does not attract the provisions of the said Law (*Hafiz*

Muhammad Siddique v. The State through Advocate General Punjab and others, 2026 SCMR 1234).

9. The Trial Court of Additional Sessions Judge-(II), at Sukkur has not only acted illegally, in violation of the settled principle of law developed through Judicial Pronouncements, in respect of the jurisdiction to be exercised under the said Law, but has also in utter disregard of the Decision dated 04.11.2024, handed down by this Court in the afore-referred two Civil Revisions, whereby the Suits were remanded for a proper trial, took cognizance and then dispossessed the Applicants as an interim measure by purportedly exercising power under Section 7 of the above Law.

10. Although the Property extract shows the name of the present Respondent No.1 as owner, but his status is under serious dispute and in the event of an adverse finding in the Suits, the present Applicants may have direct interest in the said Property; however, the Trial Court has turned a blind eye to these crucial facts floating on the surface and showed undue haste, while passing the Impugned Orders.

11. In view of the above discussion and considering the peculiar facts of present **Lis**, setting-aside of the impugned Orders only would not serve the ends of justice, because in such an event, the parties and in particular, the present Applicants would again be exposed to go through the rigors of litigation, which should have been dismissed at its initial stage; to remedy this situation, this Court has adequate inherent powers, envisaged under Section 561-A of the Criminal Procedure Code, while exercising its revisional jurisdiction.

12. The upshot of the above is that the Impugned Order dated 16.06.2026 is set-aside so also the subsequent Order of 31.07.2026, as a result of which the Applicants were dispossessed. The possession of the

Applicants is restored forthwith and the Official Respondents shall ensure that this direction is implemented within two days from today.

Consequently, the proceeding under the aforementioned Illegal Dispossession Complaint *sub judice* in the Court of Additional Sessions Judge(II) Sukkur is quashed and the Criminal Transfer Application having become infructuous is disposed of.

13. It is clarified that any observation mentioned in this Order is of tentative nature and will not prejudice the trial proceeding of the aforementioned Suits.

Office to place a signed copy of this Order in captioned connected matter.

J U D G E

Ihsan/PS.