

IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

Criminal Revision No. S-16 of 2025.

*Before:-
Mr. Justice Ali Haider 'Ada'.*

Applicant	:	Nazir Ahmed and Others, <i>through</i> Mr. Shakeel Ahmed Abro, Advocate.
Respondent No.1	:	Wazir Ahmed, <i>through</i> M/s Abdul Rehman A. Bhutto and Muhammad Saleem Mangi, Advocates.
Respondent No. 2 to 5	:	Mukhtiarkar (Revenue) Warrah, Station House Officer, Police Station Warrah, Station House Officer, Police Station Nasirabad, The State <i>through</i> Mr. Sardar Ali Solangi, Deputy Prosecutor General, Sindh.
Date of Hearing	:	17.08.2026
Date of Order	:	17.08.2026.

ORDER

Ali Haider 'Ada' J:- The present Criminal Revision has been preferred against the order dated 24.03.2025, passed by the learned Additional Sessions Judge-II, Kamber (trial Court), in a complaint instituted under the provisions of the Illegal Dispossession Act, 2005, whereby the learned trial Court took cognizance of the complaint filed by respondent No.1, namely Wazir Ahmed, and summoned the present applicants as accused. Being aggrieved by the assumption of cognizance and the consequential directions contained in the impugned order, the applicants have assailed its legality through the instant revision.

2. The facts, in brief, are that Respondent No.1/complainant instituted a complaint under the Illegal Dispossession Act, 2005, asserting that he is the exclusive owner and lawful possessor of various piece of agricultural land comprised in Jaryan No.196,

measuring 07-00 acres, situated at Deh Saffar Tunio, Tapo Abad, Taluka Warrah, District Kamber Shahdadkot. It was specifically pleaded that different survey numbers falling within the said Jaryan and other entry under Jaryan No.106, stand recorded exclusively in his name in the revenue record. According to the complainant, on 12.01.2024, the applicants/accused, by use of force and without any lawful authority, unlawfully entered upon the land in question, dispossessed him therefrom and occupied the same.

3. Upon receipt of the complaint, the learned trial Court called for reports from the concerned revenue and police authorities. After considering the material so received and hearing the parties, the learned trial Court took cognizance of the complaint and, through the impugned order, also directed restoration of possession of the disputed land in favour of Respondent No.1/complainant.

4. Learned counsel for the applicants contended that the impugned order is wholly illegal, arbitrary and not sustainable in law. He submitted that Respondent No.1 is merely a co-sharer in the property in question and, therefore, proceedings under the Illegal Dispossession Act, 2005, are not maintainable against another co-sharer. He further argued that the relevant revenue authorities had already found the entries relied upon by the complainant to be false and fabricated. Learned counsel further submitted that the learned trial Court seriously erred in directing restoration of possession under Section 7 of the Illegal Dispossession Act, 2005, even before commencement of the trial and without recording evidence, thereby virtually granting the final relief at the threshold of the proceedings. He, therefore, prayed that the impugned order be set aside. In support of his submissions, learned counsel placed reliance upon the cases reported as 2025 SCMR 787, 2025 PCr.LJ 41, 2023 YLR 187, PLD 2007 Lahore 231, 2025 PCr.LJ 1403, 2022 PCr.LJ 1603 and 2025 PCr.LJ 1462.

5. Conversely, learned counsel for respondent No.1 /complainant opposed the revision petition and argued that the contention of the applicants that they are co-sharers of the disputed property is factually incorrect. He submitted that although the land falls within the same Jaryan No. 106 and 196, the revenue record clearly reflects separate survey numbers and specific measurements exclusively owned by respondent No.1. According to him, the applicants are attempting to take undue advantage of the common Jaryan number despite the complainant's exclusive title and possession over the specific piece of land. He further argued that the entries in favour of respondent No.1 are based upon a registered sale deed, and, therefore, the revenue authorities have no jurisdiction to annul or disregard such entries. On these premises, he supported the impugned order and prayed for dismissal of the revision petition.

6. The learned Deputy Prosecutor General, while supporting the order of cognizance, submitted that the learned trial Court was legally justified in taking cognizance of the complaint. However, he fairly conceded that the direction for restoration of possession was legally unsustainable, as no trial had yet commenced and no evidence had been recorded. He submitted that such a direction could not have been issued at the preliminary stage, and to that extent the impugned order suffers from a legal infirmity.

7. Heard the learned counsel for the parties and perused the record.

8. Firstly, it would be advantageous to examine the object and legislative intent behind the enactment of the Illegal Dispossession Act, 2005. The Act was promulgated to provide an expeditious and effective remedy for the protection of lawful owners and occupiers of immovable property from illegal dispossession, land grabbing, or unauthorized occupation. It aims to discourage the unlawful practice of forcibly taking possession of property by providing

criminal sanctions against such acts. In this regard, the august Supreme Court of Pakistan, in **Mst. Gulshan Bibi v. Muhammad Sadiq (PLD 2016 SC 769)**, has observed that any person who illegally dispossesses, grabs, controls or occupies the property of a lawful owner or occupier is liable to be prosecuted under the provisions of the Illegal Dispossession Act, 2005. It was further held that, for prosecuting an accused under the said Act, the complainant is not required, at the threshold, to establish that the accused is a professional land grabber or a member of a Qabza Group. The only consideration before the Court at the stage of cognizance is whether the allegations disclose that the accused entered upon the disputed property without lawful authority with the intention to dispossess, grab, control, or occupy the same. Therefore, the emphasis of the statute is upon the alleged act of illegal dispossession rather than the status of the accused.

9. Coming to the objections raised by the applicants, it has been argued that the relevant revenue entries had already been declared false and fabricated by the revenue authorities. Nonetheless, a careful examination of the report submitted by the Mukhtiarkar, Revenue, Taluka Warrah, reveals that the revenue hierarchy itself acknowledged that the disputed entries were based upon a registered sale deed. The report further discloses that Jaryan No.196 had been mortgaged by respondent No.1 with the United Bank Limited in the year 2019, which prima facie reflects recognition of his title and interest in the property. These circumstances cannot be conclusively determined on the basis of the reports alone and necessarily require appreciation of evidence during the course of trial.

10. The veracity of the revenue entries, their legal effect, and the rival claims of the parties constitute disputed questions of fact, which can only be resolved after the parties are afforded a full opportunity to adduce oral and documentary evidence. At the stage

of taking cognizance, the trial Court is only required to ascertain whether the complaint discloses a prima facie commission of an offence under the Act. Therefore, the learned trial Court committed no illegality in taking cognizance of the complaint and affording both parties an opportunity to establish their respective claims during trial.

11. Now coming to the second addition of the controversy, it is evident that while taking cognizance of the complaint, the learned trial Court also directed restoration of possession of the disputed land in favour of respondent No.1 by invoking Section 7 of the Illegal Dispossession Act, 2005. Therefore, it is necessary to examine the true scope, object and legislative intent of the said provision. For ready reference, **Section 7 of the Illegal Dispossession Act, 2005** reads as under:-

7. Eviction and mode of recovery as an interim relief. – (1) If during trial the Court is satisfied that a person is found prima facie to be not in lawful possession, the Court shall as an interim relief direct him to put the owner or occupier as the case may be, in possession.

(2) Where the person against whom any such order is passed under sub-section (1) fails to comply with the same, the Court shall, notwithstanding any other law for the time being in force, take such steps and pass such order as may be necessary to put owner or occupier in possession.

(3) The Court may authorize any official or officer to take possession for securing compliance with its orders under sub-section (1). The person so authorized may use or cause to be used such force as may be necessary.

(4) If any person, authorized by the Court, under sub-section (3) requires police assistance in the exercise of his power under this Act, he may send a requisition to the officer-in-charge of a police station who shall on such requisition render such assistance as may be required.

(5) The failure of the officer-in-charge of police station to render assistance under sub-section 4 shall amount to misconduct for which the court may direct departmental action against him.

12. A plain reading of Section 7 of the Illegal Dispossession Act, 2005 makes it manifest that the power to order restoration of

possession can only be exercised during the trial, where the Court, upon prima facie satisfaction, finds that a person is not in lawful possession of the disputed property. Such relief is, by its very nature, an interim measure and is not intended to be granted at the stage of taking cognizance.

13. It is well settled that taking cognizance of an offence is not synonymous with the commencement of trial. A criminal trial commences only after the charge is framed against the accused. In this regard, guidance may be sought from **Haq Nawaz and others v. The State and others (2000 SCMR 785)**. The said principle has further been reaffirmed by the august Supreme Court in **Niaz Ahmed and another v. Aijaz Ahmed and others (PLD 2024 Supreme Court 1152)**, wherein it was held

13.....Thus, use of word by the legislature "during the trial" in section 7(1) of the IDA, 2005 is of significant importance. There is no cavil to the proposition that taking of cognizance is not commencement of the trial. Trial of a case commences with the framing of the charge against the accused...."

14. Accordingly, in view of the foregoing discussion and the reasons recorded hereinabove, it is evident that taking cognizance of a complaint is not synonymous with the commencement of trial. The exercise of jurisdiction under Section 7 of the Illegal Dispossession Act, 2005 is expressly conditioned upon the pendency of the trial and can only be invoked during trial upon the Court arriving at a prima facie satisfaction regarding the unlawful possession of the accused. Therefore, the direction issued by the learned trial Court for restoration of possession at the same time with the order taking cognizance is contrary to the express mandate of Section 7 of the Act, 2005, and, thus, cannot be sustained in law.

15. Consequently, for the foregoing reasons, findings and discussion. The impugned order dated 24.03.2025, passed by the learned Additional Sessions Judge-II, Kamber, is maintained to the extent whereby cognizance of the complaint has been taken.

However, the portion of the impugned order, particularly contained in paragraph No.9, whereby the learned trial Court invoked Section 7 of the Illegal Dispossession Act, 2005 and directed restoration of possession of the disputed property in favour of respondent No.1, is hereby set aside.

16. The learned trial Court shall proceed with and conclude the trial strictly in accordance with law. If, during the course of the trial, the material available on record prima facie justifies the exercise of jurisdiction under Section 7 of the Illegal Dispossession Act, 2005, or if respondent No.1 files and presses an appropriate application seeking such relief, the learned trial Court shall decide the same independently, by applying its own judicial mind, strictly in accordance with law and without being influenced by any observations made in this decision, which are confined solely to the legality of the impugned order.

17. Likewise, the applicants/accused shall also be at liberty to raise all available legal and factual pleas before the trial Court, including seeking appropriate relief under the relevant provisions of the Code of Criminal Procedure, 1898, such as Sections 249-A or 265-K, Cr.P.C., where legally permissible, or by leading evidence in support of their defence. Nothing contained in this decision shall prejudice the rights of either party on the merits of the case, which shall be determined by the learned trial Court on the basis of the evidence adduced before it.

18. In light of the conclusions reached hereinabove, the instant Criminal Revision is disposed of in the above terms.

JUDGE