

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD.

Writ Petition No.2321 of 2016

Farooq Bashir.

Versus

Additional Sessions Judge/Justice of Peace West, Islamabad and others.

Petitioners By : Malik Ghulam Mustafa Kandwal, Advocate
and Ms. Sidra Gulzar, Advocate.

Respondents By : Mr. Rizwan Akhtar Awan, Advocate Mr.
Intezar Hussain, Advocate and
Muhammad Arbab Alam Abbasi,
Advocate.
Mr. Awais Haider Malik, State Counsel.
M. Arif, ASI.

Date of Hearing : 05.03.2020.

AAMER FAROOQ, J. - The petitioner, in the instant petition, has assailed order dated 30.05.2016, whereby application under Sections 22-A and 22-B Cr.P.C, filed by the petitioner, was dismissed.

2. The facts, in brief, are that the petitioner claims to be the owner of Plot bearing No.59-G, situated in Street No.7, Sector I-10/3, Industrial Area, Islamabad. In this regards, he claims to be in possession of the property and also civil litigation between him and respondent No.3 and others is pending before the Civil Courts, Islamabad. He made an application before respondent No.2 for registration of case against respondent No.3 as he forcibly took over the possession of the property, in question. Since the needful was not done and application under Section 22-A and 22-B Cr.P.C was filed before respondent No.1, which was dismissed vide the impugned order. ~

3. Learned counsel for the petitioner, *inter-alia*, contended that the petitioner is owner and was in possession of the property in question, however, respondent No.3 dispossessed him and forcibly took over the possession. It was submitted that the bare reading of the set of allegations show that a cognizable offence is made out.

4. Learned counsel for respondent No.3, *inter-alia*, contended that no offence is made out inasmuch as civil litigation between the parties is pending. It was contended that the possession of the property was obtained pursuant to orders passed by the learned Rent Controller and no forcible possession was taken as alleged.

5. Arguments advanced by learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

6. Admittedly, the civil litigation between the parties is pending. In this behalf, it is the claim of the petitioner that he is the owner of the property mentioned hereinabove, however, the same is refuted by respondent No.3. In the civil proceedings, the petitioner sought an injunctive order but his application was dismissed by the learned Trial Court and the appeal preferred before this Court also has been dismissed due to being barred by limitation. Respondent No.3 alongwith others also instituted proceedings for eviction of tenants in the property, in question, which eviction application was duly allowed. In such view of the matter, respondent No.1 has rightly held that the controversy between the parties is of civil nature and no cognizable offence as such is made out.

7. In view of the above position, since the instant petition is in the nature of certiorari, there does not exist any jurisdictional or error of law committed by respondent No.1 while passing the impugned order warranting interference.

8. For what has been stated above, the instant petition is without merit and is accordingly **dismissed**.

(AAMER FAROOQ)
JUDGE

Announced in Open Court this 16th day of April, 2020.

JUDGE

M. Zaheer Janjua