

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Revision No. 32 of 2019

Ghulam Qadeer

Vs

Mehboob Elahi, etc.

| S. No. of order/ proceedings | Date of order/ proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
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(5) 31-10-2019. M/s Nasir Mehmood and Sameer Paracha,
Advocates for the petitioner.
Syed Naveed Anwar Kazmi, Advocate for
respondent no.1.
Mr. Rabi Bin Tariq, State Counsel.
Mr. Muhammad Khan, S.I.

Through this petition the petitioner,
namely Ghulam Qadeer has assailed order,
dated 25.03.2019, passed by the learned
Additional Sessions Judge-V, West Islamabad.

2. The facts, in brief, are that the petitioner
filed a complaint under section 3 of the Illegal
Dispossession Act, 2005 (hereinafter referred
to as the "**Act of 2005**"), wherein it was
asserted that he had been illegally
dispossessed from the property described in
the complaint i.e. house measuring five marlas
situated in Khasra no. 1492/1223/2, Khewat
no. 422 and Khatoni No. 781 to 791, Dhoke
Abbasi, Sara-e-Kharboza, Tehsil and District
Islamabad (hereinafter referred to as the

"Property"). The Property was purchased by the petitioner vide sale deed no. 42, dated 02.01.2018, which was duly registered by the Sub-Registrar, Islamabad. It has been further asserted in the complaint that the petitioner was handed over possession of the Property and that he had also put locks on the doors of the vacant house which were later illegally removed. It is the case of the petitioner that he was illegally dispossessed from the Property. The learned trial Court while placing reliance on the agreements, dated 11.01.2018 and 03.11.2018, dismissed the complaint.

3. The learned counsel for the petitioner/complainant has argued that the learned trial Court has misread agreements, dated 11.01.2018 and 03.11.2018, because they did not relate to the Property. He has further argued that it is a case of misreading and non reading of the record.

4. On the other hand, the learned counsel for respondent no.1, namely Mehboob Elahi has contended that the agreements relied upon by the learned trial Court are in respect of the Property. He has further emphasized that the petitioner had executed both the agreements as a witness.

5. The learned counsels have been heard and the record perused with their able assistance.

6. The dispute is regarding the Property. A plain reading of the complaint shows that the petitioner has asserted that he was dispossessed illegally by respondent no.1. In paragraph 3 of the complaint it has been asserted that he was given possession of the Property and that this fact was explicitly mentioned in the registered sale deed, dated 02.01.2018. With the able assistance of the learned counsels agreements, dated 11.01.2018 and 03.11.2018, have been perused. It would be appropriate not to make any observation lest it may prejudice the case of either of the parties before the learned trial Court. It appears that the learned trial Court did not take into consideration the fact whether agreements, dated 11.01.2018 and 03.11.2018, related to the Property. To this extent it is indeed a case of non reading of the agreements relied upon by the learned trial Court.

6. For what has been discussed above, this petition is allowed and order, dated 25.03.2019, is hereby set aside. The complaint of the petitioner would be treated as pending before the learned trial Court. The learned trial

Court after affording an opportunity of hearing to the parties will proceed in the matter in accordance with law.

CHIEF JUSTICE

Saeed.