

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**

Writ Petition No.1907/2020  
Muhammad Danial Abdullah  
Versus  
S.H.O. Police Station Golra, Islamabad etc.

**Petitioner by:** Mr. Zia ur Rehman Gondal, Advocate.  
**Respondent No.4 by:** Mr. Taqweem Ali Janjua and Sardar  
Najam Abbas, Advocates,  
**Respondent No.5 by:** Mirza Irfan Ghazanfar, Advocate.  
Muhammad Mumtaz SI with record.  
**Date of Decision:** 25.08.2020.

**FIAZ AHMAD ANJUM JANDRAN, J:** Through the instant writ petition, petitioner assails order dated 08.07.2020, passed by the learned Additional Sessions Judge/Ex-officio Justice of Peace, Islamabad-West, whereby application under Sections 22-A&B Cr.P.C, filed by the respondent No.4 for the registration of FIR was accepted.

2. Facts, relevant for the disposal of instant writ petition are that on 11.03.2020, respondent No.4 (Azra Batool) moved a written application to the respondent No.1, SHO P.S. Golra Sharif with the allegations that she owns three apartments in Islamabad Heights, Sector E-11-4, Islamabad; that at noon time, she witnessed three persons including petitioner, trying to break locks and doors of one of her Flats bearing No.04, Ground Floor and prayed for the registration of FIR. Subsequently, she filed an application under Section 22-A&B Cr.P.C whereupon, the learned ASJ/Ex-officio Justice of Peace, Islamabad-West directed the respondent No.1 to record the version of the respondent no.4 under Section 154 Cr.P.C and to proceed further strictly in accordance with law vide order dated 08.07.2020, being assailed through the instant writ petition.

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3. Learned counsel contends that the Ex-officio JOP while passing the impugned order failed to consider the inquiry report of the police and the fact that the possession letter of the respondent No.4 is a forged document; that earlier petitioner filed an application against the respondent No.4 on 03.03.2020 but no action had been taken on the said application; that no cognizable offence has been committed; that respondent No.4 claims ownership on the basis of possession letter which is a fake document and powers exercised by the learned Ex-officio JOP are to be exercised sparingly with due application of judicial mind, therefore, impugned order dated 08.07.2020 is liable to be set aside. Learned counsel placed reliance upon case laws reported as 2014 PCr.LJ 1146, 2008 YLR 2301 and 2011 YLR 1768.

4. Learned counsel for the respondent No.4/ complainant contends that pursuant to the impugned order, FIR has been registered; that the petitioner has ample opportunities to adduce their stance during the investigation and before the court of competent jurisdiction, therefore, the instant writ petition may be dismissed.

5. Heard the learned counsel for the parties and examined the record.

6. It is a settled principle that the learned Ex-officio JOP is vested with the powers to issue directions for registration of FIR in case when there is a report regarding commission of a cognizable offence. At the same time, it is mandatory that the powers should be exercised sparingly with application of judicial mind. The Hon'ble Apex Court in case reported as Younas Abbas & Others Vs Additional Sessions Judge Chakwal & Others (PLD 2016 SC 589), has elaborated the role of Ex-officio JOP in following terms:-

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*'Functions performed by the Ex-officio Justice of Peace were not executive, administrative or ministerial inasmuch as he did not carry out, manage or deal with things mechanically. Such functions as described in clauses (i), (ii) and (iii) of section 22-A(6), Cr.P.C., were quasi-judicial as Ex-officio Justice of Peace entertained applications, examined the record, heard the parties, passed orders and issued directions with due application of mind. Every lis before him demanded discretion and judgment. Functions so performed could not be termed as executive, administrative or ministerial on any account.'*

7. As expounded by the august Supreme Court, the powers exercised by the Ex-officio JOP are quasi judicial that includes entertaining applications, examination of record, hearing the parties and to pass appropriate directions with due application of mind. Every complaint/ application warrants discretion and judgment. It is thus held that application of judicial mind, examination of record and passing of directions with due application of mind are *sine qua non* for exercising powers under Section 22-A(6) Cr.P.C.

8. By following the principle (*Supra*), record of the present case has been examined, whereby it reveals that respondent No.4/complainant claims ownership of three Flats including Flat No.4 and it is her stance that the two Flats bearing No.3 & 7 are registered in her name while the subject Flat is in the name of her son as against this stance, it is the claim of the petitioner that the subject Flat was purchased by his father from respondent No.5 Muhammad Ashraf against consideration of Rs.3,650,000/- and possession letter was issued on 12.08.2008. The controversy requires factual probe and cannot be adjudicated upon at this stage. The law is now settled that civil disputes are required to be adjudicated upon by the courts/forums having jurisdiction while any attempt to convert the same in to criminal is to be deprecated.

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9. Moreover, FIR pursuant to impugned order has already been registered and both the parties will have ample opportunities to advance their respective versions during investigation before the court of competent jurisdiction.

10. In view of above, no further proceedings in the instant writ petition are called for. It is thus **dismissed** accordingly.

**(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE**

**Imran**