

JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

Criminal Revision No.03/2019.

Malik Ishtiaq Hussain Vs. SHO, P.S Sihala, Islamabad etc.

Petitioner by: Malik Saqib Mehmood,
Advocate.

Respondents No.1 & 2 by: Mr. Fareed Hussain Kaif, State
Counsel.

Respondents No.3 & 4by: Mr. Muhammad Shabbir Marth,
Advocate.

Fawad, ASI.

Date of Decision: 28.05.2019.

MOHSIN AKHTAR KAYANI, J:- Through this criminal revision petition, the petitioner has assailed the order dated 22.11.2018, passed by learned Ex-Officio Justice of Peace/ASJ (East) Islamabad, whereby petition U/S 22-A & 22-B, Cr.P.C filed by the petitioner was dismissed.

2. Learned counsel for the petitioner contends that the petitioner moved application to SHO, P.S Sihala to take appropriate action against accused persons/respondents No.3 & 4, who tress passed into premises of the petitioner with deadly weapons and extended threats to his Chowkidar, which is a cognizable offence but the SHO was reluctant to registered the FIR; that there-after the petitioner filed petition before learned Justice of Peace for issuance of direction to the SHO to register the FIR, which was dismissed through impugned order; that learned Justice of Peace did not appreciate the facts in true perspective and passed the impugned order in mechanical manner with the observation that the petitioner should file private complaint before Court of competent jurisdiction.

3. Conversely, learned counsel for respondents No.3 & 4 contends that the suit property is already in possession of the respondents and instant revision petition has been filed by concealing important factors i.e. the petitioner himself interfered into possession of the respondents, which resulted into registration of case FIR No.140/19, dated 27.04.2019, U/S 447, 506(ii), 511, 148, 149 PPC, P.S Sihala, Islamabad; that a civil suit regarding the suit property is pending

adjudication, which is fixed for recording of evidence, regarding which this Court has issued direction for early conclusion of the trial.

4. I have heard the arguments and perused the record.

5. Perusal of the record reveals that the petitioner filed an application to the SHO, P.S Sihala with the contention that his Chowkidar informed him that accused persons/respondents No.3 & 4 have entered in his land and took over the possession by force while armed with deadly weapons. The application was not entertained by the SHO, therefore, the petitioner filed petition before learned Justice of Peace for issuance of direction to the SHO for registration of FIR, which was dismissed vide impugned order.

6. I have gone through the impugned order, which reveals that the petitioner has been recommended to seek alternate remedy of private complaint, which remedy has not yet been availed by the petitioner. A civil suit titled *Mst. Ayesha Ahmed vs. Ishtiaq Hussain* qua the suit land is pending adjudication before competent Civil Court and this very fact was acknowledged by this Court in C.R No.201/16 titled *Ishtiaq Hussain vs. Mst. Ayesha Ahmed*, which was dismissed by this Court vide judgment dated 28.06.2016, however, a direction was issued to learned Trial Court to conclude the trial within a period of 06 months, which direction has not been complied with so far and in second round in writ petition No.2664/18 another direction was issued to learned Trial Court to conclude the trial within period of 06 months and no reason has been brought on record as to why learned Trial Court has not concluded the trial till date.

7. Learned counsel for respondents No.3 & 4 contends that the petitioner filed time and again different applications to delay the trial.

8. Besides the above referred background, it has been observed that FIR No.140/19, dated 27.04.2019, U/S 447, 506(ii), 511, 148, 149, PPC, P.S Sihala, Islamabad has been registered by respondent No.3/Mehmood Hussain against the petitioner and other individuals, who interfered in possession of respondent No.3 on 27.04.2019.

9. This complex situation of the disputed property gives rise to the fact that the question relating to possession cannot be resolved without judgment of

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competent Civil Court, where the matter is pending. Learned Justice of Peace has rightly passed the impugned order and no illegality has been observed in the same. The instant criminal revision petition bears no merits, therefore, the same is hereby **dismissed.**

10. Before parting with this judgment, it is pertinent to mention that learned Trial Court has not concluded the trial as such direction passed by this Court in Civil Revision No.201/2016 vide judgment dated 28.06.2016 has not been complied with, therefore, learned MIT of this Court is directed to call report from the concerned Civil Court as to why the direction has not been complied with as yet.

(MOHSIN AKHTAR KAYANI)
JUDG

R Anjam