

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present

Justice Jamal Khan Mandokhail
Justice Malik Shahzad Ahmad Khan

Criminal Petition No. 818 of 2026

(Against the order dated 04.05.2026 passed by
High Court of Sindh, Sukkur Bench in CrI.
Revision No. S-107/2025)

Raja Khan

Petitioner

Versus

Sohail Arif Shah and another

Respondents

For the Petitioner: Mr. Muhammad Umar Ijaz Gilani, ASC
Syed Rifaqat Hussain Shah, AOR

For the State: Mr. Saleem Akhter Buriro, Addl. PG Sindh
(via video link from Karachi)

Date of Hearing: 25.05.2026

ORDER

Jamal Khan Mandokhail, J. This petition arises out of the interim order passed by the Court of the Additional Sessions Judge-III, Khairpur ('the Trial Court'). The learned counsel for the petitioner states that the petitioner filed a complaint under sections 3 & 4 of the Illegal Dispossession Act 2005, ('the Act') in February 2016, which is still pending adjudication before the Trial Court. The learned counsel adds that section 5(2) of the Act provides that on taking cognizance of a case, the Court shall proceed with the trial from day to day and shall decide the case within sixty days. He submits that as per the Act, the Trial Court is bound to decide the matter within the stipulated period, but despite a lapse of more than ten years, the matter is still pending before the Trial Court for final adjudication without any sufficient reason for the delay. The learned counsel contends that if directions are given to the Trial Court to decide the complaint within a period of sixty days, he will not press this petition.

2. We have heard the learned counsel for the petitioner as well as the learned Additional Prosecutor General and have gone through the record. Article 24 of the Constitution of the Islamic Republic of

Pakistan, 1973 ('the Constitution') mandates that *no person shall be deprived of his property save in accordance with law*. Article 10-A of the Constitution guarantees the fundamental right to a fair trial and due process in the determination of criminal charges as well as civil rights and obligations. In the context of judicial proceedings, due process requires the Court to apply all relevant legal rules and principles pertaining to a case, in a manner that protects and respects the rights of the parties. Article 37(d) of the Constitution further casts upon the State the responsibility to ensure "inexpensive and expeditious justice," and focuses on the policy and systemic reforms that the Government must adopt to make justice affordable and fast. The effective enforcement of the right to a fair trial, therefore, depends upon a justice system that is affordable and free from unnecessary delay, subject to law. Thus, the courts play a pivotal role not only to protect and defend the Constitution and law, but also to follow them in their letter and spirit.

3. To give effect to these constitutional provisions, Parliament enacted the Illegal Dispossession Act, 2005. It is a special law designed to criminalize property grabbing and to protect lawful owners and occupiers from being illegally or forcibly dispossessed of their immovable property. The Act provides an aggrieved person with a quick remedy aimed at delivering timely justice as compared to civil litigation, which often takes years. Section 5(2) of the Act prescribes summary proceedings, stipulating that the Trial Court shall decide the case within a period of sixty days after taking cognizance, and for any delay in doing so, sufficient reasons shall be recorded. The sixty day time frame and day to day hearing mandated by the section are intended to safeguard the fundamental right to a fair trial and due process guaranteed by the Constitution, while ensuring expeditious resolution of disputes between the parties to the lis. The use of the word 'shall' in the first part of section 5(2) requires the Trial Court to conduct proceedings on a day to day basis and to conclude the case within sixty days, but it does not strip the Court of its power to extend this timeframe. However, such extensions should not become routine and must be granted only in exceptional circumstances, for which the Court shall provide sufficient reasons. As such, the word 'shall' is directory in nature, but such direction must not be taken lightly or rendered toothless by treating it as merely optional. However, the word 'shall' used in

the latter part of section 5(2), requiring the recording of sufficient reasons for any delay, is mandatory in nature, leaving the Court with no option but to record reasons whenever the prescribed period is exceeded. This substantive responsibility of the Court underpins Parliament's entire justification for enacting summary proceedings to protect the property rights of owners and occupiers. If the Trial Court were to sit indefinitely on a complaint under the Act, the result would be directly inconsistent with the entire scheme of the legislature, rendering the special law ineffective.

4. In the case in hand, the complaint under section 3 and 4 of the Act was filed in February 2016 and till date, more than ten years have lapsed without the Trial Court recording any sufficient reason for the delay. This inordinate delay has denied expeditious justice not only to the petitioner/complainant, but to the accused as well, negating the right to fair trial and due process guaranteed to all parties under Article 10-A of the Constitution and is also against the principles of policy enshrined in Article 37(d) of the Constitution. Besides, it constitutes a clear violation of the Act as well. The request of the learned counsel for the petitioner is, therefore, just and proper, which is also endorsed by the learned Additional Prosecutor General. We observe with deep concern that such delay in the conclusion of cases under the Act is not an isolated failure, but reflects a systematic failure in the implementation of the Constitution, law, rules and prescribed procedure across the country. It has further been observed that in some cases, where an interim order is challenged before a higher forum, the Trial Court suspends the proceedings in the absence of any restraining order from that forum, thereby contributing to delaying timely justice and frustrating the very purpose for which the Act was enacted. Under Article 187 of the Constitution, the Supreme Court possesses the authority to issue such directions, orders, or decrees as may be necessary for doing complete justice in any case or matter pending before it. This constitutional power obligates all executive and judicial authorities including the High Courts, throughout Pakistan to act upon the directions of the Supreme Court to ensure effective implementation of statutory mandates for the purpose of regulating judicial process. In the instant petition, a complaint was filed under the Act in the year 2016, whereas section 5(2) of the Illegal Dispossession Act, 2005 requires that proceedings be concluded

within sixty days of the Trial Court taking cognizance of the complaint, however, the Trial Court did not perform its statutory obligation. It is, therefore, the constitutional responsibility of the Supreme Court to issue appropriate directions to that Court, as well as to all courts across the country exercising jurisdiction under the Act, to ensure that they adhere to the following instructions, in addition to the procedure prescribed by the Act:

(i) Every Trial Court seized of a complaint under the Act upon taking cognizance of the complaint should complete the same within 60 days time frame specified by section 5(2) of the Act and maintain a day-to-day order sheet of proceedings accordingly;

(ii) Where the trial cannot proceed on the date fixed for hearing, the Trial Court shall, specifically record sufficient reasons in the order sheet for the delay. Bare references to "non-availability of witnesses" or "adjournment sought by counsel" shall not constitute sufficient reasons for the purposes of section 5(2);

(iii) No adjournment shall be granted as a routine. However, the grant of any adjournment shall be based on justifiable reason;

(iv) Member Inspection Team of the respective High Courts/Director General District Judiciary shall periodically monitor all cases pending under the Act, before Trial Courts in their respective jurisdictions, identifying: (a) the date of filing of complaint; (b) the date of taking cognizance in the matter/framing of charge against the accused; (c) the status of pending proceedings; and (d) where the sixty-day period has been exceeded, the reasons recorded therefor;

(v) The complaint shall accompany the list of witnesses and shall ensure their presence on each date fixed by the Trial Court for recording their statements. The complainant and the accused, represented by a counsel, shall ensure presence of their counsel before the court on every date of hearing.

(vi) In case any party challenges an interim order of the Trial Court before a higher forum, the Trial Court must proceed with the trial, unless a restraining order is passed by a higher forum.

Thus, in view of the above, the petition is dismissed as not pressed. The Trial Court is directed to proceed with the matter expeditiously on day to day basis and decide the same within a period of sixty working days from the date of receipt of this order. The parties and their counsel should cooperate with the Trial Court. No unnecessary adjournment shall be granted to either of the parties. In case the trial could not be concluded within the stipulated period, the Trial Court shall record sufficient reasons in this behalf. Let a copy of this order be transmitted to all the Registrars of all the High Courts for information, necessary action, and strict compliance.

Judge

Judge

Islamabad, the
25th May, 2026
Approved for Reporting
Rizwan/Saniya Diyar, LC