Form No: HCJD/C-121
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Revision No. 17/2025

Malik Shehbaz Ali

Vs

Ghulam Sarwar, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	06.02.2025	Raja Muhammad Nadeem Kayani, Advocate for petitioner. Sardar Muhammad Tariq Fareed Gopang, Advocate for the Respondent No. 1. Muhammad Akram S.I. Rana.

MUHAMMAD AZAM KHAN J. Through instant Petition, the Petitioner has challenged the Order dated 19.11.2024 **("Impugned Order I")** passed by the Additional Sessions Judge-X, Islamabad-West **("Additional Sessions Judge")** whereby the Petitioner has been declared Proclaimed Offender and his movable and immovable properties are also directed to be attached. The Petitioner has further assailed the Order dated 24.01.2025 **("Impugned Order II")** passed by the learned Additional Sessions Judge whereby the Application under Section 7 of the Illegal Dispossession Act, 2005 **("Act of 2005")** filed by the Respondent No. 1 has been allowed and directions for restoration of the possession of the House No. 360, Gali No. 58, Sector G-10/4, Islamabad **("Disputed House")** to the Respondent No. 1 have been issued.

2. The Respondent No. 1 [Dr. Ghulam Sarwar] **("Respondent No. 1/Complainant")** filed Complaint under Sections 3/4 of the Act of 2005 against the Petitioner and his wife on 31.05.2024 before the Court of learned District and Sessions Judge, Islamabad-West, which was assigned to the Court of the learned Additional Sessions Judge for disposal.

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3. The Respondent No. 1/Complainant contended in his Complaint that he is the owner of the Disputed House and that his son namely Fareed Afghan executed lease agreement of the first floor of the Disputed House with Mumty (Fully Furnished) to the Petitioner vide Agreement dated 24.08.2023 for a period of 6 months w.e.f. 01.08.2023 to 31.01.2004 for a rent of Rs. 130,000/- per month. The Petitioner after paying one month's advance for the month of September 2023 failed to pay the rest of the rents to the Respondent No. 1/Complainant till today and he is rent defaulter from 01.09.2023 to 01.05.2024 and is to pay 9 months' rent amounting to Rs. 1,170,000/- . The son of the Respondent No. 1/Complainant issued Legal Notice to the Petitioner but the Petitioner did not bother to reply and now they are denying their relationship of landlord and tenant between them. That on 08.05.2024 at about 08:30 pm the Petitioner and his wife broke down the locks of the main door of the ground portion which was in possession of son of the Respondent No. 1/Complainant, which was not rented out to them vide rent Agreement dated 24.08.2023. They not only took the possession of the whole house rather stole valuables/original documents of the house as well as cheque books and key of the bank lockers drawn at MCB Corporate Branch, Blue Area, Islamabad. The Respondent No. 1/Complainant tried his level best to resolve the issue amicably however the Petitioner and his wife illegally and forcibly took complete possession of the Disputed House.

4. The learned Trial Court after institution of the said Complaint sought report from the concerned Station House Officer **("SHO")**. After receiving the report from SHO the Complaint was admitted vide Order dated 30.07.2024 and notices were issued to the respondents. However, despite issuance of notices as well as non bailable warrants and then proclamation, the Petitioner and his wife did not appear before the learned Trial Court. Resultantly, they were declared

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Proclaimed Offender vide the Impugned Order dated 19.11.2024. Where after, the learned Trial Court allowed the Petition under Section 7 of the Act of 2005 vide Impugned Order dated 24.01.2025 and issued directions to the concerned SHO to take the possession of the Disputed House and get it restored to the Respondent No. 1/Complainant. The Petitioner feeling aggrieved challenged both the Impugned Orders i.e. 19.11.2024 and 24.01.2025.

5. The Petitioner's counsel stated that the Respondent No. 1/Complainant is out of country since 8.8.2022 and have never came to Pakistan, due to multiple FIRs against him regarding anti-state activities; that the learned Trial Court declared the Petitioner as Proclaimed Offender on 19.11.2024 due to wrong addresses and thereafter the Respondent No. 1/Complainant succeeded in getting favorable decision of his Petition under Section 7 of the Act of 2005 illegally and unlawfully; that the said Petition under Section 7 of the Act of 2005 was allowed to the extent of whole Disputed House while the Complaint was filed with regard to the ground portion of the Disputed House; that the Respondent No. 1/Complainant himself handed over the possession of the Disputed House firstly to the Petitioner's wife and secondly to one Amir Siddiq after receiving the entire consideration of Rs. 45,000,000/- in presence of marginal witnesses and an agreement was also executed in this regard; that when the Petitioner and his wife were asked to transfer the Disputed House, the Respondent No. 1/Complainant hide himself in Germany.

6. The learned counsel for the Petitioner further argued that both the Impugned Orders are nullity in the eyes of law hence are liable to be set aside and the Petitioner be allowed to appear before the learned Trial Court and defend himself with regard to the allegations contained in Complaint in the best interest of justice.

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7. On the other hand, the learned counsel for the Respondent No. 1/Complainant argued that the Petitioner and his wife are not having good reputation in the locality and there are multiple FIRs registered against the Petitioner; that the Petitioner and his wife contracted a lease agreement with the Respondent No. 1/Complainant's son namely Fareed Afghan regarding the first floor of the Disputed House but ultimately they took possession of whole of the Disputed House and also stole the valuables/original documents of the Disputed House; and that the Petitioner and his wife are in the illegal possession of the Disputed House and beside that they are also rent defaulter to the tune of Rs. 1,170,000/- till May, 2024.

8. Arguments heard, available record perused.

9. The police report reveals that Muhammad Akram Ranjha, Sub-Inspector **("Sub-Inspector")** conducted discreet as well as on spot inquiry, who stated that as per the statement of the Petitioner and his wife they are residing in the Disputed House since 2021 and when they were asked that in which capacity they are in possession of the Disputed House, they failed to produce any lease agreement /ownership document in their favour. He prepared site plan of the Disputed House. The Respondent No. 1/Complainant's son namely Fareed Afghan produced allotment letter in favour of his father and lease agreement between Fareed Afghan and present Petitioner and informed him that the Petitioner and his wife were living in the Disputed House as tenant and narrated the whole story mentioned in the Complaint. The Petitioner told the said Sub-Inspector that they owe some amount from the Respondent No. 1/Complainant and when the same will be paid to them they will vacate the Disputed House. The Sub-Inspector also verified the ownership documents from the Capital Development Authority office and it was found that the

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Disputed House is still in the name of the Respondent No. 1/Complainant. The police report further reveals that according to the inquiry conducted by the Sub-Inspector, the Respondent No. 1/Complainant is the owner of the Disputed House while the Petitioner and his wife are in illegal and unlawful possession of the Disputed House.

10. The Petitioner has challenged two orders of the learned Additional Sessions Judge i.e the Impugned Order dated 19.11.2024 pertaining to declaration of the Petitioner as well as his wife as Proclaimed Offenders and attachment of their movable and immovable assets while the Impugned Order dated 24.01.2025 vide which Application under Section 7 of the Act of 2005 filed by the Respondent No. 1/Complainant was accepted and SHO P.S. Ramna, Islamabad was ordered to disposes the Petitioner and his wife from the Disputed House.

11. The learned Additional Sessions Judge has adopted the proper procedure by issuing summons, non bailable warrants of arrest and then proclamation and proceeded to decide the Respondent No. 1/Complainant's Application under Section 7 of the Act of 2005 by giving cogent and plausible reasons.

12. Both the Impugned Orders are in accordance with the mandate of Criminal Procedure Code and the Illegal Dispossession Act, 2005. The learned counsel for the Petitioner has failed to point out any material irregularity, illegality or infirmity in the Impugned Orders of the learned Additional Sessions Judge. Moreover, the Petitioner's counsel has failed to satisfy this Court regarding the entitlement of possession of the Disputed House with the Petitioner and his wife. At one point of the time they allege that they have purchased the Disputed House from the Respondent No. 1/Complainant and at another point of time they state before the Inquiry Officer that they owe some amount against the Respondent

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No. 1/Complainant and after paying back that amount then in that case they will surrender the possession of the Disputed House. In these circumstances this Court is of the firm view that the learned Trial Court has rightly decided the Application under Section 7 of the Illegal Dispossession Act, 2005 filed by the Respondent No. 1/Complainant and after adopting all modes of summoning, and procuring their attendance, the Petitioner and his wife have been declared as Proclaimed Offender.

13. For what has been discussed above, the instant Criminal Revision Petition being devoid of any merit is hereby **dismissed** with cost of Rs. 100,000/-.

(MUHAMMAD AZAM KHAN)
JUDGE

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