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THE ILLEGAL DISPOSSESSION ACT, 2005

ACT No. XI OF 2005

[6th July, 2005]

An Act to curb the activities of the property grabbers

WHEREAS it is expedient to protect the lawful owners and occupiers of immovable properties from their illegal or forcible dispossession therefrom by the property grabbers;

It is hereby enacted as follows: —

1. Short title, extent and commencement.—(1) This Act may be called the Illegal Dispossession Act, 2005.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions. In this Act, unless there is anything repugnant in the subject or context,—

(a) “Court” means the Court of Session;

(b) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);

(c) | “occupier” means the person who is in lawful possession of a property;

(d) “owner” means the person who actually owns the property at the time of his dispossession, otherwise than through a process of law; and

(e) “Property” means immovable property.

3. Prevention of illegal possession of property, etc.—(1) No one shall enter into or upon any property to dispossess, grab, control or occupy it without having any lawful authority to do so with the intention to dispossess, grab, control or occupy the property from owners or occupier of such property.

(2) Whoever contravenes the provisions of the sub-section (1) shall, without prejudice to any punishment to which he may be liable under any other law for the time being in force, be punishable with imprisonment which may extend to ten years and with fine and the victim of the offence shall also be compensated in accordance with the provision of section 544A of the Code.

11(3) Whoever forcibly and wrongfully dispossesses any owner or occupier of any property and his act does not fall within sub-section (1), shall be punished with imprisonment which may extend to three years or with fine or with both, in addition to any other punishment to which he may be liable under any other law for the time being in force. The person dispossessed shall also be compensated in accordance with provisions of section 544A of the Code.]

‘Added by the Illegal Dispossession (Amendment) Act, 2017 (XXVIII of 2017), s. 2.

4. Cognizance of offence.—(1) Notwithstanding anything contained in the Code or any law for the time being in force, the contravention of section 3 shall be triable by the Court of Session on a complaint.

(2) The offence under this Act shall be non-cognizable.

(3) The Court at any stage of the proceedings may direct the police to arrest the accused.

5. Investigation and procedure.—(1) Upon a complaint the Court may direct the officer-in-charge of a police station to investigate and complete the investigation and forward the same within fifteen days to the Court:

Provided the Court may extend the time within which such report is to be forwarded in case where good reasons are shown for not doing so within the time specified in this sub-section ![:]

‘Provided further that whenever a local inquiry is necessary for the purpose of this Act, the Court may direct a Magistrate or a revenue officer in the district to make inquiry and submit report within a period as may be specified by the Court. The report of the Magistrate or revenue officer, as the case may be, shall be construed as evidence in the case.]

(2) 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 and for any delay, sufficient reasons shall be recorded.

(3) The Court shall not adjourn the trial for any purpose unless such adjournment is, in its opinion, necessary in the interest of justice and no adjournment shall in any case be granted for more than seven days.

11(4) On conclusion of the trial, if the complaint is found to be false, frivolous or vexatious, the Court may award compensatory cost to the person complained against which may extend to five hundred thousand rupees.]

6. Power to attach property.—(1) If the Court is satisfied that none of the persons are in possession immediately before the commission of the offence, the Court may attach the property until final decision of the case.

(2) In case of attachment, the methods of its management, safeguard against natural decay or deterioration shall be determined by the Court.

7. Eviction and mode of recovery as an interim relief—(1) If during trial the Court is satisfied that a person is found prima facie to be not in lawful possession, the Court shall, as an interim relief direct him to put the owner or occupier, as the case may be, in possession.

(2) Where the person against whom any such order is passed under sub-section (1) fails to comply with the same, the Court shall, notwithstanding any other law for the time being in force, take such steps and pass such order as may be necessary to put the owner or occupier in possession.

(3) The Court may authorize any official or officer to take possession for securing compliance with its orders under sub-section (1). The person so authorized may use or cause to be used such force as may be necessary.

‘Subs. and added by the Illegal Dispossession (Amendment) Act, 2017 (XXVIII of 2017), s. 3.

(4) If any person, authorized by the Court, under sub-section (3), requires police assistance in the exercise of his power under this Act, he may send a requisition to the officer-in-charge of a police station who shall on such requisition render such assistance as may be required.

(5) The failure of the officer-in-charge of police station to render assistance under sub-section (4) shall amount to misconduct for which the Court may direct departmental action against him.

8. Delivery of possession of property to owner, etc.—(1) On conclusion of trial, if the Court finds that an owner or occupier of the property was illegally dispossessed or property was grabbed in contravention of section 3, the Court may, at the time of passing order under 'Tsub-sections (2) and (3)] of that section, direct the accused or any person claiming through him for restoration of the possession of the property to the owner or, as the case may be, the occupier, if not already restored to him under section 7.

(2) For the purpose of sub-section (1), the Court may, where it is required, direct the officer-in-charge of the police station for such assistance as may be required for restoration of the possession of the property to the owner or, as the case may be, the occupier.

°[8A. Appeal. Any order made under sub-section (2) and sub-section (3) of section 3 and sub-section (1) of section 8 shall, within thirty days of the order, be appeal-able before the High Court.]

9. Application of Code. Unless otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1898 (V of 1898), shall apply to proceedings under this Act.

'Subs. by the Illegal Dispossession (Amendment) Act, 2017 (XXVIII of 2017), s. 4.

7Ins. by the Illegal Dispossession (Amendment) Act, 2017 (XXVIII of 2017), s. 5.