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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

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CONSTITUTIONAL — ARTICLE 199; SUO MOTU JURISDICTION; JUDICIAL OVERREACH IN POLICY MATTERS

Amjad Ahmed Sheikh v. Government of Sindh; Asif Ali v. Government of Sindh

PETITIONS CONVERTED INTO APPEALS; SHC ORDERS SET ASIDE TO THE EXTENT OF SUO MOTU DIRECTIONS ON POLICE REFORMS/POLICY GUIDELINES; PENDING INQUIRIES AND INVESTIGATIONS TO CONTINUE IN ACCORDANCE WITH LAW

C.P.L.A. Nos. 1199-K & 1200-K of 2025 (against Sindh High Court order dated 27.10.2025 in Const. No. S-1139 of 2025) · Bench: Justice Syed Hasan Azhar Rizvi (author); Justice Muhammad Karim Khan Agha · Decided: 29.06.2026 · Uploaded: 01.07.2026

FACTS

In a Section-491 Cr.P.C. type constitutional petition (Const. P. No. S-1139 of 2025) filed before the Sindh High Court, the learned Single Judge went beyond the lis fixed and issued a set of directions and guidelines concerning arrest and detention of suspects/accused, internal police reforms and monitoring of inquiry proceedings — most of the guidelines being borrowed from the Indian Supreme Court's 30-year-old judgment in *Shri D.K. Basu, Ashok K. Johri v. State of West Bengal, State of U.P. (Writ Petition (Crl) No. 592 of 1987, dated 18.12.1996)*. The petitioners (police officers Amjad Ahmed Sheikh and Asif Ali, against whom inquiries had been ordered) argued that these directions amounted to judicial encroachment on executive and administrative functions. The Prosecutor General, Sindh submitted that the Government of Sindh had, in more recent and comprehensive legislation and instruments — Sindh Act No. XI of 2019; Police Order 2002; the 2021 amendments in the Police Rules 1934; the Torture and Custodial Death (Prevention and Punishment) Act, 2022; the IGP's Standard Operating Procedure for Arrest in Cognizable Offences, 2021; and IGP's directives dated 15.06.2022 — already addressed the very matters covered by the borrowed 1996 Guidelines. The Advocate General, Sindh submitted that the Single Judge had committed judicial overreach and that courts, as a general rule, must not interfere with policy guidelines.

LEGAL ISSUE

Whether the High Court, in the exercise of its constitutional jurisdiction under Article 199, may issue directions and adopt foreign-court-style guidelines on matters of internal police reform and executive policy that fall outside the lis actually pending before it — and whether such directions amount to an assumption of suo motu jurisdiction that Article 199 does not confer.

HOLDING

The petitions were converted into appeals and disposed of by setting aside the impugned SHC orders dated 27.10.2025 and 03.11.2025 to the extent that they exercised suo motu jurisdiction against police officials and interfered in policy guidelines without justification. Such directions are the result of an assumption of suo motu jurisdiction which is NOT vested in the High Court under Article 199 of the Constitution and, in the circumstances, amount to judicial overreach. The Court accepted the Prosecutor General's submission that the Government of Sindh has, through more recent and comprehensive Pakistani legislation, rules, SOPs and IGP directives, addressed the very matters covered by the Indian D.K. Basu Guidelines; the borrowed 1996 Guidelines therefore had no legal effect having been superseded by domestic instruments. The pending inquiries and investigations against the petitioners shall, however, continue in accordance with law without being influenced by any observation or direction of the Single Judge that was beyond the lis fixed.

LEGAL SIGNIFICANCE

A clear appellate correction of a growing tendency of Single-Bench High Courts to append policy directives to substantive orders in constitutional petitions. The Federal Constitutional Court reaffirms — with particular reference to Article 199 — that the High Court's constitutional jurisdiction is not a suo motu jurisdiction and cannot be used to lay down guidelines or reform executive machinery beyond the lis. The judgment also usefully signals that foreign-court guidelines transplanted into Pakistani writ jurisdiction lose force where the domestic Legislature and executive have themselves comprehensively occupied the field. Practitioners defending police officers or the executive against sweeping High Court directions may cite this order for the

twin propositions on scope of Article 199 and 'supersession' of foreign guidelines by comprehensive domestic instruments; petitioners seeking such directions must instead frame the relief squarely within the lis.

LEGAL PROPOSITIONS (VERBATIM)

— *'The impugned orders dated 27.10.2025 and 03.11.2025 passed by the High Court of Sindh in Constitutional Petition No. S-1139 of 2025, TO THE EXTENT OF exercising suo moto jurisdiction against police officials and interfering in policy guidelines without justification, are SET ASIDE as being the result of assumption of suo moto jurisdiction which is NOT vested with the High Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.'*

— *'The inquiries initiated and the investigation to be conducted against the petitioners in both these petitions shall continue in accordance with law without being influenced by any observation(s)/direction(s) that were beyond the lis fixed before the learned single judge of the High Court in the constitution petition.'*

— *'Courts, as a general rule, must not interfere with policy guidelines' — proposition of the Advocate General, Sindh with which the Federal Constitutional Court was 'in full agreement'.*

LEGAL PRINCIPLES EXPOUNDED

Article 199 does not confer suo motu jurisdiction on a High Court; directions issued in a constitutional petition that go beyond the lis fixed before the Court are ultra vires and constitute judicial overreach.

Source: Order of the Federal Constitutional Court setting aside the impugned SHC orders to the extent of policy directions and police-reform observations that lay outside the lis before the Single Judge.

Authority: Article 199, Constitution of Pakistan 1973

Foreign guidelines transplanted into Pakistani writ jurisdiction have no legal effect where the domestic Legislature and executive have subsequently occupied the field with comprehensive statutes, rules, SOPs and directives.

Source: Court's acceptance that the 1996 D.K. Basu Guidelines stand superseded by Sindh Act XI of 2019, Police Order 2002, 2021 Police Rules amendments, the Torture and Custodial Death (Prevention and Punishment) Act 2022, and IGP SOPs and directives.

Authority: Sindh Act No. XI of 2019; Police Order 2002; Police Rules 1934 (as amended 2021); Torture and Custodial Death (Prevention and Punishment) Act 2022; IGP SOP for Arrest in Cognizable Offences 2021; IGP directives dated 15.06.2022

Courts must not, as a general rule, interfere with executive policy guidelines; the boundary between judicial review and administrative discretion is jealously guarded.

Source: Federal Constitutional Court's express agreement with the Advocate General, Sindh's submission on non-interference with policy guidelines.

Authority: Settled constitutional and administrative-law jurisprudence

OPERATIVE ORDER

'These petitions are converted into appeals and disposed of in the terms that the impugned orders dated 27.10.2025 and 03.11.2025 passed by the High Court of Sindh in Constitutional Petition No. S-1139 of 2025, TO THE EXTENT OF exercising suo moto jurisdiction against police officials and interfering in policy guidelines without justification, are SET ASIDE ... However, the inquiries initiated and the investigation to be conducted against the petitioners in both these petitions shall continue in accordance with law without being influenced by any observation(s)/direction(s) that were beyond the lis fixed before the learned single judge of the High Court in the constitution petition.'

SERVICE — CIVIL SERVANTS ACT 1973; CONTRACT SERVICE AND LENGTH-OF-SERVICE FOR PROMOTION

Muhammad Saleem Shaikh v. Province of Sindh through Chief Secretary and others (with Syed Nadeem Shah v. Province of Sindh)**BOTH CIVIL APPEALS DISMISSED; SST JUDGMENT UPHELD**

Civil Appeals Nos. 88-K & 89-K of 2023 (against Sindh Service Tribunal, Karachi judgment dated 11.02.2021 in Appeal No.1095/2018) · Bench: Justice Muhammad Ali Mazhar (author); Justice Aqeel Ahmed Abbasi; Justice Muhammad Shafi Siddiqui · Decided: 17.12.2025 · Uploaded: 01.07.2026

FACTS

The two appellants, both officers of the Sindh Agriculture Department, agitated their respective claims that (i) service rendered on contract in the same department, and (in Saleem Shaikh's case) prior regular service rendered in WAPDA, ought to have been counted towards the length of service required for promotion under the proviso to Rule 8 of the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974 read with the Notification dated 27.02.1984. Saleem Shaikh contended that his colleague Syed Nadeem Shah had been accommodated on that very basis — a departmental letter dated 19.01.2018 counted Nadeem Shah's BS-18 service from the date of his contract appointment (25.05.2005) — and refusal to extend the same treatment to him was discriminatory. His representation to the competent authority was not decided within 90 days, and the Sindh Service Tribunal dismissed his appeal. In the connected appeal, Nadeem Shah challenged certain observations in the SST judgment as adverse to his interest. Leave was granted in CPLA 515-K/2021 on 16.08.2023 on the question whether 'government service' in paragraph (ii) of the 27.02.1984 Notification includes service on contractual basis; leave in CPLA 1500/2021 was granted on the adverse-observations point. During pendency a fresh departmental view dated 26.09.2019 held (in light of a Sindh High Court judgment in CP D-6611 of 2018 that ad-hoc/contract service cannot be regularized retrospectively) that Nadeem Shah's contract service was not countable for promotion either.

LEGAL ISSUE

Whether appointment on contract basis (or on ad-hoc basis) can be counted as 'government service' for computing the minimum length of service required for promotion under the proviso to Rule 8 of the Sindh Civil Servants (APT) Rules 1974 and the Notification dated 27.02.1984, given that a contract employee is expressly excluded from the definition of 'civil servant' in Section 2(b) of the Civil Servants Act 1973 and the Sindh Civil Servants Act 1973; and whether the Sindh Service Tribunal validly assumed jurisdiction under Section 4 of the Sindh Service Tribunal Act 1973 where the aggrieved officer's departmental representation had gone unanswered for the statutory 90-day period.

HOLDING

Both appeals were dismissed and the SST judgment was upheld. A contract employee is expressly and completely excluded from the definition of 'civil servant' under Section 2(b) of the Civil Servants Act 1973 and Section 2(b) of the Sindh Civil Servants Act 1973 — the exclusion covers deputationists, persons employed on contract, on work-charged basis or paid from contingencies, and workers/workmen under the Factories Act 1934 and the Workman's Compensation Act 1923. Seniority in a post/service/cadre to which a civil servant is promoted, per Section 8 of both statutes, takes effect from the date of regular appointment; Rule 10 of the Sindh Civil Servants (Probation, Confirmation and Seniority) Rules 1975 expressly forbids retrospective regularization of ad-hoc appointments. Contract employment operates on a distinct footing from ad-hoc appointment (which is defined in Section 2(a) as an appointment made otherwise than in accordance with the prescribed method of recruitment pending regular recruitment) and from acting-charge appointment under Rule 8-B/8-A. If contract service were to be treated as government service for promotion, this would (a) erroneously interpret the notification contrary to the parent statute; (b) confer civil-servant status on contractual employees from inception, rendering the ouster clause in Section 2(b) redundant; and (c) generate serious ramifications. The maxim 'quando aliquid prohibetur ex directo, prohibetur et per obliquum' — what is directly prohibited is also indirectly prohibited — bars the State from achieving through executive instructions, administrative circulars or delegated legislation an outcome the parent law forbids. That an

earlier departmental letter had extended a similar (unlawful) benefit to Nadeem Shah is no ground to perpetuate the mistake: 'if someone has done something unjust or unlawful, that is no justification to commit the same mistake time and again'. On the jurisdictional point, following *I.A. Sharwani v. Government of Pakistan* (1991 SCMR 1041), the SST could take cognizance against a final departmental order (original or appellate); here the appellant's representation against the seniority list had not been decided within 90 days, and the SST — as the first fact-finding forum — was competent to examine the counting-of-contract question and the discrimination plea. Both appellants had, in any event, already been promoted to BPS-20 by efflux of time.

LEGAL SIGNIFICANCE

A definitive Supreme Court articulation that contract service does not merge into regular service for promotion under Section 8 read with Section 2(b) of the Civil Servants Act 1973 / Sindh Civil Servants Act 1973, and that executive notifications (including the 27.02.1984 Notification issued under the proviso to Rule 8 of the Sindh APT Rules 1974) cannot be interpreted to override the statutory exclusion of contract employees from civil-servant status. The judgment forecloses arguments seeking parity with earlier departmental accommodations of contract service, invokes the direct/indirect prohibition maxim as a rule of construction for delegated instruments, and reaffirms that the SST validly assumes jurisdiction once the 90-day statutory period on a representation has elapsed. Useful for civil servants challenging seniority-list-linked promotions and for departments defending refusals to count pre-regularization contract or WAPDA/inter-provincial service.

LEGAL PROPOSITIONS (VERBATIM)

— *'If someone has done something unjust or unlawful, that is no justification to commit the same mistake time and again.'*

— *'Quando aliquid prohibetur ex directo, prohibetur et per obliquum' — what is prohibited directly is also prohibited indirectly; the law cannot be vanquished by shortcuts or tacit stratagems, and even the State cannot achieve, through executive instructions, administrative circulars or delegated legislation, that which is not protected or permitted in the parent law.*

— *The definition of 'civil servant' in Section 2(b) of the Civil Servants Act 1973 does not include a person who is employed on contract, or on work-charged basis, or who is paid from contingencies.*

LEGAL PRINCIPLES EXPOUNDED

Contract service, being expressly excluded from the definition of 'civil servant', cannot be merged with regular service for the purpose of computing the minimum length of service required for promotion.

Source: Section 2(b) and Section 8 of the Civil Servants Act 1973 and the Sindh Civil Servants Act 1973; Rule 8 of the Sindh Civil Servants (APT) Rules 1974; Rule 10 of the Sindh Civil Servants (Probation, Confirmation and Seniority) Rules 1975.

Authority: Civil Servants Act 1973; Sindh Civil Servants Act 1973; Sindh Civil Servants (APT) Rules 1974

Delegated instruments and administrative notifications must be construed consistently with the parent statute; they cannot indirectly achieve what the statute directly forbids.

Source: Latin maxim *quando aliquid prohibetur ex directo, prohibetur et per obliquum*, invoked by the Court to restrain executive expansion of statutory categories.

Authority: Maxim of statutory construction; settled administrative-law jurisprudence

The Sindh Service Tribunal validly assumes jurisdiction once a civil servant's departmental representation against a final order remains undecided for the statutory 90-day period.

Source: Section 4 of the Sindh Service Tribunal Act 1973 as construed in *I.A. Sharwani v. Government of Pakistan*.

Authority: Section 4, Sindh Service Tribunal Act 1973; *I.A. Sharwani v. Government of Pakistan* (1991 SCMR 1041)

OPERATIVE ORDER

'Since we did not find any irregularity, impropriety, or perversity in the impugned judgment passed by the learned SST, therefore we dismissed both the appeals vide our short order dated 17.12.2025. Above are the reasons.'

INHERITANCE — ORAL GIFT BY FEMALE HEIRS; BURDEN ON BENEFICIARY; PROTECTION OF FEMALE INHERITANCE RIGHTS

Noor Muhammad and others v. Ghulam Haider and others

PETITION CONVERTED INTO APPEAL AND ALLOWED; MUTATION NO.75 AND CONSEQUENT TRANSACTIONS DECLARED VOID; FEMALE HEIRS' SHARES RESTORED

C.P.L.A. No. 1103/L of 2016 (against Lahore High Court, Bahawalpur Bench judgment dated 26.01.2016 in Civil Revision No. 231-D of 2010) · Bench: Justice Shahid Bilal Hassan (author); Justice Shakeel Ahmad · Decided: 30.06.2026 · Uploaded: 01.07.2026

FACTS

Roshan son of Bora died in 1955. Inheritance Mutation No.74 was entered on 04.04.1955 in favour of all his legal heirs — his widow, his daughters and his two sons/brothers. On the very same day, Mutation No.75 was entered on the basis of an alleged oral gift by the widow and the daughters in favour of the two sons/brothers. Both mutations were sanctioned on 17.04.1955. The male heirs and their successors thereafter dealt with the property through a series of exchange mutations, gift transactions and consolidation proceedings (1968, Wanda Jaat, private partition). The female heirs' successors instituted a suit for declaration challenging Mutation No.75 and the subsequent transactions, contending that no valid gift had ever taken place and that female heirs had been deprived of their lawful share. The Trial Court dismissed the suit; the Appellate Court dismissed the appeal; and the Lahore High Court (Bahawalpur Bench) dismissed the civil revision on 26.01.2016, principally on the ground of concurrent findings, long possession and limitation.

LEGAL ISSUE

Whether the respondents/beneficiaries discharged the burden of proving a valid oral gift by the widow and daughters — comprising declaration by the donor, acceptance by the donee and delivery of possession — such that Mutation No.75 dated 17.04.1955 could operate to divest the female heirs of the inheritance rights that had already vested in them by operation of law, and whether the courts below were justified in dismissing the suit on the basis of concurrent findings, limitation and long possession without independent scrutiny of that transaction.

HOLDING

The petition was converted into appeal and allowed. Once the validity of an oral gift is challenged, the burden squarely lies upon the beneficiaries to establish the three essential ingredients — declaration by the donor, acceptance by the donee, and delivery of possession — and this burden is heightened where the alleged gift divests female heirs of inheritance rights that have already vested by operation of law. The record was silent on all three ingredients: no cogent evidence was produced that the widow and daughters were apprised of the nature, extent and consequences of the rights they were relinquishing, or that they consciously and voluntarily elected to abandon such rights. Noor Muhammad (D.W.1) admitted he was not present at attestation and could not identify persons before the revenue authorities; his testimony was 'evidence of what he later learnt, not evidence of transaction itself'. Respondents' own evidence showed hissa batai (share in produce) continued to be given to female heirs for years — inconsistent with complete and irrevocable divestment. Delivery of possession was never proved: possession by co-heirs is deemed possession on behalf of all co-heirs (*Ghulam Ali v. Mst. Ghulam Sarwar Naqvi* PLD 1990 SC 1) unless a clear and unequivocal repudiation is shown. Mutation is a fiscal entry — it neither creates nor extinguishes title. Subsequent exchange and gift transactions constituted independent, fresh assertions of exclusive ownership giving rise to fresh causes of action for judicial scrutiny; they could not relieve the respondents of the foundational obligation to prove the gift itself. The courts below had wrongly treated Mutation No.75 as itself proof of the transaction and had wrongly disposed of the suit on limitation and long possession. Concurrent findings founded on misconception of legal principles and misreading/non-reading of material evidence lose their sanctity and warrant interference.

LEGAL SIGNIFICANCE

A significant reinforcement of the doctrinal protection of female inheritance rights, treating any transaction that purports to exclude female heirs from succession as one requiring the closest judicial scrutiny. The judgment consolidates the Court's recent line — *Faqir Ali v. Sakina Bibi* (PLD 2022 SC 85); *Mirza Abid Baig*

v. Zahid Sabir (2020 SCMR 601); Mst. Aksar Jan v. Mst. Shamim Akhtar (2025 SCMR 88); Tanvir Sarfraz Khan v. Federation (2025 SCMR 98); Abrar Hussain v. Mst. Bibi Shahida (PLD 2026 SC 42) — into a clear rule of proof and a positive constitutional duty on courts, revenue authorities, families and the legal profession. It also usefully separates the two distinct inquiries of knowledge (relevant to limitation) and proof of transaction (which never becomes lighter with time), and gives obiter directions in paragraph 27 to all courts and revenue authorities to remain mindful that 'the law leans in favour of protecting, rather than defeating, inheritance rights of women'. Important authority for female heirs challenging historic gift/relinquishment mutations and for practitioners arguing that concurrent findings can be set aside where the essential burden of proof was misplaced.

LEGAL PROPOSITIONS (VERBATIM)

— *'Females continue to be deprived of their inheritance by employing various nefarious tactics, bogus documentation, fraudulent statements with the facilitation of Revenue department officials and some advocates ... The practice of depriving females of their inheritance must be put a stop to, and those who do so must be made to pay substantial costs and not be permitted to benefit from procedural technicalities.'*

— *Inheritance is not a bounty from male family members — it is a vested Shari and legal right which devolves immediately upon death.*

— *Possession of one co-heir is ordinarily deemed possession on behalf of all co-heirs unless a clear and unequivocal repudiation is shown; possession of brothers is deemed possession of sisters unless expressly repudiated.*

LEGAL PRINCIPLES EXPOUNDED

Once the validity of an oral gift is challenged, the burden lies squarely on the beneficiary to prove declaration, acceptance and delivery of possession by cogent evidence; a mutation entry is not, by itself, proof of the transaction.

Source: Faqir Ali v. Sakina Bibi (PLD 2022 SC 85); Muhammad Sarwar v. Mumtaz Bibi (2020 SCMR 276); Ghulam Sarwar v. Ghulam Sakina (2019 SCMR 567); Barkat Ali v. Muhammad Ismail (2002 SCMR 1938).

Authority: PLD 2022 SC 85; 2020 SCMR 276; 2019 SCMR 567; 2002 SCMR 1938

A purported relinquishment of inheritance by female heirs must be examined with utmost caution; the beneficiary bears a heightened burden to establish that the female heirs were apprised of the nature, extent and consequences of the rights being relinquished and consciously elected to abandon them.

Source: Mirza Abid Baig v. Zahid Sabir (2020 SCMR 601); Mst. Aksar Jan v. Mst. Shamim Akhtar (2025 SCMR 88); Ghulam Ali v. Mst. Ghulam Sarwar Naqvi (PLD 1990 SC 1); Abrar Hussain v. Mst. Bibi Shahida (PLD 2026 SC 42).

Authority: 2020 SCMR 601; 2025 SCMR 88; PLD 1990 SC 1; PLD 2026 SC 42

Possession by a co-heir is presumed to be for the benefit of all co-heirs unless clear and unequivocal repudiation is established; waiver, estoppel, relinquishment and adverse possession generally do not operate amongst co-heirs.

Source: Ghulam Ali v. Mst. Ghulam Sarwar Naqvi (PLD 1990 SC 1); Abrar Hussain v. Mst. Bibi Shahida (PLD 2026 SC 42).

Authority: PLD 1990 SC 1; PLD 2026 SC 42

Concurrent findings of fact lose their sanctity where they are founded on misconception of legal principles or on misreading/non-reading of material evidence and are, in such cases, liable to interference in appeal.

Source: Habib Ur Rehman v. Abdul Karim (2025 SCMR 1262); Muhammad Nawaz v. Board of Revenue (2014 SCMR 914); Abdul Hameed v. Khalid (2007 SCMR 938); Muhammad Aslam v. Mst. Ferozi (PLD 2001 SC 213); Muhammad Akhtar v. Mst. Manna (2001 SCMR 1700).

Authority: 2025 SCMR 1262; 2014 SCMR 914; 2007 SCMR 938; PLD 2001 SC 213; 2001 SCMR 1700

OPERATIVE ORDER

The petition is converted into appeal and allowed; the judgments and decrees of the Trial Court, Appellate Court and the High Court are set aside; Mutation No.75 dated 17.04.1955 and all subsequent transactions founded thereupon are declared illegal, void and ineffective against the inheritance rights of the petitioners; the petitioners are held

entitled to their respective shares in the estate of Roshan son of Bora in accordance with the applicable law of inheritance; and the Revenue Authorities are directed to undertake all consequential corrections and take steps for determination and separation of shares. No order as to costs.

Lahore High Court

7 judgments

TAX / CONSTITUTIONAL — PUNJAB REVENUE AUTHORITY ACT 2012; VALIDATING AMENDMENTS; DE FACTO DOCTRINE

Nishat Hotel and Properties Limited and others v. Province of Punjab and others

230 INTRA-COURT APPEALS DISMISSED; VALIDATING AMENDMENTS TO THE PRA ACT UPHELD; RECOVERIES BY PRA SUSTAINED

Intra-Court Appeal No. 48992 of 2019 (with 229 connected ICAs listed in Appendix-A) — arising from PLD 2019 Lahore 729 in W.P. No. 23657 of 2016 · Bench: Justice Abid Aziz Sheikh (author); Justice Malik Javid Iqbal Wains · Decided: 17.06.2026 · Uploaded: 01.07.2026

FACTS

In an earlier round of litigation, a learned Single Judge of the Lahore High Court had held, in *Institute of Architects, Pakistan (Lahore Chapter) v. Province of Punjab* (PLD 2016 Lahore 321), that the Punjab Revenue Authority ('PRA') had neither been validly established under Section 3(1) of the Punjab Revenue Authority Act, 2012 nor lawfully constituted, and consequently declared the appointments of the Chairperson and Members, the rules framed by the PRA, and the notices, orders and proceedings issued by the PRA to be illegal and without lawful authority. That judgment was upheld by the Supreme Court. The Provincial Legislature thereafter enacted a series of validating amendments to the PRA Act — inserting deeming provisions, non obstante clauses and validation provisions with retrospective effect — with the object of curing the establishment/constitution defect and validating the acts, proceedings and recoveries of the Authority. In a second round of litigation, the learned Single Judge (in the impugned consolidated judgment reported as *Nishat Hotel and Properties Ltd. v. Province of Punjab*, PLD 2019 Lahore 729) upheld the validating amendments and dismissed the challenges. The present Intra-Court Appeals (230-odd, listed in Appendix-A) reargue the challenge, contending inter alia that the defects identified in *Institute of Architects* were of a fundamental nature that no legislative validation could cure, that vested rights had accrued to the taxpayers and that the validating amendments offended Articles 4, 18 and 2A of the Constitution.

LEGAL ISSUE

Whether the retrospective validating amendments to the Punjab Revenue Authority Act, 2012 — which, by non obstante clause, validate the acts, proceedings and tax recoveries of the PRA and its Chairperson notwithstanding any defect, omission or irregularity in the establishment, constitution or composition of the Authority or in the appointment of its office-bearers — can lawfully protect acts previously declared illegal by the Court in *Institute of Architects* (PLD 2016 Lahore 321); and whether, given the operation of the de facto doctrine and the Legislature's plenary competence to enact retrospective validating legislation removing the basis of an earlier judgment, the challenge based on Articles 4, 18 and 2A of the Constitution and on the doctrine of vested rights (*Molasses Trading v. Federation*, 1993 SCMR 1905) can succeed.

HOLDING

All 230 Intra-Court Appeals were dismissed as meritless. The Court held that: (i) the defect in *Institute of Architects* was the non-establishment and non-constitution of the Authority itself, and it was as a consequence of that foundational defect that the Court in that case had declined to apply Section 8 of the PRA Act (protection against defects in constitution) and the de facto doctrine; had the Authority been duly established at the material time, the outcome would in all probability have been otherwise. (ii) The validating amendments do not, by themselves, purport to validate the individual appointments of the Chairperson and Members declared unlawful; rather, by non obstante clause, they validate 'notwithstanding any omission, discrepancy or defect in the establishment or composition of the Authority' the actions of the Chairperson on behalf of the Authority and all sales tax and other amounts levied, charged, collected, realized or recovered

by the functionaries. So long as the Legislature possesses the requisite competence and effectively removes the basis on which earlier actions were impugned, it is competent to validate past acts and recoveries through a validating enactment. (iii) The de facto doctrine (Mahmood Khan Achakzai v. Federation, PLD 1997 SC 426; Malik Asad Ali v. Federation, PLD 1998 SC 161; Pir Sabir Shah v. Federation, PLD 1994 SC 738; Qazi Hussain Ahmad v. Musharraf, PLD 2002 SC 853) independently protects the acts of officers holding office under colour of lawful authority. (iv) The Article 4/18 challenge fails because appointments per se have not been specifically validated. (v) The invalidation of Section 5(4) of the PRA Act (a transitional provision) does not, upon the Authority being lawfully constituted on 15.06.2015, affect the validity of subsequent recoveries, especially those protected by the non obstante clause in Section 36. (vi) The Molasses Trading vested-rights argument does not arise because no concluded contracts or accrued rights of that kind are involved; the appellants seek to derive advantage from a defect in the statutory framework which the Legislature has since removed, and (per Ujagar Prints v. Union of India, AIR 1989 SC 516 = (1989) 3 SCC 488) no vested right can arise out of a defect in a statute.

LEGAL SIGNIFICANCE

A landmark 45-page consolidated judgment upholding the constitutional validity of the retrospective validating amendments to the Punjab Revenue Authority Act, 2012 and, in doing so, insulating all Punjab sales tax recoveries by the PRA (from 01.07.2012 to 15.06.2015 and beyond) from further challenge on the ground of the pre-15.06.2015 establishment/constitution defect. The judgment articulates a workable framework for retrospective curative legislation — establishment vs. composition; foundational vs. curable defects; direct validation of appointments vs. non-obstante validation of acts and recoveries; the reach of Section 8 PRA and the de facto doctrine; the limits of Molasses Trading and Al-Samrez Enterprise in the tax-validation setting; and the distinction between Executive action taken in patent violation of law (incurable) and a law suffering from a defect (curable through legislative intervention). It effectively closes a nine-year litigation cycle for the taxpayers, is likely to be relied upon by other provinces defending their revenue authority legislation, and is essential reading for tax counsel advising on any challenge to provincial sales tax recoveries in Punjab.

LEGAL PROPOSITIONS (VERBATIM)

— *'For what has been discussed above, we found no illegality and legal infirmity in the impugned judgment; consequently, all the Intra Court Appeals enumerated in Appendix-A are meritless and for the detailed reasons recorded above, the same have been dismissed vide our short orders of even dated 17.06.2026.'*

— *'So long as the Legislature possesses the requisite legislative competence and effectively removes the basis upon which the earlier actions were impugned, it is competent to validate past acts and recoveries through a validating enactment.'*

— *'No person can claim a vested right arising out of a defect in a statute or seek to retain an unintended benefit flowing from legislative omissions.'*

LEGAL PRINCIPLES EXPOUNDED

The Legislature is competent to enact retrospective validating legislation that removes the basis of an earlier judgment; a validating enactment need not specifically validate individual appointments if, by non obstante clause, it validates the acts and recoveries done under colour of statutory authority.

Source: Court's construction of the validating amendments read with Section 36 (non obstante) of the PRA Act 2012.

Authority: PRA Act 2012 (as amended); Molasses Trading v. Federation (1993 SCMR 1905) distinguished; Ujagar Prints v. Union of India (AIR 1989 SC 516 = (1989) 3 SCC 488) followed

The de facto doctrine validates acts performed by persons holding office under colour of lawful authority notwithstanding a subsequently-discovered defect in their title, so as to preserve continuity and security of public administration and third-party rights.

Source: Detailed extract from Mahmood Khan Achakzai v. Federation reproduced at para 29 of the judgment.

Authority: PLD 1997 SC 426; PLD 1998 SC 161; PLD 1994 SC 738; PLD 2002 SC 853

Executive action taken in patent violation of law is incurable; a law suffering from a defect may, subject to constitutional limitations, be cured through appropriate legislative intervention.

Source: Court's articulation of the incurable-executive-act / curable-legislative-defect distinction while addressing the Article 18 and 2A challenges.

Authority: *Federation v. Malik Ghulam Mustafa Khar* (PLD 1989 SC 26); *Mian Jamal Shah* (PLD 1966 SC 1)

No vested right can be claimed out of a defect in a statute, and validating legislation enacted retroactively to cure defects in taxing statutes is a well-recognized and settled principle of law.

Source: Court's application of *Ujagar Prints v. Union of India* while distinguishing *Molasses Trading and Al-Samrez Enterprise*.

Authority: AIR 1989 SC 516; 1993 SCMR 1905; 1986 SCMR 1917

OPERATIVE ORDER

'All the Intra Court Appeals enumerated in Appendix-A are meritless and for the detailed reasons recorded above, the same have been dismissed vide our short orders of even dated 17.06.2026.' Consequently the PRA's validating amendments and all recoveries thereunder stand upheld.

CONSTITUTIONAL / LABOUR — CCI DECISIONS BINDING ON PROVINCIAL ACTIONS; PUNJAB WWF ACT 2019 AND COMPANIES PROFITS (WORKERS' PARTICIPATION) ACT 1968

M/s Hyundai Nishat Motor (Pvt.) Ltd. v. Province of Punjab & others

18 WRIT PETITIONS ALLOWED; PWWF/WPPF RECOVERY NOTICES STRUCK DOWN AS ULTRA VIRES AND CONTRARY TO CCI DECISION

W.P. No. 33757 of 2026 (with 17 connected writ petitions listed in Schedule-I) · Bench: Justice Shahid Karim · Decided: 16.06.2026 · Uploaded: 30.06.2026

FACTS

The Punjab Employees' Social Security Institution had issued notices to a group of large companies (trans-provincial and stand-alone) — including Hyundai Nishat Motor, Rudolf Pakistan, Kamal Ltd., Maple Leaf Cement, Bhanero Textile Mills, Blessed Textile Mills, Faisal Spinning Mills, Saad Textile Mills, Service Global Footwear, Samira Industries, Flying Cement, Pioneer Cement and others — demanding contributions of 2% of total income towards the Punjab Workers' Welfare Fund (PWWF) under the Punjab Workers' Welfare Fund Act, 2019 and the balance of 5% of annual profits towards the Workers' Profit Participation Fund (WPPF) under the (federal, post-devolution provincialised) Companies Profits (Workers' Participation) Act, 1968 as amended in Punjab in 2025. The petitioners did not challenge the substantive legislation; their sole challenge was that they were trans-provincial entities and, under the Council of Common Interests' decision of 23.12.2019 (Agenda Item 14) and the follow-up committee decision of 2 October 2020, were required to continue contributing to the (federal) Trust Fund Account through the FBR — not to provincial funds.

LEGAL ISSUE

Whether the Punjab Employees' Social Security Institution, exercising powers under the Companies Profits (Workers' Participation) (Amendment) Act 2025 and the Punjab WWF Act 2019, is competent to demand PWWF and WPPF contributions from trans-provincial companies where the Council of Common Interests, in the exercise of its jurisdiction under Articles 153 and 154 of the Constitution over Part II of the Federal Legislative List (including inter-provincial matters — Entry 13), has resolved (23.12.2019 and 02.10.2020) that trans-provincial companies shall continue to contribute to the federal Trust Fund Account through the FBR and that the collection and devolution mechanism among the provinces has not yet been developed.

HOLDING

The 18 writ petitions were allowed and the impugned notices were struck down. The Court held that: (i) The Council of Common Interests, constituted under Article 153 and functioning under Article 154 with jurisdiction over Part II of the Federal Legislative List (including 'inter-provincial matters and co-ordination' and matters incidental thereto), has taken up the collection question at the highest constitutional level and has resolved on 23.12.2019 that EOBI and WWF shall remain with the Federal Government until a mutually agreed mechanism is developed; the follow-up committee on 2 October 2020 further decided that trans-provincial companies with offices in two or more provinces will continue to contribute to the (federal) Trust Fund

Account through the FBR under the Participation Act 1968. (ii) Both parties agreed that no reference had been made to Parliament under Article 154(7) against the CCI's decision, and that the status quo therefore persists. (iii) The decision of the CCI committee of 2 October 2020 must be followed by the Government of Punjab; the impugned notices had been issued in clear violation of that decision and were unsustainable. (iv) An amendment empowering the Institution to make recoveries under the funds does not extend that power to trans-provincial entities, which are a distinct category. (v) The Sindh High Court had reached the same conclusion in a group of constitutional petitions (including C.P. No. D-1250) and there was no reason to disagree; the doctrine of deference compels the Court to stay its hands until the CCI decides the issue.

LEGAL SIGNIFICANCE

A significant post-18th-Amendment ruling that the Council of Common Interests' decisions on inter-provincial devolution matters are binding on the provincial Executive until either revisited by the CCI itself or overturned by Parliament under Article 154(7); provincial revenue notices issued in the teeth of a CCI decision are ultra vires. The judgment applies the doctrine of deference to CCI decisions, follows the Sindh High Court's approach for consistency, and preserves the trans-provincial companies' liberty to challenge the vires of the underlying enactments at a future time. Direct implications for the Punjab Employees' Social Security Institution and the Punjab Revenue Authority in dealing with trans-provincial payers under the PWWF Act 2019 and the (devolved) 1968 Act, and important authority in the ongoing negotiations between the Federation and the provinces on the WWF/EOBI devolution mechanism.

LEGAL PROPOSITIONS (VERBATIM)

— *'The doctrine of deference compels this Court to stay its hands till CCI decides upon the issue. In sum, the impugned notices are ultra vires and run counter to the CCI's decision dated 23.12.2019 and are unsustainable on that ground.'*

— *'Simply because through an amendment the Institution has been empowered to make recoveries of contributions under the funds would not mean that the power extends to recovering contributions from trans-provincial entities which is a distinct category and regarding which CCI has yet to make a decision.'*

— *'The petitioners shall have a right to lay a challenge to any adverse decision made by CCI or any other authority at a future time.'*

LEGAL PRINCIPLES EXPOUNDED

Decisions of the Council of Common Interests on matters falling within Part II of the Federal Legislative List — including inter-provincial coordination and post-devolution collection mechanisms — bind the Provincial Executive until Parliament decides otherwise under Article 154(7).

Source: Court's reading of Articles 153 and 154 and the CCI's decisions of 23.12.2019 and 02.10.2020.

Authority: Articles 153 and 154, Constitution of Pakistan 1973; CCI Decision on Agenda Item 14 (No. CCI.14/1/2019) dated 23.12.2019

A provincial notice issued in clear violation of a subsisting CCI decision is ultra vires and unsustainable; a general empowering amendment to a provincial law does not extend to the trans-provincial category expressly reserved by the CCI to the federal collection channel.

Source: Court's application of the CCI decision to strike down the impugned PWWF/WPPF notices issued to trans-provincial companies.

Authority: Punjab Workers' Welfare Fund Act 2019; Companies Profits (Workers' Participation) Act 1968 (as amended by Companies Profits (Workers' Participation) (Amendment) Act 2025); Articles 153-154, Constitution 1973

In the interests of comity and consistency across provinces, a High Court will defer to the reasoning of a coordinate High Court where the same inter-provincial issue has been resolved on the basis of the CCI decision.

Source: Court's approval of the Sindh High Court order in C.P. No. D-1250 and companion petitions.

Authority: Sindh High Court order in C.P. No. D-1250 and companion petitions (2024)

OPERATIVE ORDER

'In view of the above, these petitions are allowed. The impugned notices are struck down. It is made clear that the petitioners shall have a right to lay a challenge to any adverse decision made by CCI or any other authority at a future time.'

REVENUE / LAND — DEMARCATION UNDER THE PUNJAB LAND REVENUE ACT 1967; SUPPRESSION OF MATERIAL FACTS; EXHAUSTION OF STATUTORY REMEDIES

Raja Hafeez-ur-Rehman v. Member (Judicial-VI), Board of Revenue, Punjab and others (with connected W.P. No. 4185/2025)

BOTH WRIT PETITIONS DISMISSED; CONCURRENT ORDERS OF ASSISTANT COMMISSIONER, ADDITIONAL COMMISSIONER AND MEMBER (JUDICIAL-VI) BOR UPHELD; 2010 DEMARCATION HELD TO HAVE ATTAINED FINALITY

Writ Petition No. 161 of 2026 (LHC Rawalpindi Bench) · Bench: Justice Jawad Hassan · Decided: 30.06.2026 · Uploaded: 02.07.2026

FACTS

The dispute concerned Khasra Nos. 342 to 386 in Ahata Noor Khan, Tehsil and District Murree. Pursuant to the Lahore High Court's earlier order in W.P. No. 1813 of 2010, a joint demarcation of the land was carried out on 08.12.2010 by the Survey of Pakistan, the Revenue Department, the Forest Department and the Wildlife and Wetlands Fund; the resulting demarcation report was submitted to the Court. The petitioner did not challenge that 2010 demarcation. Instead, he first instituted a civil suit for declaration and permanent injunction, which was dismissed by the Civil Judge on 18.06.2014 and by the Additional District Judge on 31.05.2018; his Civil Revision No. 78 of 2019 was then withdrawn on 27.06.2023. In parallel, he pursued an application before the revenue authorities and, following the Court's order dated 01.07.2022 in W.P. No. 1965 of 2022 (directing decision of that application within thirty days), obtained a fresh demarcation report dated 17.02.2023. That fresh report was set aside on 18.07.2024 by the Assistant Commissioner, Murree on the Forest Department's Section-161 appeal, and revisions to the Additional Commissioner (Revenue), Rawalpindi (order dated 24.06.2025) and to the Member (Judicial-VI), Board of Revenue, Punjab (impugned order dated 09.10.2025) were dismissed. In the connected W.P. No. 4185 of 2025, petitioners in neighbouring land — whose land had been acquired by the National Highway Authority after a 2008 demarcation — sought preventive directions against the removal of existing demarcation points and the installation of fresh points on the basis of Google Maps, without exhausting statutory remedies.

LEGAL ISSUE

Whether the impugned order of the Member (Judicial-VI), Board of Revenue, Punjab — which upheld the 2010 demarcation as having attained finality and set aside the fresh 2023 demarcation — suffers from any illegality warranting interference in constitutional jurisdiction; and, in the connected petition, whether the constitutional jurisdiction can be invoked at the threshold to prevent revenue action where the statutory remedies of appeal and revision under Sections 161 and 164 of the Punjab Land Revenue Act 1967 have not been exhausted.

HOLDING

Both writ petitions were dismissed. On the principal petition: (i) The petitioner had concealed material facts — the earlier civil suit and appeal, and the withdrawn civil revision — from the revenue authorities and from the High Court, amounting to suppression that disentitled him to discretionary relief; a litigant seeking equitable relief under Article 199 is under a bounden duty to make full, fair and candid disclosure of all material facts. (ii) The Court's order in W.P. No. 1965 of 2022 directed decision of the pending application only; it did not authorize a fresh demarcation, and the petitioner's contrary reading was a clear misreading. (iii) Under the scheme of the Act, a demarcation is not immune from challenge — Section 117 empowers Revenue Officers to define and determine boundaries, Section 161 provides appeal within limitation, and Section 164 confers revisional jurisdiction; the petitioner failed to avail these remedies against the 2010 demarcation and instead resorted to the Civil Court, whose jurisdiction was expressly barred by Section 172. (iv) The Member (Judicial-VI) rightly held that the 2010 demarcation had attained finality and that the subsequent 17.02.2023 report had no legal sanctity in its presence. On the connected petition: constitutional jurisdiction cannot be

invoked at the very threshold to obtain preventive directions where the petitioners have not exhausted the statutory remedies under the Punjab Land Revenue Act 1967 nor sought any determination by the revenue authorities.

LEGAL SIGNIFICANCE

A useful restatement of two overlapping principles under Article 199: (i) suppression of material facts by a litigant is by itself sufficient to disentitle him to discretionary relief in constitutional jurisdiction; and (ii) the statutory hierarchy of appeal and revision under Sections 161 and 164 of the Punjab Land Revenue Act 1967 must ordinarily be exhausted before a constitutional petition is entertained. The judgment also cautions revenue authorities against ordering fresh demarcations on the strength of misconstrued High Court orders and underscores that a demarcation which has attained finality cannot be displaced by a later report absent a valid appellate/revisional order. Useful precedent for the Board of Revenue and for practitioners defending Section-164 orders against constitutional challenges.

LEGAL PROPOSITIONS (VERBATIM)

— 'A litigant seeking equitable and discretionary relief under the constitutional jurisdiction is under a bounden duty to make a full, fair and candid disclosure of all material facts; failure to do so renders him disentitled to any discretionary relief.'

— 'Where a party is aggrieved by a demarcation report, it may, in the first instance, seek correction of any alleged error relating to measurements, boundary marks, or factual inaccuracies before the Revenue Officer who conducted or approved the demarcation. Thereafter, if dissatisfied ... the aggrieved party may avail the statutory remedy of appeal under Section 161 of the Act within the prescribed period of limitation.'

— 'The scope of the direction was confined to the adjudication of the pending application and nothing contained therein can be construed as a judicial mandate for undertaking fresh demarcation proceedings.'

LEGAL PRINCIPLES EXPOUNDED

Suppression of material facts — including earlier civil suits, appeals or withdrawn revisions concerning the same subject matter — disentitles a petitioner to discretionary relief under Article 199.

Source: Court's application of the equitable-relief principle after finding that the petitioner had failed to disclose his 2014 civil-court judgment, 2018 appellate judgment and 2023 withdrawal of Civil Revision No. 78 of 2019.

Authority: Article 199, Constitution of Pakistan 1973; settled equity principles

The statutory remedies of appeal (Section 161) and revision (Section 164) under the Punjab Land Revenue Act 1967 must ordinarily be exhausted before a constitutional petition is entertained; the bar under Section 172 excludes the jurisdiction of Civil Courts over matters within the exclusive domain of the Revenue Authorities.

Source: Court's construction of the statutory scheme of the Act and dismissal of both petitions on failure to exhaust.

Authority: Sections 116, 117, 161, 164 and 172 of the Punjab Land Revenue Act 1967

A demarcation carried out under Section 117 of the Act and unchallenged within limitation attains finality; a subsequent demarcation report has no legal sanctity in the presence of an earlier final demarcation absent a valid appellate/revisional order.

Source: Court's endorsement of the Member (Judicial-VI) BOR's finding that the 2010 demarcation had attained finality.

Authority: Sections 117, 161 and 164 of the Punjab Land Revenue Act 1967

OPERATIVE ORDER

'The nutshell of the above discussion is that the findings of forum below are in consonance with law, calling for no interference in exercise of writ jurisdiction. This being so, these petitions fail and are dismissed.'

FAMILY — JACTITATION OF MARRIAGE; APPRECIATION OF EVIDENCE WHERE LOVE-MARRIAGE PLEA IS MET BY ALLEGATIONS OF ABDUCTION**Muhammad Jamil v. Additional District Judge and others****WRIT PETITION DISMISSED; APPELLATE COURT'S DECREE IN FAVOUR OF THE FEMALE RESPONDENT-PLAINTIFF MAINTAINED**

Writ Petition No. 6494 of 2025 (LHC Bahawalpur Bench) · Bench: Justice Anwaar Hussain · Decided: 04.06.2026 · Uploaded: 02.07.2026

FACTS

The female respondent-plaintiff filed a suit for jactitation of marriage (takzeeb-e-nikah), pleading that she had been abducted and compelled to contract a marriage against her will. The petitioner asserted, on the contrary, that the parties had developed a consensual relationship that culminated in a voluntary elopement and love marriage, and filed a suit for restitution of conjugal rights. The two suits were consolidated. The Trial Court, by judgment dated 07.12.2023, dismissed the respondent-plaintiff's suit on the basis that the marriage stood established through the Nikahnama and that the parties belonged to the same caste (biradari) with prior acquaintance; it treated the controversy as one relating to dissolution of the marriage. The Appellate Court reversed on 27.08.2025 and decreed the jactitation suit, holding that the alleged marriage had not been shown to be the result of free and voluntary consent.

LEGAL ISSUE

What is the correct approach for a court appreciating evidence in cases where an alleged love marriage is pleaded by one party while the other party alleges abduction, coercion or forced marriage — and in particular, how is the evidentiary weight of a registered Nikahnama and a subsequent harassment petition to be assessed against the totality of the circumstances?

HOLDING

The petition was dismissed and the Appellate Court's decree of jactitation was maintained. The Court held that in such disputes: (i) The presence of documentary evidence — a registered Nikahnama or a harassment petition filed by the female — carries an initial appearance of validity but cannot be treated as conclusive where the very foundation of the marriage is challenged on the ground of absence of free consent; the court must examine the entire attending circumstances, before and after the alleged nikah. (ii) Where the parties are 'complete strangers' — not close relatives, neighbours, classmates, co-workers, or persons otherwise moving within the same social circle — the court is obligated to inquire into the origin and development of the alleged relationship. The law does not require proof through call records, social media exchanges or photographs; but the complete absence of any material explaining the genesis of the alleged relationship is itself a relevant circumstance. Here the parties belonged to different localities separated by more than 100 km, and the mere fact that they shared a caste (biradari) was of no significance. (iii) The evidentiary value of a harassment petition must be assessed in conjunction with the subsequent conduct of the parties; here the family had lodged recovery/criminal proceedings, and the respondent-plaintiff had appeared before the Magistrate under Section 164 Cr.P.C. and asserted abduction and forced marriage. (iv) A suit for takzeeb-e-nikah cannot ordinarily be transformed into one for dissolution where the plaintiff's case is that no valid marriage ever came into existence. The Appellate Court's findings were based on proper appreciation of evidence and free from misreading; the Trial Court's approach was correctly disapproved (*Mst. Farah Naz v. Judge Family Court, Sahiwal, PLD 2006 SC 457*).

LEGAL SIGNIFICANCE

A useful, structured approach to the recurring family-court dispute in which a Nikahnama and a harassment petition are relied upon against a plea of abduction and forced marriage. The judgment reads the Supreme Court's guidance in *Mst. Farah Naz (PLD 2006 SC 457)* into the jactitation context and articulates a practical checklist: (a) inquire into the genesis of the alleged relationship where the parties are strangers; (b) attach little weight to same-caste affinity in isolation; (c) read the harassment petition together with subsequent conduct; (d) resist transforming a takzeeb-e-nikah suit into one for dissolution. Practically important for family-law counsel and for revisional/writ courts dealing with abduction-marriage cases across Punjab.

LEGAL PROPOSITIONS (VERBATIM)

— 'Where the very foundation of the alleged marriage is challenged on the ground of absence of free consent, the Court cannot confine its inquiry to such documents alone. The question whether consent was genuine, voluntary and free from any coercion must be examined in the light of the entire attending circumstances, prior or after solemnization of the purported nikah.'

— 'The law does not require proof of a relationship through call records, social media exchanges, photographs or other forms of electronic communication, [but] the complete absence of any material explaining the genesis of the alleged relationship remains a relevant circumstance while evaluating the plea of a consensual love marriage.'

— 'A suit for takzeeb-e-nikah cannot ordinarily be transformed into one for dissolution of marriage where the plaintiff's case is that no valid marriage ever came into existence.'

LEGAL PRINCIPLES EXPOUNDED

Where the very foundation of an alleged marriage is challenged on the ground of absence of free consent, the court must look beyond the Nikahnama to the entire attending circumstances before and after the alleged solemnization.

Source: Court's articulation while affirming the Appellate Court's decree of jactitation.

Authority: Family Courts Act 1964; Mst. Farah Naz v. Judge Family Court, Sahiwal (PLD 2006 SC 457)

Where the parties are strangers (not relatives, neighbours, classmates or co-workers), the absence of any material explaining the genesis of the alleged relationship — while not a mandatory ingredient of proof — is itself a relevant circumstance in evaluating the plea of a consensual love marriage.

Source: Court's observation on parties belonging to different localities more than 100 km apart and mere same-caste affinity carrying no weight.

Authority: Judicial appreciation of evidence in family suits

A harassment petition filed by the female is relevant but not conclusive; its evidentiary value must be assessed in conjunction with the subsequent conduct of the parties, including recovery proceedings, criminal cases and statements recorded under Section 164 Cr.P.C.

Source: Court's holistic assessment of the female respondent-plaintiff's conduct after the alleged nikah.

Authority: Section 164 Cr.P.C.; evidentiary rules in family suits

A suit for jactitation (takzeeb-e-nikah) cannot ordinarily be treated by the trial court as one for dissolution of marriage where the plaintiff's case is that no valid marriage ever came into existence.

Source: Court's disapproval of the Trial Court's approach in treating the controversy as one relating to dissolution.

Authority: Family Courts Act 1964; Muslim Family Laws Ordinance 1961

OPERATIVE ORDER

'For the foregoing reasons, this petition is dismissed and the judgment and decree passed by the Appellate Court below are maintained. Parties shall bear their own costs.'

CIVIL — ATTORNEY'S SELF-DEALING UNDER A GENERAL POWER OF ATTORNEY; SPECIFIC PERFORMANCE

Haider Aftab and others v. Dilawar Khan (deceased) through Legal Heirs and others

CIVIL REVISIONS DISMISSED; CONCURRENT DECREES DECLARING THE GPA-BASED SALE TO THE ATTORNEY'S BROTHER-IN-LAW VOID UPHELD

*Civil Revision No. 31616 of 2025 (with Civil Revision No. 31617 of 2025) · Bench: Justice Muhammad Sajid Mehmood Sethi · Decided: 24.06.2026 · Uploaded: 30.06.2026***FACTS**

Dilawar Khan, admittedly the owner of the suit property, executed a registered General Power of Attorney dated 08.02.2010 in favour of Aftab Ahmad. The very next day — 09.02.2010 — Aftab Ahmad, acting as attorney, executed a registered agreement to sell in favour of Javed Hayat Bajwa, who happened to be his own brother-in-law, for a stated consideration of Rs. 25,00,000/- (with Rs. 22,00,000/- said to have been paid). Dilawar Khan revoked the GPA on 12.02.2010 and instituted, on 13.02.2010, a suit for declaration that the GPA and the agreement to sell had been obtained by fraud and misrepresentation and were of no legal effect. Javed Hayat Bajwa instituted a counter-suit for specific performance. The suits were consolidated. The Trial Court (22.06.2023) decreed the declaratory suit and dismissed the specific-performance suit; the Additional District Judge affirmed on 20.02.2025. The GPA-holder's LRs and the vendee-plaintiff filed the present civil revisions.

LEGAL ISSUE

Whether an attorney holding a General Power of Attorney may execute an agreement to sell the principal's property in favour of himself or his close relative without the express prior authority or subsequent ratification of the principal; and whether concurrent decrees to that effect were open to interference in revisional jurisdiction under Section 115 C.P.C.

HOLDING

The civil revisions were dismissed. The Court held that: (i) An attorney occupies a fiduciary position and is bound to exercise the authority delegated to him solely for the benefit of the principal; he cannot lawfully transfer the property to himself or to his kith and kin without the express prior authority or subsequent ratification of the principal, and such self-serving transactions invite strict judicial scrutiny (*Allah Bakhsh v. Muhammad Riaz*, PLD 2025 SC 63; *Muhammad Arshad v. Haq Nawaz*, 2019 YLR 958; *Muhammad Anwar v. Bahrawar Sultana*, 2021 CLC 1707; *Muhammad Mansha v. Saleem Bibi*, 2026 MLD 320). (ii) A General Power of Attorney, however widely worded, does not by itself authorize alienation of the principal's property to the attorney or his close relatives; the beneficiary bears a heavy burden to establish express authorization or ratification with full knowledge, and that the transaction is bona fide and free from conflict of interest. Registration merely raises a rebuttable presumption of due execution; it neither enlarges the authority conferred nor validates a transaction beyond that authority. (iii) The subsequent conduct — GPA 08.02.2010, agreement 09.02.2010, revocation 12.02.2010, declaratory suit 13.02.2010 — was inconsistent with consent or ratification. (iv) The petitioners' evidence was internally inconsistent; the vendee remained dormant for nearly nine years and sued only after the attorney's death, which was inconsistent with the continuous readiness and willingness required for specific performance. (v) Revisional jurisdiction under Section 115 C.P.C. is supervisory and not appellate; interference is permissible only where there is jurisdictional error, patent illegality, material irregularity, or misreading/non-reading of material evidence — none of which was demonstrated (*Abdul Hakeem v. Habibullah*, 1997 SCMR 1139; *Nasir Ali v. Muhammad Asghar*, 2022 SCMR 1054; *Farzana Zia v. Saadia Andaleeb*, 2024 SCMR 916).

LEGAL SIGNIFICANCE

A clear articulation of the fiduciary limits on an attorney under a General Power of Attorney: express authority (or informed ratification) is required for any self-dealing or alienation in favour of the attorney or a close relative, and registration of the instrument does not enlarge that authority. The judgment also reaffirms the discretionary and equitable character of specific performance — inordinate and unexplained delay by the vendee is fatal — and the narrow scope of Section 115 C.P.C. revisional jurisdiction. Useful for practitioners advising heirs or principals seeking to void GPA-based transfers to relatives of the attorney, and for revisional

courts declining to disturb well-reasoned concurrent findings.

LEGAL PROPOSITIONS (VERBATIM)

— 'An attorney occupies a fiduciary position and is bound to exercise the authority delegated to him solely for the benefit of the principal. An attorney cannot lawfully transfer the property of the principal either to himself or to his kith and kin without the prior knowledge, consent or specific authorization of the principal.'

— 'A General Power of Attorney, however widely worded, does not by itself authorize the attorney to alienate the principal's property in favour of himself or his close relatives.'

— 'A registered instrument cannot sanctify an otherwise unauthorized or legally impermissible transaction.'

LEGAL PRINCIPLES EXPOUNDED

An attorney holds a fiduciary position and cannot lawfully alienate the principal's property to himself or to his close relatives without express prior authority or informed ratification by the principal.

Source: Court's application of the fiduciary-duty rule in dismissing the civil revisions.

Authority: Allah Bakhsh v. Muhammad Riaz (PLD 2025 SC 63); Muhammad Arshad v. Haq Nawaz (2019 YLR 958); Muhammad Anwar v. Bahrawar Sultana (2021 CLC 1707); Muhammad Mansha v. Saleem Bibi (2026 MLD 320)

Registration of a General Power of Attorney and of the agreement to sell raises only a rebuttable presumption of due execution; it neither enlarges the authority conferred nor validates a transaction beyond the scope of that authority.

Source: Court's holding that registration cannot 'sanctify an otherwise unauthorized or legally impermissible transaction'.

Authority: Registration Act 1908

Specific performance is a discretionary and equitable remedy; the vendee must show continuous readiness and willingness to perform, and an inordinate unexplained delay in enforcement (here, nine years) will defeat the claim.

Source: Court's analysis of the vendee's prolonged inactivity following the dispute.

Authority: Specific Relief Act 1877; settled equitable jurisprudence

Revisional jurisdiction under Section 115 C.P.C. is supervisory and not appellate; interference is limited to cases of jurisdictional error, patent illegality, material irregularity or findings based on misreading or non-reading of material evidence.

Source: Court's application of the settled test to decline interference with concurrent findings.

Authority: Section 115 C.P.C.; Abdul Hakeem v. Habibullah (1997 SCMR 1139); Nasir Ali v. Muhammad Asghar (2022 SCMR 1054); Farzana Zia v. Saadia Andaleeb (2024 SCMR 916)

OPERATIVE ORDER

'Consequently, these civil revision petitions, being devoid of merit, are dismissed. No order as to costs.'

CIVIL — SUIT AGAINST A PERSON ALREADY DECEASED AT INSTITUTION; JURISDICTION AND IMPLEADMENT OF LEGAL HEIRS

Abdul Aziz (deceased) through his Legal Heirs v. Mst. Ayesha Bibi and others

CIVIL REVISION ALLOWED; CONCURRENT DECREES FOR SPECIFIC PERFORMANCE SET ASIDE; SUIT DISMISSED AS HAVING BEEN INSTITUTED AGAINST A PERSON ALREADY DECEASED

Civil Revision No. 6103 of 2024 · Bench: Justice Muhammad Sajid Mehmood Sethi · Decided: 22.06.2026 · Uploaded: 30.06.2026

FACTS

Respondents 1 and 2 (Mst. Ayesha Bibi and another) instituted a suit for possession through specific performance on 02.09.1996, on the basis of an alleged agreement to sell dated 10.12.1988 said to have been executed by Abdul Aziz. It was undisputed that Abdul Aziz had died on 06.12.1989 — almost seven years before the suit was filed. During the proceedings, upon learning of his death, the plaintiffs impleaded his legal heirs. The Trial Court decreed the suit, the Additional District Judge, Narowal dismissed the appeal on 05.01.2024, and the legal heirs filed the present civil revision. An application under Order VII Rule 11 C.P.C., supported by the death certificate, had been raised at the very threshold; the plaintiffs also sought to lead additional evidence including the deceased's passport, which allegedly showed he was outside Pakistan on the date of the alleged agreement.

LEGAL ISSUE

Whether a suit instituted against a sole defendant who had already died before its institution is competent in law, and whether the defect can be cured by subsequent impleadment of the legal heirs under Order I Rule 10 / Order XXII C.P.C.; and whether, in such circumstances, revisional interference under Section 115 C.P.C. is warranted despite concurrent findings.

HOLDING

The civil revision was allowed, the concurrent decrees were set aside and the suit was dismissed. The Court held that: (i) The law recognizes only living natural persons or juristic entities as capable of suing or being sued; a dead person has no legal personality and no civil existence. A suit instituted against a person who had already died before its institution is not merely a procedural irregularity but is a nullity in law — a 'still born' suit that never came into existence — and cannot be revived by subsequent impleadment. (ii) Jurisdiction cannot be created by ignorance; the plaintiffs' alleged lack of knowledge of the death is immaterial — the determinative factor is the legal position on the date of institution. (iii) Order I Rule 10 and Order XXII C.P.C. operate only where a validly instituted suit is already pending; they do not authorize resurrection of proceedings which were void ab initio, since substitution presupposes existence of a valid *lis*. (iv) The learned Trial Court failed to undertake the required jurisdictional inquiry when Order VII Rule 11 objection supported by the death certificate was raised. (v) Concurrent findings founded on failure to determine a jurisdictional issue going to the root of the matter warrant revisional interference. The Court relied on *Muhammad Yar (deceased) v. Muhammad Amin* (2013 SCMR 464), *Hafiz Brothers v. PICIC* (2001 SCMR 1), and *Ch. Muhammad Tufail Khan v. ZTBL* (PLD 2007 Lahore 180).

LEGAL SIGNIFICANCE

A firm restatement of a settled but recurring principle: a suit against a sole defendant who was dead at the date of institution is a nullity — a 'still born' suit — and cannot be cured by subsequent impleadment of the legal heirs; the plaintiff's only option is a fresh suit against the legal heirs, subject to limitation and all defences available to them. The judgment also usefully underscores that the plaintiffs' subjective ignorance of the defendant's death is legally irrelevant, and that a jurisdictional objection under Order VII Rule 11 supported by a death certificate must be squarely determined at the threshold. Practically important for civil counsel dealing with historical instruments and long-delayed specific-performance suits.

LEGAL PROPOSITIONS (VERBATIM)

— *'Where a suit / lis is against only one defendant / respondent of the case, undoubtedly it shall be invalidly instituted being against a sole dead person (defendant) and shall be a nullity in the eyes of the law as a whole; it shall be a still born suit / lis; an altogether dead matter, which cannot be revived; it shall, thus not merely be a defect which can be cured, rather fatal blow to the cause.'* - quoting *Muhammad Yar* (2013 SCMR 464).

— 'Jurisdiction cannot be created by ignorance, nor can the legal consequences flowing from an objective fact be altered by a party's subjective lack of knowledge.'

— 'Substitution is conceptually different from institution. It is available only where a valid proceeding already exists.'

LEGAL PRINCIPLES EXPOUNDED

A suit instituted against a sole defendant who had already died before its institution is a nullity - a 'still born' suit - and cannot be cured by subsequent impleadment of the legal heirs under Order I Rule 10 or Order XXII C.P.C.

Source: Court's application of the settled rule to set aside the concurrent decrees for specific performance.

Authority: *Muhammad Yar (deceased) v. Muhammad Amin* (2013 SCMR 464); *Hafiz Brothers v. PICIC* (2001 SCMR 1); *Ch. Muhammad Tufail Khan v. ZTBL* (PLD 2007 Lahore 180)

The plaintiff's subjective ignorance of the sole defendant's prior death is legally irrelevant; the determinative factor is the objective legal position on the date of institution.

Source: Court's rejection of the reasoning that ignorance cured the defect.

Authority: Judicial construction of Order I Rule 10 and Order XXII C.P.C.

Concurrent findings founded on failure to determine a jurisdictional issue going to the root of the matter lose their sanctity and warrant revisional interference under Section 115 C.P.C.

Source: Court's exercise of revisional jurisdiction despite concurrent findings.

Authority: Section 115 C.P.C.

OPERATIVE ORDER

'Consequently, this revision petition is allowed. The judgments and decrees passed by the learned Trial Court and affirmed by the learned Appellate Court are set aside. As a necessary consequence thereof, the suit instituted by the respondents/plaintiffs, having been filed against a person who had already died prior to its institution and thus being incompetent in law from its very inception, stands dismissed. There shall be no order as to costs.'

CIVIL — SPECIFIC PERFORMANCE; PROOF OF PAYMENT OF SALE CONSIDERATION; PLEADINGS VS. EVIDENCE

Hafiz Muhammad Shoaib v. Mohsin Bilal and others

CIVIL REVISION DISMISSED; CONCURRENT DISMISSAL OF THE VENDEE'S SPECIFIC-PERFORMANCE SUIT UPHELD

Civil Revision No. 24315 of 2025 · Bench: Justice Muhammad Sajid Mehmood Sethi · Decided: 22.06.2026 · Uploaded: 30.06.2026

FACTS

The petitioner-vendee instituted a suit for possession through specific performance on the basis of an alleged agreement to sell dated 10.09.2018 whereby respondent No. 1 was said to have agreed to sell his 2-Marla share for Rs. 600,000/-, of which Rs. 500,000/- was pleaded to have been paid as earnest money at the time of execution, with the balance to be paid by 10.09.2019. Respondent No. 1 admitted his signatures and thumb impressions on every page of the document but contended that he had signed blank papers out of trust. The Civil Judge, Hafizabad dismissed the suit on 16.11.2024; the District Judge, Hafizabad dismissed the appeal on 25.02.2025.

LEGAL ISSUE

Whether concurrent findings dismissing a specific-performance suit are open to revisional interference where the vendee has admittedly proved the signatures and thumb impressions of the vendor on the agreement but the pleadings and evidence on payment of the earnest money are materially inconsistent — the plaintiff asserting payment 'at the time of execution' but the vendee-witness deposing that payment was made about ten days earlier at a different location without witnesses.

HOLDING

The civil revision was dismissed. The Court held that: (i) Parties are bound by their pleadings and evidence travelling beyond pleadings must be ignored (*Muhammad Arif Tarar v. Matloob Ahmad Warraich*, PLD 2025

SC 691). A material contradiction between the plaint (payment at the time of execution) and the vendee's own testimony (payment ten days earlier at a different place) directly concerns the passing of consideration and cannot be brushed aside as a minor discrepancy. (ii) The petitioner failed to produce any witness to substantiate the alleged payment of Rs. 500,000/-; the marginal witnesses categorically stated no payment was made in their presence, and no receipt, bank record or independent documentary evidence was produced. In a suit for specific performance, the plaintiff is under a continuous obligation to establish payment of consideration (where so pleaded) and continuous readiness and willingness to perform (Muhammad Jamil v. Muhammad Arif, 2021 SCMR 1108). (iii) The witnesses to the document contradicted each other on the time, place and manner of execution — inconsistencies going to the very root of execution. (iv) Admission of signatures does not by itself relieve the plaintiff of the obligation to prove the transaction embodied in the document, particularly where the formation of the contract and passing of consideration are specifically disputed (Abdul Hameed v. Aisha Bibi, 2007 SCMR 1808); the mere death of an attesting witness does not dispense with the requirement of proof by legally admissible means (Anwar Ahmad v. Mst. Nafis Bano, 2005 SCMR 152). (v) The concurrent findings represent a plausible and legally sustainable view; revisional jurisdiction under Section 115 C.P.C. cannot be invoked merely to substitute one possible view with another (Salamat Ali v. Muhammad Din, PLD 2022 SC 353).

LEGAL SIGNIFICANCE

A useful consolidation of the evidentiary rules governing suits for specific performance where the vendor admits signatures but disputes the underlying transaction. The judgment operationalises the Supreme Court's 2025 restatement in Muhammad Arif Tarar that pleadings frame the boundaries of a party's case, and reaffirms Abdul Hameed (2007 SCMR 1808) and Anwar Ahmad (2005 SCMR 152) on the continuing burden of proof despite admission of signatures. Together with the same author-judge's decision in Haider Aftab (this issue), it presents an integrated picture of the LHC's approach to concurrent findings in specific-performance revisions.

LEGAL PROPOSITIONS (VERBATIM)

— *'Pleadings frame the boundaries of a party's case and the parties are bound to lead evidence in line with them. A party is not permitted to go beyond its pleadings and cannot lead or rely upon evidence that is inconsistent with what has been pleaded; even if such evidence is brought on record, it must be ignored.'* - quoting Muhammad Arif Tarar (PLD 2025 SC 691).

— *'A vendee cannot seek enforcement of reciprocal obligation on the part of vendor to execute sale deed, unless he demonstrate that he not only has the financial capacity but he was and is also always willing and ready to meet the same.'* - quoting Muhammad Jamil v. Muhammad Arif (2021 SCMR 1108).

— *'The admission of thumb-impression on the agreement in question, would not ipso facto prove its contents to raise the presumption of it being a genuine document to have the legal force.'* - quoting Abdul Hameed v. Aisha Bibi (2007 SCMR 1808).

LEGAL PRINCIPLES EXPOUNDED

Parties are bound by their pleadings; a material contradiction between the plaint and the party's own evidence on a core element such as passing of consideration cannot be treated as a minor discrepancy.

Source: Court's application of the pleadings-vs-evidence rule to reject the vendee's claim.

Authority: Muhammad Arif Tarar v. Matloob Ahmad Warraich (PLD 2025 SC 691)

In a suit for specific performance, admission of signatures does not, by itself, relieve the plaintiff of the burden of proving the transaction embodied in the document; the plaintiff must independently prove execution, payment of consideration and continuous readiness and willingness.

Source: Court's synthesis of the evidentiary burden despite admitted signatures.

Authority: Abdul Hameed v. Aisha Bibi (2007 SCMR 1808); Muhammad Jamil v. Muhammad Arif (2021 SCMR 1108); Anwar Ahmad v. Mst. Nafis Bano (2005 SCMR 152)

Revisional jurisdiction under Section 115 C.P.C. cannot be invoked merely to substitute one plausible view for another; interference is limited to jurisdictional error, patent illegality, material

irregularity or misreading/non-reading of material evidence.

Source: Court's application of the settled test in declining interference.

Authority: Section 115 C.P.C.; *Salamat Ali v. Muhammad Din* (PLD 2022 SC 353)

OPERATIVE ORDER

'For what has been discussed above, this revision petition, being devoid of merit, is dismissed. No order as to costs.'

Sindh High Court

1 judgment

CRIMINAL / CONSTITUTIONAL — QUASHMENT OF FIR; SECOND FIR; TORTURE AND CUSTODIAL DEATH (PREVENTION AND PUNISHMENT) ACT 2022; FIA JURISDICTION

Inayat Ali and another v. Federation of Pakistan and others

PETITION DISMISSED; SECOND FIR AT FIA POLICE STATION MIRPURKHAS CONSTRUED AS AN FIR AT A LOCAL POLICE STATION; TRIAL TO PROCEED

Const. P. No. D-1613 of 2025 - 2026 SHC KHI 1378 · Bench: Justice Nisar Ahmed Bhanbhro (author); Justice Muhammad Saleem Jessar · Decided: 30.06.2026 · Uploaded: 01.07.2026

FACTS

In the alleged 'Shahnawaz Kunbhar' encounter case, FIR Nos. 45/2024 and 46/2024 were first registered at Police Station Sindhri, Mirpurkhas, concerning a police encounter in which Shahnawaz Kunbhar was killed; subsequently, on complaint of his family, FIR No. 47/2024 was registered at the same police station against the officers concerned under Sections 302, 364, 148, 149, 120-B, 201 PPC and Sections 6/7 of the Anti-Terrorism Act 1997. The family filed Const. P. No. D-1326/2024 before the Sindh High Court at Mirpurkhas for a judicial inquiry. By order dated 21.10.2024, the SHC directed that the investigation of FIR No. 47/2024 be transferred to the FIA in view of the exclusive jurisdiction of the FIA under Section 5 of the Torture and Custodial Death (Prevention and Punishment) Act, 2022. On this transfer, however, FIA Composite Circle Mirpurkhas registered a fresh FIR No. 21/2024 concerning the same incident, adding Sections 8 and 9 of the 2022 Act; the earlier FIR No. 47/2024 was cancelled. The petitioners (police officers) filed the present Const. P. seeking quashment of the FIA's FIR No. 21/2024, principally on the ground that it was a second FIR contrary to *Sughran Bibi v. State* (PLD 2018 SC 595) and had been registered contrary to the SHC's earlier direction.

LEGAL ISSUE

(i) Whether, in cases of custodial torture and death, the Federal Investigation Agency has power under the Torture and Custodial Death (Prevention and Punishment) Act, 2022 not only to investigate but also to register an FIR at its own police station; and (ii) whether, having registered such a second FIR, the second FIR must be quashed under *Sughran Bibi* where the first FIR at the local police station has already been cancelled.

HOLDING

The petition was dismissed and the FIA-registered FIR No. 21/2024 was construed as an FIR recorded at a local police station. The Court held that: (i) The Act of 2022, though conferring exclusive jurisdiction on the FIA to investigate offences under it (Section 5) and exclusive triability by the Court of Sessions (Section 6), does not declare the FIA as a police station for the purposes of recording an FIR; the Act has not been inserted in the Schedule to the FIA Act 1974, and the FIA's power to register FIRs is confined to offences within that Schedule. FIRs in respect of custodial-torture incidents must, therefore, be recorded at the local police station, with the FIA conducting the investigation. (ii) In the present case, however, since the first FIR at PS Sindhri had already been cancelled (under Rule 25.7 of the Police Rules 1934 principles) and the FIA had submitted a report under Section 173 Cr.P.C. in respect of the second FIR, the accused would not be vexed twice — there was no case of double jeopardy — and the FIA's registration was a bona fide error of law that could be cured under Section 537 Cr.P.C. (iii) The Court takes cognizance on a police report under Section 173 Cr.P.C., not on the FIR itself; if the investigating officer discovers that the proper section carrying

the punishment was not applied, he may insert the relevant provision in the charge sheet. (iv) Given that FIR No. 47/2024 had been cancelled, the petitioners could not seek quashment of the second FIR merely for a trivial procedural mistake, particularly where they were facing accusations of a heinous crime of custodial killing. Sughran Bibi was distinguished on the facts and the case law relied on by both sides was found distinguishable.

LEGAL SIGNIFICANCE

An important calibration by the Sindh High Court on how the Torture and Custodial Death (Prevention and Punishment) Act, 2022 fits within the ordinary FIR/Section 173 Cr.P.C. framework. The Court holds that the FIA's Section-5 investigatory monopoly does not carry with it a power of FIR registration, and that FIRs in custodial-torture cases must originate at the local police station; but simultaneously refuses to allow that formal defect to defeat prosecution of a heinous crime where the earlier FIR has been cancelled, invoking Section 537 Cr.P.C. as a curative provision. Useful authority for investigating agencies and complainants navigating the interface between the 2022 Act, the FIA Act 1974 and the Cr.P.C., and clarifies the limits of Sughran Bibi in this specialised statutory setting.

LEGAL PROPOSITIONS (VERBATIM)

- *'FIA was not declared as a police station under the Act, 2022 to record an FIR, therefore cannot record an FIR of the custodial death. FIR of the incident shall be recorded at a local police station.'*
- *'The entrustment of investigation of cases pertaining to custodial torture and killings to FIA through special enactment was in consonance and equated the powers conferred to incharge of Police Station under section 156 of the Code of Criminal Procedure.'*
- *'In the present case though second FIR was not warranted by FIA, since the first FIR No 47/2024 has been canceled, therefore, the Petitioners accused will not be vexed twice and no case for double jeopardy is made out.'*

LEGAL PRINCIPLES EXPOUNDED

Under the Torture and Custodial Death (Prevention and Punishment) Act, 2022, the FIA has exclusive jurisdiction to investigate offences under the Act but not to register an FIR at an FIA police station; FIRs in respect of such incidents must be recorded at the local police station.

Source: Court's construction of Section 5 of the 2022 Act read with the FIA Act 1974 and the Schedule thereto.

Authority: Section 5, Torture and Custodial Death (Prevention and Punishment) Act 2022; FIA Act 1974 and Schedule thereto

The Court takes cognizance under Section 190 Cr.P.C. on a police report under Section 173 Cr.P.C. and not on the FIR itself; a bona fide error in the choice of forum for FIR registration is curable under Section 537 Cr.P.C. where the accused is not prejudiced.

Source: Court's reasoning that the FIA's error in registering FIR No. 21/2024 could be cured by Section 537 Cr.P.C. once the first FIR had been cancelled and a Section 173 report submitted.

Authority: Sections 173 and 537, Code of Criminal Procedure 1898

The Sughran Bibi principle that there can be only one FIR in respect of one occurrence is subject to distinction on facts; where the first FIR has been cancelled and the accused faces only the second FIR, no case for double jeopardy or serious prejudice is made out.

Source: Court's distinguishing of Sughran Bibi v. State (PLD 2018 SC 595) on the facts of the present case.

Authority: Sughran Bibi v. The State (PLD 2018 SC 595)

OPERATIVE ORDER

'For the foregoing reasons, this petition is dismissed. FIR No. 21 of 2024, registered at PS FIA, Mirpurkhas shall be construed to be an FIR recorded at local police station. Trial Court shall proceed with the matter and decide the fate of the case in accordance with law. The Petition stands disposed of in the above terms.'