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Pakistan Superior Courts — Verified Judgment Digest

Thursday, 16 July 2026

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CPC ORDER XXXII RULES 3 & 7 AND SECTION 12(2); GUARDIANS AND WARDS ACT 1890 S.29 - PROTECTION OF MINORS' PROPERTY RIGHTS AND PARDA NASHEEN DOCTRINE

Mst. Bushra Bibi widow of Muhammad Zubair & others v. Additional District Judge, Bahawalnagar & others

LEAVE GRANTED; PETITION CONVERTED INTO APPEAL AND ALLOWED; HIGH COURT JUDGMENT SET ASIDE; REVISIONAL COURT JUDGMENT RESTORED; NEW BINDING GUIDELINES ISSUED FOR ALL CIVIL AND REVENUE COURTS

C.P.L.A. 30-L/2025 · Bench: Amin-ud-Din Khan, CJ; Ali Baqar Najafi, J; Syed Arshad Hussain Shah, J · Decided: 09.07.2026 · Uploaded: 16.07.2026

FACTS

The controversy arose from a compromise judgment and decree passed by the Trial Court in a suit concerning immovable property in which certain defendants were admittedly minors. The petitioner (an illiterate parda nasheen widow) filed an application under Section 12(2) CPC contending that the minors' interests were not safeguarded and that her consent had been procured through misrepresentation. The Trial Court dismissed the Section 12(2) application. The Revisional Court, after a detailed order on 02.10.2017, accepted the application, set aside the compromise judgment and decree, and remanded the suit for decision afresh. The private respondents-decree-holders invoked constitutional jurisdiction; the Lahore High Court on 11.12.2024 accepted the writ petition and restored the Trial Court's dismissal of the Section 12(2) application. The record was silent as to whether any application under Order XXXII Rule 3 CPC had ever been filed or a guardian ad litem appointed for the minor defendants before the compromise was recorded, and no leave of the Court had been obtained under Order XXXII Rule 7 CPC. Nor had permission been obtained from the competent Guardian Court under Section 29 of the Guardians and Wards Act 1890 for a compromise affecting minors' immovable property.

LEGAL ISSUE

Whether a compromise decree recorded in disregard of the mandatory safeguards of Order XXXII Rules 3 and 7 CPC and Section 29 of the Guardians and Wards Act 1890 - particularly where an illiterate parda nasheen woman purportedly consented on behalf of minors whose immovable property was affected - can be sustained, and whether such circumstances fall within the mischief contemplated by Section 12(2) CPC.

HOLDING

The compromise, insofar as it affected the minors' rights, was vitiated. Appointment of a guardian ad litem under Order XXXII Rule 3 is mandatory, not discretionary. Leave of the Court under Order XXXII Rule 7 is mandatory before any compromise on behalf of a minor. Where minors' immovable property is involved, prior permission of the competent Guardian Court under Section 29 of the Guardians and Wards Act 1890 is required. Where an illiterate parda nasheen woman is involved, the beneficiary bears a heavy burden to prove informed, free and voluntary consent given after independent advice. The cumulative failures gave rise to a strong inference that the compromise was not the product of a lawful, informed and voluntary settlement, squarely attracting Section 12(2) CPC. The Revisional Court rightly set aside the compromise decree; the High Court fell into patent error in interfering. Leave granted, petition converted into appeal and allowed; the Trial Court's compromise judgment and decree remain set aside and the suit stands restored for trial afresh. Binding guidelines are laid down for all Civil and Revenue Courts.

LEGAL SIGNIFICANCE

This judgment (a) elevates Order XXXII CPC from mere procedure to substantive constitutional safeguards under Articles 4, 9, 23, 24, 25(3) and 35, invoking the doctrine of parens patriae as a positive obligation of the Court; (b) integrates constitutional protection with Qur'anic injunctions on protecting minors' property (Al-Nisa 4:2, 4:6, 4:10); (c) reaffirms and applies the parda nasheen doctrine of Phul Peer Shah v. Hafeez Fatima (2016 SCMR 1225) and Ghulam Muhammad v. Zohran Bibi (2021 SCMR 19) in tandem with minor-protection jurisprudence; (d) clarifies that a decree grounded on an unlawful compromise cannot acquire independent

legal sanctity merely by being incorporated in a court order, thereby squarely attracting Section 12(2) CPC; and (e) issues eight structured, prospective guidelines binding on all Civil and Revenue Courts across Pakistan, likely to be relied upon in every future minors-property compromise dispute.

LEGAL PROPOSITIONS (VERBATIM)

- *The appointment of a guardian for a minor defendant is a mandatory statutory requirement, and non-compliance therewith strikes at the very validity of the proceedings insofar as the rights of the minors are concerned.*
- *Any decree passed against a minor without compliance with the mandatory requirements of Order XXXII, Rule 3, CPC is liable to be declared void and of no legal effect, where such non-compliance has occasioned prejudice to the minor.*
- *A judicial decree cannot breathe legal life into an agreement which the law itself regards as vitiated.*
- *The State of the Islamic Republic of Pakistan, acting through its Courts, is the constitutional guardian (parens patriae) of minors and other vulnerable segments of society.*
- *Expedition in disposal can never be achieved at the cost of sacrificing mandatory statutory safeguards or constitutional guarantees.*

LEGAL PRINCIPLES EXPOUNDED

Appointment of a guardian ad litem for a minor defendant under Order XXXII Rule 3 CPC is mandatory upon the Court being satisfied of minority; the appointment must be preceded by an application, supported by affidavit, and notice to the minor and natural guardian.

Source: A plain reading of Rule 3 leaves no room for doubt that, once the Court is satisfied that a defendant is a minor, the appointment of a guardian ad litem is not discretionary but mandatory. Equally mandatory are the requirements that such appointment be preceded by an appropriate application supported by an affidavit and that notice be issued to the persons specified in sub - rule (4) before any order is passed.

Authority: Order XXXII Rules 3 and 7, CPC 1908; Tanveer Mahboob v. Haroon (2003 SCMR 480)

No next friend or guardian for the suit may enter into any compromise on behalf of a minor without leave of the Court expressly recorded; the Court must satisfy itself, on cogent material, that the compromise is demonstrably beneficial to the minor, particularly where interests diverge.

Source: It is equally well settled that, while considering whether to grant leave under Rule 7, the Court must satisfy itself, on the basis of cogent material, that the proposed compromise is demonstrably beneficial to the minor and does not prejudice his or her proprietary or other legal rights, particularly where the interests of the minor and those of the adult parties are divergent or potentially conflicting. Judicial approval cannot be accorded mechanically or as a matter of course; it must follow a conscious judicial determination that the compromise promotes the welfare of the minor.

Authority: Order XXXII Rule 7 CPC 1908

A natural guardian, including the mother, does not possess unfettered authority to compromise or otherwise dispose of a minor's immovable property; prior permission of the competent Guardian Court under Section 29 of the Guardians and Wards Act 1890 is a substantive safeguard, not an empty formality.

Source: It is well settled that a natural guardian, including the mother, does not possess an unfettered authority to transfer, relinquish, compromise or otherwise dispose of the immovable property of a minor. Any such transaction is subject to the supervisory jurisdiction of the Guardian Court, which is required to satisfy itself that the proposed transaction is demonstrably for the welfare and benefit of the minor.

Authority: Section 29, Guardians and Wards Act 1890

Where a transaction is entered into by a parda nasheen, illiterate or otherwise vulnerable woman, the burden rests heavily upon the beneficiary to prove by cogent, convincing and unimpeachable evidence that the executant fully understood the nature, contents and legal consequences and executed voluntarily after competent, independent and disinterested advice.

Source: It is by now a firmly settled principle of our jurisprudence that where a transaction is entered into by a parda nasheen, illiterate, rustic or otherwise vulnerable woman, the burden rests heavily upon the beneficiary of such transaction to establish, by cogent, convincing and unimpeachable evidence, that it represented her free, conscious and informed act. The beneficiary must affirmatively prove that the executant fully understood the nature and contents of the document, appreciated its legal consequences, was aware of the rights sought to be relinquished, and executed the transaction voluntarily after receiving competent, independent and disinterested advice.

Authority: Phul Peer Shah v. Hafeez Fatima (2016 SCMR 1225); Ghulam Muhammad v. Zohran Bibi (2021 SCMR 19)

A compromise decree derives its validity from the lawfulness of the underlying compromise; where the compromise is tainted by fraud, misrepresentation, undue influence, or non-compliance with mandatory statutory safeguards, the decree is amenable to challenge under Section 12(2) CPC and cannot acquire independent legal sanctity by virtue of judicial incorporation.

Source: It necessarily follows that where the compromise itself is tainted by fraud, misrepresentation, undue influence, uncertainty or any other circumstance rendering it unlawful or unenforceable, the decree founded thereon cannot acquire a higher or independent legal sanctity merely because it has been incorporated into a judgment of the Court.

Authority: Section 12(2) and Order XXIII Rule 3, CPC 1908

OPERATIVE ORDER

For the foregoing reasons, leave is granted. Consequently, this petition is converted into an appeal and is allowed. The judgment dated 11.12.2024 passed by the learned Single Judge of the Lahore High Court is set aside, and the judgment of the learned Revisional Court is restored. As a necessary consequence, the compromise judgment and decree passed by the learned Trial Court shall remain set aside, and the original suit shall stand restored to its file. The learned Trial Court shall proceed with the matter strictly in accordance with law and decide the suit afresh on its own merits after affording all concerned an adequate opportunity to adduce their respective evidence.

REGISTRATION ACT 1908 S.6; KP CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES 1989 - CABINET APPROVAL REQUIREMENT FOR GOVERNMENT ACTION; ARTICLE 212 CONSTITUTIONAL BAR; ENFORCEMENT OF STATUTORY RULES AGAINST CONTRARY EXECUTIVE ACTION

Senior Member Board of Revenue, Khyber Pakhtunkhwa & others v. Habib-ur-Rehman & others

LEAVE TO APPEAL REFUSED; PETITION DISMISSED

F.C.P.L.A. 300/2025 · Bench: Amin-ud-Din Khan, CJ; Syed Arshad Hussain Shah, J · Decided: 03.07.2026 · Uploaded: 16.07.2026

FACTS

The respondents (Sub-Registrars and Head Registration Muharrirs) challenged executive action of the Inspector General of Registration KP who, in 2021/2022, assigned duties of Sub-Registrar on additional-charge basis to Tehsildars, Naib Tehsildars and Kanungos. The assignments were made after Notification LR-IV/DLR/SSRC/2020:17635 dated 23.01.2020 amended the Rules to require that Sub-Registrars be filled 'exclusively by promotion, on the basis of seniority-cum-fitness, from amongst Head Registration Muharrirs' with the prescribed service. The Peshawar High Court on 10.09.2025 allowed the writ petition. Before the FCC, the KP AAG argued that Section 6 of the Registration Act 1908 empowers the Government to appoint 'such person, whether public officers or not, as it thinks proper' as Sub-Registrar, and that Article 212 barred the High Court's jurisdiction.

LEGAL ISSUE

(i) Whether an assignment order issued by the Inspector General of Registration qualifies as an appointment by the 'Government' within the meaning of Section 6 of the Registration Act 1908 in the absence of Cabinet approval; (ii) whether appointments made in contravention of amended service rules can be sustained; and (iii) whether Article 212 of the Constitution bars the High Court's constitutional jurisdiction where the controversy concerns enforcement of mandatory statutory rules and legality of executive action.

HOLDING

An order passed by an authority or individual cannot be regarded as a decision or order of the Government unless it has been approved by the Cabinet. The IG's additional-charge assignments to Tehsildars, Naib Tehsildars and Kanungos - who do not constitute the prescribed promotional feeder cadre - lacked Cabinet backing, do not fall within Section 6 of the Registration Act 1908, and are in violation of the Rules as amended by the 2020 Notification. Rules framed under an Act constitute subordinate legislation with the force of law and cannot be disregarded. The Article 212 bar is not attracted where the dispute involves substantial

questions on enforcement of mandatory statutory rules and legality of executive action in excess of statutory power; the High Court is competent under Article 199. Leave refused; petition dismissed.

LEGAL SIGNIFICANCE

This judgment (a) firmly restates the constitutional convention that no 'Government' decision exists without Cabinet approval - a critical guardrail against executive appointments made by individual officeholders in the name of the Government; (b) reinforces that statutory rules, once promulgated, bind the very Government that framed them; and (c) marks out the boundary of Article 212 - service-related disputes engaging enforcement of statutory rules and legality of executive action remain within the High Court's Article 199 jurisdiction, and are not swept into service-tribunal exclusivity merely because civil servants are affected.

LEGAL PROPOSITIONS (VERBATIM)

- *Legal parameters governing the exercise of executive authority performed by an individual or officeholder cannot be regarded as decision/action of the Government unless the same have approval by the Cabinet, as an action/ order of the Government must have the backing of the Cabinet.*
- *The rules framed under an Act constitute subordinate legislation and have the force of law. Consequently, they are legally binding and cannot be disregarded or contravened.*
- *Once such rules are promulgated, the Government /authorities are under a corresponding legal obligation to adhere to and implement them in their true letter and spirit unless repealed.*
- *Where a dispute involves substantial questions relating to the enforcement of mandatory statutory rules or the legality and validity of executive action undertaken in disregard of such statutory provisions and in excess of or contrary to the powers conferred by law, the High Court is competent to exercise its constitutional jurisdiction under Article 199 of the Constitution, and the bar contained in Article 212 of the Constitution is not attracted.*

LEGAL PRINCIPLES EXPOUNDED

An action or order attributed to 'the Government' requires Cabinet backing; an executive act performed by an individual officeholder without Cabinet approval cannot be treated as a decision of the Government for the purpose of statutory provisions conferring appointment power on the Government.

Source: *Legal parameters governing the exercise of executive authority performed by an individual or officeholder cannot be regarded as decision/action of the Government unless the same have approval by the Cabinet, as an action/ order of the Government must have the backing of the Cabinet. In the present case, the appointments were made by the Inspector General of Registration without the approval of the Cabinet.*

Authority: *Section 6, Registration Act 1908; Mustafa Impex v. Government of Pakistan (PLD 2016 SC 808) principle applied*

Rules framed under an Act are subordinate legislation with the force of law; the Government is bound to implement its own rules in letter and spirit unless they are repealed, and cannot act in derogation of the rules it has framed.

Source: *It is observed that the rules framed under an Act constitute subordinate legislation and have the force of law. Consequently, they are legally binding and cannot be disregarded or contravened.*

Authority: *KP Civil Servants (Appointment, Promotion and Transfer) Rules 1989; Notification dated 23.01.2020*

The Article 212 bar on High Court jurisdiction is not attracted where the substantive controversy is the enforcement of mandatory statutory rules or the legality of executive action taken in excess of statutory power, even where civil servants are affected; the High Court retains competence under Article 199 in such cases.

Source: *It may be observed that where a dispute involves substantial questions relating to the enforcement of mandatory statutory rules or the legality and validity of executive action undertaken in disregard of such statutory provisions and in excess of or contrary to the powers conferred by law, the High Court is competent to exercise its constitutional jurisdiction under Article 199 of the Constitution, and the bar contained in Article 212 of the Constitution is not attracted.*

Authority: *Articles 199 and 212, Constitution of Pakistan*

OPERATIVE ORDER

Consequently, finding no merit or substance in the instant petition, the same is hereby dismissed. Leave to appeal is, accordingly, refused.

REVIEW JURISDICTION; ARTICLE 10-A RIGHT TO FAIR HEARING; ISLAMABAD NATURE CONSERVATION AND WILDLIFE MANAGEMENT ACT 2024 - JUDICIAL POWER IN INTERLOCUTORY PROCEEDINGS; CORRECTION OF MANIFEST ERROR IN REVIEW

Metropolitan Corporation Islamabad & Capital Development Authority v. Monal Group of Companies & others (Review)

REVIEW PETITIONS ALLOWED; EARLIER SUPREME COURT JUDGMENT DATED 21.08.2024 AND CONSEQUENTIAL REVIEW JUDGMENT DATED 03.09.2024 REVIEWED AND SET ASIDE IN THE TERMS SPECIFIED; MATTER REMITTED TO CIVIL COURT TO PROCEED ON MERITS

C.R.P. 825/2024 & F.C.R.P. 44/2025 in C.P.L.A. 304/2022 · Bench: Syed Hasan Azhar Rizvi, J; Aamer Farooq, J; Syed Arshad Hussain Shah, J · Decided: 13.07.2026 · Uploaded: 15.07.2026

FACTS

The controversy originated from a 2006 CDA lease of the Monal Restaurant site at Pir Sohawa, later contradicted by a 2019 RV&FD lease. Two civil suits were pending: Monal Group's declaration/injunction suit (2021), and Metropolitan Corporation Islamabad's separate eviction/possession suit. The Islamabad High Court, while deciding public-interest writ petitions on the Margalla Hills National Park, clubbed a Civil Revision and F.A.O. arising out of interlocutory injunction refusals and, by short order 11.01.2022 and consolidated judgment, held the RV&FD lacked jurisdiction to execute the 2019 Agreement and declared it void. The Supreme Court on 21.08.2024 upheld the High Court and made sweeping general declarations that any lease, licence, allotment, or permission by the CDA, RV&FD or any other authority for restaurants within the MHNP was contrary to the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance 1979 and of no legal effect; it also allowed the Wildlife Management Board to withdraw the deposited rent. The petitioners (MCI and CDA), arrayed as respondents in the review, contended they had not been effectively heard.

LEGAL ISSUE

(i) Whether the High Court and Supreme Court exceeded their jurisdiction by rendering final and conclusive determinations on substantive controversies pending before the Civil Court while disposing of only interlocutory proceedings; (ii) whether a judgment affecting the rights of parties who were not effectively heard can attain finality under Article 10-A; and (iii) whether the review jurisdiction may be exercised to correct manifest error where doing so is essential to prevent a miscarriage of justice.

HOLDING

The High Court and Supreme Court transgressed the limits of their jurisdiction by finally adjudicating substantive controversies while disposing of interlocutory Civil Revision and F.A.O. proceedings, and by affecting the rights of persons not effectively heard. This represented an exceptional instance of grave miscarriage of justice. The duty to correct error is an obligation cast upon every judge by the judicial oath; the power to rectify a manifest wrong inheres in the very function of the Court and does not depend on an enabling procedural rule. Rules of procedure cannot obstruct justice. The review petitions are allowed. The impugned judgment is reviewed: questions of ownership, entitlement, lease and rent are for the Civil Court after evidence; the MHNP being part of the Islamabad Capital Territory, the CDA has statutory jurisdiction over building activity for public purpose; and the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance 1979 having been repealed, the Nature Conservation and Wildlife Management Board constituted under Section 3 of the Islamabad Nature Conservation and Wildlife Management Act 2024 now implements the Act, including construction compliance under Section 12(3) and (4). All consequential/derivative judgments including the earlier review judgment fall as an inevitable legal consequence.

LEGAL SIGNIFICANCE

This is a jurisprudentially significant decision: (a) it firmly reasserts the principle that findings in interlocutory Civil Revisions and FAOs must remain tentative and cannot prejudge merits of pending civil suits; (b) it treats

Article 10-A as a substantive bar to the finality of judgments rendered without effective hearing to affected parties; (c) it articulates a robust conception of inherent review power to correct manifest error - not just Order XLVII CPC review - grounded in the judicial oath itself; (d) it recognises the succession of the Nature Conservation and Wildlife Management Board under the Islamabad Nature Conservation and Wildlife Management Act 2024 as the current framework for the MHNP, replacing the repealed 1979 Ordinance; (e) it confirms CDA's jurisdiction over building activity within the MHNP as part of the ICT; and (f) it directs that fresh interim-relief applications before the trial court be decided uninfluenced by the earlier Supreme Court and High Court orders.

LEGAL PROPOSITIONS (VERBATIM)

- *Where a Court, by adopting a particular procedure, does something that it never intended, thereby resulting in a miscarriage of justice, it possesses inherent jurisdiction to rectify such an error.*
- *A judgment affecting the rights of persons who have not been heard cannot ordinarily be permitted to attain finality merely because it has been pronounced by the highest Court.*
- *The duty to correct an error is an obligation cast upon every Judge by the solemn oath taken upon assuming judicial office to preserve, protect, and defend the Constitution and the law of Pakistan.*
- *The power to rectify a manifest wrong does not depend upon the existence of an enabling procedural rule; rather, it inheres in the very function of the Court.*
- *Justice is a virtue which transcends all barriers, and that rules of procedure, technicalities, or procedural formalities cannot be permitted to obstruct the administration of justice. Law must bend in aid of justice.*

LEGAL PRINCIPLES EXPOUNDED

Where interlocutory Civil Revisions and F.A.O.s arise from injunction proceedings while substantive civil suits remain pending, the High Court must confine itself to tentative observations and cannot render final determinations that prejudice merits requiring evidence.

Source: *the High Court, in particular, overlooked the fundamental legal position that the Civil Revision and the F.A.O. before it arose from interlocutory proceedings only, whereas the substantive disputes remained sub judice before the Civil Court in the form of civil suits. Those disputes were yet to be adjudicated upon after the parties had been afforded a full opportunity to lead their respective evidence, and the same had been properly appreciated in accordance with law. The High Court was required to decide those proceedings independently by making only tentative observations so that the merits of the main cases pending adjudication remained uninfluenced.*

Authority: Article 199, Constitution; Order XXXIX Rules 1 & 2 CPC

Under Article 10-A of the Constitution, a judgment that adversely affects parties who were not afforded an effective opportunity to be heard cannot ordinarily attain finality, even when pronounced by the apex court; the review jurisdiction may correct such prejudice.

Source: *The prejudice was further compounded in the review jurisdiction, where the present petitioners, who were arrayed as respondents, despite being directly affected by the impugned judgment, were not afforded an effective opportunity to present their case before the Court. A judgment affecting the rights of persons who have not been heard cannot ordinarily be permitted to attain finality merely because it has been pronounced by the highest Court.*

Authority: Article 10-A, Constitution of Pakistan

The inherent power to correct manifest error inheres in the very function of the Court and derives from the judicial oath; it does not depend on the existence of an enabling procedural rule and cannot be defeated by procedural technicalities where injustice would otherwise endure.

Source: *the duty to correct an error is an obligation cast upon every Judge by the solemn oath taken upon assuming judicial office to preserve, protect, and defend the Constitution and the law of Pakistan. The power to rectify a manifest wrong does not depend upon the existence of an enabling procedural rule; rather, it inheres in the very function of the Court.*

Authority: *Chairman, Board of Intermediate & Secondary Education, Lahore v. Ali Mir (1984 SCMR 433); Suba v. Fatima Bibi (1996 SCMR 158)*

Following repeal of the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance 1979, the Nature Conservation and Wildlife Management Board constituted under Section 3 of the Islamabad Nature Conservation and Wildlife Management Act 2024 is now responsible for implementing the Act, including compliance of construction within the MHNP under Section 12(3) and (4).

Source: since the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance, 1979 has been repealed, the Nature Conservation and Wildlife Management Board constituted under section 3 of the Islamabad Nature Conservation and Wildlife Management Act, 2024 is responsible for implementing the provisions of the Act, including ensuring that the construction of rest houses, hotels, and other buildings for the public within the MHNP complies with sub - sections (3) and (4) of section 12 thereof .

Authority: Sections 3 and 12(3), (4), Islamabad Nature Conservation and Wildlife Management Act 2024

OPERATIVE ORDER

For detailed reasons to be recorded later, and subject to such amplification and/or explanation therein as is considered appropriate, the above review petitions are allowed, and the impugned judgment is reviewed in the terms set out at (I) to (V), including that questions of entitlement, lease and rent involve disputed facts for the Civil Court after evidence; the CDA has jurisdiction over building activity within the MHNP; the Nature Conservation and Wildlife Management Board under the 2024 Act now regulates the MHNP; the consolidated suits shall proceed uninfluenced by the earlier Supreme Court and High Court orders; and all consequential judgments fall. No order as to costs.

Lahore High Court

5 judgments

LAHORE DEVELOPMENT AUTHORITY ACT 1975 S.13(6) & S.46; LDA PRIVATE HOUSING SCHEMES RULES 2014 RULE 24; MANAGEMENT AND TRANSFER OF PROPERTIES BY DEVELOPMENT AUTHORITIES ACT 2014 - AMENITY SITES IN COOPERATIVE HOUSING SCHEMES, PUBLIC TRUST DOCTRINE, AND CONSTITUTIONAL IMPERATIVE OF TIMELY AMENITY PROVISION

AGRICS Cooperative Housing Society Limited v. Province of Punjab through Chief Secretary & others

PETITION DISPOSED OF; CONSTITUTIONAL CHALLENGE TO SECTION 13(6) LDA ACT AND RULE 24 OF 2014 RULES REPELLED; LDA DIRECTED TO DISPOSE OF SCHOOL AMENITY SITE WITHIN THREE MONTHS AND THEREAFTER COMPLY WITH REGULATION 10 OF 2023 REGULATIONS OR LEASE RIGHTS REGULATIONS 2024

W.P. No. 49830 of 2022 - 2026 LHC 4699 · Bench: Raheel Kamran, J · Decided: 15.07.2026 · Uploaded: 15.07.2026

FACTS

AGRICS Cooperative Housing Society Ltd, registered under the Cooperative Societies Act 1925 in 1982, obtained LDA layout-plan approval in 1987 subject to a 30% saleable-area mortgage. A registered mortgage deed dated 12.08.1990 (executed after the Society itself proposed in a 01.06.1989 letter that the mortgage deed should also operate as the transfer deed) mortgaged plots and transferred approximately 160 Kanals of open spaces and public-building sites (school, dispensary, mosque, post office, graveyard). Final approval of the scheme followed on 20.10.1990. When the Society sought to build a school and other facilities, LDA withheld approval on the ground that the amenity sites had not been transferred, and continued to insist on possession. The Society invoked Article 199 challenging LDA's stance, the mortgage-deed transfer clause, the constitutional validity of Section 13(6) LDA Act 1975 (inserted by the 2013 Amendment Act) and Rule 24 of the LDA Private Housing Schemes Rules 2014, invoking Articles 3, 4, 9, 10-A, 14, 18, 23, 24 and 25.

LEGAL ISSUE

(i) Whether a cooperative housing society registered under the Cooperative Societies Act 1925 is exempt from LDA regulatory jurisdiction; (ii) whether the registered mortgage deed of 21.08.1990 (Clause 5) validly transferred the amenity sites to LDA; (iii) whether Section 13(6) LDA Act inserted in 2013 operates retrospectively; (iv) whether LDA has an unrestricted right to alienate or commercially exploit amenity sites; (v) whether Section 13(6) LDA Act and Rule 24 of the 2014 Rules are constitutionally valid; and (vi) whether LDA's delay in disposing of and putting to public use amenity sites for over three decades attracts constitutional intervention.

HOLDING

All challenges fail. A cooperative housing society is not immune from the LDA regulatory regime; Section 46 LDA Act ensures the Act prevails on planning and housing matters. The 1990 mortgage deed - which the Society itself proposed should serve as the transfer deed - validly transferred the amenity sites; instrument effect turns on substance, not nomenclature. The 1990 arrangement rested on the then-prevailing regulatory framework, so no retrospectivity question in fact arises. Amenity sites vest in LDA subject to a statutory public

trust: LDA may deal with them under the Management and Transfer of Properties by Development Authorities Act 2014 and the LDA regulations of 2023 and 2024, but consistent with the reservation purpose, transparent process, and applicable timeframes. Section 13(6) LDA Act and Rule 24 of the 2014 Rules are constitutionally valid, particularly in view of Article 24(3)(e). However, LDA's over-three-decade failure to put the school amenity site to public use violates residents' Articles 9, 9A, 14 and 25A rights; the Court exercises its Article 199(1)(c) power to issue positive directions.

LEGAL SIGNIFICANCE

This is a major planning-law and constitutional-rights decision: (a) it definitively subordinates cooperative housing societies within LDA jurisdiction to LDA planning regulation on the basis of Section 46 (Act to prevail) rather than the *specialia generalibus maxim*; (b) it applies substance-over-form to hold that a mortgage deed that in fact transfers title operates as a transfer deed; (c) it develops the public-trust doctrine as a substantive limit on statutory authorities' proprietary interest in amenity sites; (d) it maps the current disposal framework under the Management and Transfer of Properties by Development Authorities Act 2014 and LDA Regulations 2023 (Regulation 5(2)/(2)(e)/10) and Lease Rights Regulations 2024 (Regulation 7); (e) it enforces the right to a healthy, dignified educational environment under Articles 9, 9A, 14 and 25A by structured discretion doctrine (following *Regional Transport Authority v. Pakistan Mutual* PLD 1991 SC 14) and issues a three-month positive directive; and (f) it is likely to be relied upon by residents' associations and cooperative societies across Punjab seeking accountability for undeveloped amenity sites.

LEGAL PROPOSITIONS (VERBATIM)

- *The Cooperative Societies Act, 1925 primarily regulates the constitution, administration and internal management of cooperative societies, whereas the LDA Act regulates planned urban development, land use, zoning and approval of housing schemes within the metropolitan area. The rights and obligations arising under one enactment neither supersede nor exclude those created by the other.*
- *The legal effect of an instrument depends not upon its title but upon its substance, the intention of the parties and the rights and obligations created thereby.*
- *The proprietary interest acquired by LDA remains inseparably coupled with the statutory obligations imposed upon it and must be exercised consistently with the object underlying the reservation.*
- *Land meant for amenities and for parks and play grounds cannot be legally and justifiably allotted to private persons for their exploitation as a commercial venture or for residential purposes.*
- *The failure of the LDA to ensure the disposal and development of the site in question is not merely an administrative oversight; it is a direct violation of the fundamental rights of the members of the petitioner-society to live with dignity in an educational and healthy environment, as guaranteed under Articles 9, 9A, 14, and 25A of the Constitution.*

LEGAL PRINCIPLES EXPOUNDED

Registration of a cooperative housing society under the Cooperative Societies Act 1925 does not exempt it from the LDA planning regime; Section 46 LDA Act's overriding clause ensures the LDA Act prevails on master-plan, land-use and housing matters, and the *specialia generalibus maxim* is inapplicable where the legislature has enacted an overriding provision.

Source: Consequently, the *maxim specialia generalibus derogant* 4, heavily relied upon by the learned counsel for the petitioner, has no application where the legislature itself has enacted an overriding clause determining the field of operation of the statute.

Authority: Sections 13(5), 46 LDA Act 1975; *Amer Bakht Azam v. Cooperative Model Town Society* (PLD 2007 Lahore 636)

The legal effect of an instrument depends on its substance and the parties' intention, not its title; a document labelled a 'mortgage deed' that in substance transfers amenity sites operates as a transfer deed where the parties so intended and the transferor itself proposed that arrangement.

Source: Equally devoid of merit is the submission that the transfer failed merely because it was incorporated in a document described as a "mortgage deed". The legal effect of an instrument depends not upon its title but upon its substance, the intention of the parties and the rights and obligations created thereby.

Authority: *Mst. Fakhra Jabeen v. Wasif Ali* (PLD 2026 SC 20); *Muhammad Usman v. Additional District Judge, Lahore* (PLD 2010 Lahore 281)

Amenity sites vested in a development authority are held on a statutory public trust; the authority's proprietary interest is coupled with statutory obligations and must be exercised consistently with the reservation purpose, applicable statutory framework and through a fair, transparent, non-arbitrary process.

Source: Vesting of title in a statutory authority is qualitatively different from ownership enjoyed by a private individual. The proprietary interest acquired by LDA remains inseparably coupled with the statutory obligations imposed upon it and must be exercised consistently with the object underlying the reservation. This is reinforced by the doctrine of public trust, consistently recognized by the superior courts as governing the exercise of statutory power over property dedicated to public use, under which a public authority holds and administers such property for the benefit of the public and not as an ordinary commercial owner.

Authority: Niamatullah Khan Advocate v. Federation of Pakistan (2022 SCMR 171); Management and Transfer of Properties by Development Authorities Act 2014, s.3

Where a statute is silent on the time within which a public authority must perform a discretionary act, the discretion must be exercised reasonably, in good faith and within a reasonable time; prolonged administrative inaction attracts judicial review under Article 199, particularly where fundamental rights of residents to a dignified, healthy and educational environment are implicated.

Source: Even discretionary power must be exercised reasonably and in good faith and wide discretionary powers ought to be structured through open plans, policy statements, rules and precedents. An unstructured, arbitrary, delayed, or capricious exercise of discretion remains highly vulnerable to judicial review.

Authority: Chairman, Regional Transport Authority, Rawalpindi v. Pakistan Mutual Insurance Company Ltd (PLD 1991 SC 14); Human Rights Commission of Pakistan v. Government of Pakistan (PLD 2009 SC 507); Articles 9, 9A, 14, 25A, 199(1)(c) Constitution

OPERATIVE ORDER

In view of the foregoing, since a considerable period has elapsed and the amenity site reserved for the school in the petitioner-society has not been put to its reserved public use, LDA is directed to ensure the disposal of the school amenity site in question within 03 (three) months from the date of this judgment, by auction, allotment, or lease, as permissible under the applicable law, Rules and Regulations. After such disposal, the building period prescribed under Regulation 10 of the Transfer of Properties by LDA (Amended) Regulations, 2023, shall apply, or, if lease is the mode adopted, the corresponding construction obligation under the Management of Properties of LDA (Lease Rights) Regulations, 2024, shall apply. It is clarified that nothing in this judgment recognizes an unrestricted right in LDA to alienate, auction, lease, or otherwise utilize amenity sites for purposes inconsistent with the object of their reservation. This petition stands disposed of in the above terms.

CODE OF CRIMINAL PROCEDURE 1898 SECTION 173 - DISTINCTION BETWEEN 'DISCHARGE' AND 'RELEASE' OF AN ACCUSED UPON REPORT; SCOPE OF MAGISTRATE'S INQUIRY INTO SUFFICIENCY OF GROUNDS

Muhammad Abid v. The State & 3 others

PETITION ALLOWED; JUDICIAL MAGISTRATE'S ORDER DATED 31.03.2026 SET ASIDE; TRIAL COURT DIRECTED TO PROCEED STRICTLY WITHIN THE FOUR CORNERS OF LAW

W.P. No. 30718 of 2026 - 2026 LHC 4694 · Bench: Abher Gul Khan, J · Decided: 09.07.2026 (announced); 14.07.2026 (dictated, prepared and signed) · Uploaded: 15.07.2026

FACTS

The petitioner complainant lodged FIR No. 122/2025 dated 12.01.2025 under Section 406 PPC alleging that respondent No.3 obtained possession of a Suzuki Cultus from the petitioner's showroom as trust, failed to return it, and, on demand, extended assurances of compensation without payment. On investigation, the police submitted a Section 173 Cr.P.C. report finding respondent No.3 prima facie involved. Rather than summoning the accused, the Judicial Magistrate, Section-30, Cantt., Lahore, issued notice to the complainant, heard him (with a photocopy of an alleged witness affidavit), and by order dated 31.03.2026 'released' respondent No.3, entering into detailed disputed factual assessments (absence of a written entrustment agreement, complainant's failure to produce ownership documents, alleged mala fides). The complainant challenged this order under Article 199.

LEGAL ISSUE

(i) Whether, upon a police report under Section 173 Cr.P.C. finding the accused prima facie involved, a Magistrate is empowered to 'release' the accused or is limited to either summoning or 'discharging' as per the Cr.P.C. scheme; and (ii) whether at that stage the Magistrate may enter into disputed questions of fact and appraise evidence.

HOLDING

The expression 'release' finds no place in the Cr.P.C. scheme (Sections 241-249-A) for terminating criminal proceedings at the pre-trial stage. Section 173(3) empowers a Magistrate to 'discharge' the accused only when agreeing with the police opinion and finding the material insufficient to warrant further proceedings; 'release' is a term of art applicable to persons in custody being set at liberty. The distinction goes to the root of jurisdiction. Where the investigating agency reports the accused as prima facie involved, the Magistrate is only required to satisfy himself as to the existence of sufficient grounds to proceed and cannot undertake meticulous appraisal of evidence or record findings on merits (absence of written agreement, ownership issues, mala fides, evidentiary value) - such questions require adjudication after trial. The Magistrate transgressed jurisdictional limits and used terminology alien to the Cr.P.C. scheme; the order is set aside.

LEGAL SIGNIFICANCE

This judgment sharpens two magisterial-jurisdiction points frequently blurred in practice: (a) the terminological and jurisdictional distinction between 'discharge' (Section 173(3) Cr.P.C.) and 'release' (from custody), holding that terminology matters because it goes to the root of magisterial jurisdiction; and (b) the confined scope of Section 173 examination - existence or otherwise of sufficient grounds to proceed - forbidding pre-trial merits adjudication of disputed factual questions such as ownership, absence of written agreements, or mala fides, which must abide trial evidence.

LEGAL PROPOSITIONS (VERBATIM)

— *The expression 'release' finds no place in the scheme of procedure provided to regulate the magisterial trial under Sections 241 to 249-A of Cr.P.C. insofar as the termination of criminal proceedings at the pre-trial stage is concerned.*

— *In a case where the Magistrate for reasons to be recorded arrives at the conclusion that no case is made out for summoning the accused, the course envisaged by law is to discharge the accused and not to release him from the case.*

— *The distinction between the expressions 'discharge' and 'release' is not one of mere semantic rather it strikes at the very root of the jurisdiction exercisable by a criminal court under the statutory framework of Cr.P.C.*

— *The learned Court was only required to satisfy itself as to the existence or otherwise of sufficient grounds to proceed against the accused and was not expected to undertake a meticulous appraisal of the evidence or to record findings touching upon the merits of the controversy.*

LEGAL PRINCIPLES EXPOUNDED

Under the Cr.P.C. scheme, a Magistrate receiving a Section 173 report finding the accused prima facie involved is limited to either summoning the accused or, if reasons are recorded for insufficiency of material, 'discharging' under Section 173(3); the term 'release' has no place in pre-trial termination and its use goes to the root of jurisdiction.

Source: *the expression "release" finds no place in the scheme of procedure provided to regulate the magisterial trial under Sections 241 to 249-A of Cr.P.C. insofar as the termination of criminal proceedings at the pre-trial stage is concerned. Subsection 3 of Section 173 Cr.P.C. empowers a Magistrate to discharge the accused while agreeing with the opinion of the police provided the material brought before the Court is considered insufficient to warrant further proceedings, whereas the term "release" is ordinarily employed in relation to an accused in custody who is ordered to be set at liberty.*

Authority: *Sections 173, 241-249-A, Cr.P.C. 1898*

At the Section 173 report stage, a Magistrate's inquiry is confined to whether sufficient grounds exist to proceed; the Magistrate may not undertake meticulous appraisal of evidence or record findings on disputed questions of fact that require trial adjudication.

Source: *The learned Court was only required to satisfy itself as to the existence or otherwise of sufficient grounds to proceed against the accused and was not expected to undertake a meticulous appraisal of the evidence or to record*

findings touching upon the merits of the controversy. The questions relating to the absence of a written agreement, the ownership of the vehicle, the alleged mala fides attributed to the complainant, and the evidentiary value of the material collected during investigation were all matters requiring adjudication after the parties had been afforded an opportunity to lead evidence during the course of a regular trial.

Authority: *Safdar Ali v. Zafar Iqbal* (2002 SCMR 63)

OPERATIVE ORDER

For the foregoing reasons, the instant petition is allowed and the order dated 31.03.2026 passed by the learned Judicial Magistrate, Section-30, Cantt., Lahore, is set-aside. As a necessary corollary, the trial Court is directed to proceed with the matter strictly within the four corners of the procedure provided to regulate a trial in accordance with law.

ARTICLE 20 CONSTITUTION; ARTICLE 120 POLICE ORDER 2002; SECTION 16 PUNJAB CIVIL ADMINISTRATION ACT 2017; PROVINCIAL NOTIFICATION 26.12.2006 (ZULJINAH) - REGULATION OF MUHARRAM-UL-HARAM RELIGIOUS PROCESSIONS AND LEGAL CHARACTER OF HISTORICAL LICENCES UPON DEMISE OF ORIGINAL LICENCE HOLDER

Syed Mujeeb Ali Gillani v. Province of Punjab, etc.

PETITION ACCEPTED; IMPUGNED ORDER DATED 02.06.2022 RESTORING LICENCE IN NAME OF DECEASED LICENCE HOLDER SET ASIDE; DIRECTION TO HOME DEPARTMENT TO FORMULATE COMPREHENSIVE POLICY, PREFERABLY WITHIN FOUR MONTHS

W.P. No. 5411 of 2022 - 2026 LHC 4681 · Bench: Anwaar Hussain, J (Bahawalpur Bench) · Decided: 30.06.2026 (hearing); 15.07.2026 (uploaded) · Uploaded: 15.07.2026

FACTS

A licence for the Muharram procession at Iman Bargah No.338/B-II, Mohallah Aam Khaas, Bahawalpur, was originally issued in 1935 to Syed Hassan Ali Shah, the predecessor of the petitioner. On the deceased licence holder's death, the record showed no express licence in favour of any individual. On earlier remand from the High Court (W.P. 4201/2020), the Additional Chief Secretary (Home), Government of Punjab, by order dated 02.06.2022, restored the licence in the name of the deceased original licence holder on the representation of respondent No.5, without hearing the petitioner. Rival claimants (petitioner, respondent No.5, and Syed Khadim Ali as applicant for impleadment) contested the succession. The Provincial Notification dated 26.12.2006 (issued pursuant to Federal Recommendations of 27.01.2005) records the Chief Minister Punjab's ban on any new licence for any Zuljinnah procession. Section 16 of the Punjab Civil Administration Act 2017 now empowers the Deputy Commissioner, in consultation with the DPO, to permit or refuse public gatherings and processions.

LEGAL ISSUE

(i) Whether a licence for a religious procession is heritable or proprietary in nature capable of being 'restored' in the name of a deceased licence holder; (ii) how the constitutional guarantee of religious freedom under Article 20 is to be harmonised with the State's obligation to maintain public order and internal security; (iii) whether the 2005 executive instructions/2006 Provincial Notification can operate as a perpetual embargo on the grant of any future licence; and (iv) what regulatory framework should govern such situations going forward.

HOLDING

A licence is regulatory in character - it identifies who is responsible for compliance and neither creates nor extinguishes the underlying constitutional right to freely profess and practise religion. It is neither proprietary nor heritable; restoration in the name of a deceased person, incapable of complying with statutory obligations, is legally unsustainable. However, the demise of the original licence holder does not extinguish the religious rights of stakeholders under Article 20. The impugned order was passed without hearing the petitioner and cannot sustain. The 2005 executive instructions cannot be interpreted as a perpetual, absolute embargo on future licences - such an interpretation would convert executive policy into a permanent prohibition, foreclosing statutory discretion, and would be inconsistent with Article 20; whether to grant a licence in a given case depends on prevailing security assessments, local circumstances and law-and-order arrangements. The Home Department, being administratively responsible for public order under the Rules of

Business, is directed to formulate a comprehensive policy (preferably within four months) prescribing succession on demise of an original licence holder, adjudication of competing claims, and timely disposal of applications well before Muharram.

LEGAL SIGNIFICANCE

This judgment (a) settles a recurring administrative dispute across Punjab by categorising religious-procession licences as regulatory, non-heritable, non-proprietary permissions; (b) firmly re-anchors Muharram-processions regulation in Article 20 as a distinct constitutional footing from ordinary public assemblies; (c) reads down the 2005 Federal Recommendations and 2006 Provincial Notification to prevent them operating as a perpetual embargo, harmonising them with statutory discretion and Article 20; (d) draws the intersecting statutory framework - Article 120 Police Order 2002, Section 16 Punjab Civil Administration Act 2017, and the Rules of Business allocation to the Home Department; (e) discourages annual last-minute litigation by directing a comprehensive policy on historical licences, succession and reasonable timelines within four months; and (f) is likely to become a template for districts across Punjab in the coming Muharram cycle.

LEGAL PROPOSITIONS (VERBATIM)

- *A licence issued under the law is fundamentally regulatory in character. It identifies the person responsible for ensuring compliance with the conditions governing a religious procession and facilitates effective regulation by the competent authorities. Such a licence is neither proprietary in nature nor does it create any heritable or proprietary interest capable of automatic succession.*
- *The demise of the original licence holder cannot, by itself, extinguish the religious rights of the stakeholders historically associated with the procession.*
- *Religious observances protected by Article 20 of the Constitution cannot ordinarily be made dependent upon the continued existence of a particular individual.*
- *Such an interpretation would convert what is essentially an executive policy into a perpetual prohibition, thereby foreclosing the exercise of statutory discretion vested in the competent authority under the law.*
- *The applicable legal framework must, therefore, maintain a fair and workable balance between the constitutional guarantee of religious freedom and peaceful assembly with the equally compelling obligation of the State to preserve public order and ensure the safety of all citizens.*

LEGAL PRINCIPLES EXPOUNDED

A licence for a religious procession is regulatory in character - it identifies the person responsible for compliance and facilitates State regulation; it is neither proprietary nor heritable and cannot be validly restored in the name of a deceased licence holder incapable of discharging statutory obligations.

Source: *A licence issued under the law is fundamentally regulatory in character. It identifies the person responsible for ensuring compliance with the conditions governing a religious procession and facilitates effective regulation by the competent authorities. Such a licence is neither proprietary in nature nor does it create any heritable or proprietary interest capable of automatic succession. Consequently, restoration of a licence in the name of a deceased person, who is no longer capable of complying with the statutory obligations attached thereto, is legally unsustainable.*

Authority: Article 120, Police Order 2002; Section 16, Punjab Civil Administration Act 2017

The demise of an original licence holder does not extinguish stakeholders' underlying religious rights under Article 20; the licence regulates the manner of a procession in the interest of public order and security but does not create or extinguish the constitutional right to freely profess and practise religion.

Source: *The licence merely regulates the manner in which a procession is to be conducted in the interest of public order and security; it neither creates nor extinguishes the underlying constitutional right to freely profess and practise religion. Accordingly, while the licence itself remains personal and non-heritable, the religious observance with which it is associated does not necessarily come to an end merely because the original licence holder has passed away.*

Authority: Article 20, Constitution of Pakistan

Executive instructions imposing a general ban on new procession licences cannot be interpreted as a perpetual and absolute embargo; such an interpretation would convert executive policy into a permanent prohibition inconsistent with statutory discretion and the constitutional guarantee

under Article 20 - such instructions are more appropriately construed as policy guidelines to be applied case-specifically.

Source: An interpretation of the Provincial Notification as imposing an absolute and perpetual embargo upon the grant of every future licence or renewal would, therefore, appear to be inconsistent with the very concept of a licensing regime and the statutory discretion conferred upon the competent authority. Such executive instructions are, therefore, more appropriately construed as policy guidelines rather than an inflexible prohibition applicable for all times to come.

Authority: Provincial Notification No. SO(IS-III) 6-25/2006 dated 26.12.2006; Federal Recommendations, Ministry of Interior 27.01.2005

The regulatory framework for religious processions must balance Article 20 religious freedom and Article 16 peaceful assembly with the State's obligation to preserve public order; regulation aims to facilitate peaceful conduct, not to render the lawful exercise of religious observance illusory.

Source: The applicable legal framework must, therefore, maintain a fair and workable balance between the constitutional guarantee of religious freedom and peaceful assembly and the equally compelling obligation of the State to preserve public order and ensure the safety of all citizens.

Authority: Articles 16 and 20, Constitution of Pakistan; Rules of Business 2011

OPERATIVE ORDER

In view of the foregoing discussion, this petition is accepted. As a corollary; (i) The impugned order dated 02.06.2022 is set aside; (ii) The Provincial Notification cannot be treated as creating a perpetual and absolute embargo against consideration of application for grant of licence(s); (iii) The Home Department is required to formulate a comprehensive policy, for approval of the Provincial Government, prescribing the mechanism governing continuation of historical licences, their restoration, renewal, modification, suspension or cancellation, regulating the consequences arising upon the demise of an original licence holder, and prescribing reasonable timelines for submission and disposal of applications sufficiently in advance of holy month of Muharram-ul-Haram; (iv) The said exercise shall preferably be completed within four months from receipt of a certified copy of this judgment; and (v) Upon formulation of the said policy, the controversy relating to the historical licence involved in the present case shall be examined by the relevant authority after extending opportunity of hearing to all stakeholders. Office is directed to transmit copy of this judgment to Secretary Home, Government of the Punjab.

SECTION 115 CPC - MAINTAINABILITY OF CIVIL REVISION AGAINST AN INTERLOCUTORY AD-INTERIM INJUNCTION; JURISDICTIONAL EXHAUSTION BEFORE INVOKING CONSTITUTIONAL JURISDICTION UNDER ARTICLE 199

Al-Kabir Town (Pvt) Ltd. v. Muhammad Azam, etc.

PETITION DISPOSED OF; ADDITIONAL DISTRICT JUDGE DIRECTED TO FIRST DECIDE THE MAINTAINABILITY OF THE REVISION WITHIN 15 DAYS; IF MAINTAINABLE, REVISION TO BE DECIDED EXPEDITIOUSLY (PREFERABLY WITHIN THREE MONTHS); STATUS QUO OF SUIT PROPERTY TO BE MAINTAINED MEANWHILE

W.P. No. 42647 of 2026 - 2026 LHC 4672 · Bench: Muzamil Akhtar Shabir, J · Decided: 13.07.2026 · Uploaded: 14.07.2026

FACTS

The petitioner filed an application under Section 12(2) CPC to challenge a 07.06.2006 declaration/specific-performance/cancellation decree in a civil suit. During those proceedings, on an application for interim relief, the Trial Court on 15.12.2025 suspended the operation of that decree till the next date of hearing, subject to being extended and with liability to be recalled on concealment. Respondent No.1, instead of contesting the interim application, filed an appeal against the injunctive order, which the appellate court converted into a Civil Revision and allowed condonation of delay. On 20.05.2026 the Additional District Judge, Lahore, admitted the revision, issued notices, and suspended operation of the trial court's ad-interim order under an interim relief application. The petitioner invoked Article 199 challenging that order as passed without jurisdiction, since Section 115 CPC contemplates revision only against a 'case decided'.

LEGAL ISSUE

(i) Whether a Civil Revision under Section 115 CPC is maintainable against an ad-interim interlocutory injunctive order to which finality is not attached (i.e. is not a 'case decided'); and (ii) whether this Court should itself decide that question of maintainability or leave it to the Revisional Court to decide first as part of its own jurisdictional determination.

HOLDING

For a revision petition to be maintainable, the impugned order must be of such nature that finality is attached to it and it amounts to 'a case decided' as mentioned in Section 115 CPC; otherwise the revision is not maintainable. However, it is of utmost importance that a question of jurisdiction be raised in the first instance before the court whose jurisdiction is under challenge, so that it may decide it before the matter is taken to a higher forum. It is mandatory for a court to decide the question of its own jurisdiction before embarking on merits; jurisdiction cannot be assumed even by consent of parties. The Revisional Court, whose jurisdiction is under challenge, is not debarred from determining that question. The present constitutional petition is also filed against an interlocutory order while the revision is still pending; the right to approach this Court has not yet matured. The petition is premature. Accordingly, instead of any final pronouncement, the ADJ Lahore is directed to first determine, expeditiously (preferably within 15 days), whether the revision was maintainable against an ad-interim interlocutory injunctive order.

LEGAL SIGNIFICANCE

This judgment (a) reaffirms and applies the settled proposition that Section 115 CPC revisional jurisdiction is confined to 'cases decided' and does not lie against interlocutory ad-interim injunctions to which no finality attaches; (b) sharply reasserts the jurisdictional-exhaustion rule - a question of jurisdiction must first be raised before the very forum whose jurisdiction is challenged; (c) reaffirms that jurisdiction cannot be assumed by consent and that every court must decide the question of its own jurisdiction as a threshold matter; (d) applies the doctrine of premature constitutional invocation - Article 199 will not be exercised where the challenged interlocutory order can still be tested before the very forum that made it; and (e) reads *Government of Punjab v. Ms. Sarosh Sultan* (PLD 1995 SC 541) for the proposition that even the court whose jurisdiction is under challenge is competent to decide the question of its own jurisdiction after hearing both parties.

LEGAL PROPOSITIONS (VERBATIM)

- *For a revision petition to be maintainable, the order impugned therein should be of such nature that finality is attached to the same and it amounts to be 'a case decided' as mentioned in Section 115 CPC, otherwise revision petition would not be maintainable.*
- *It is of utmost importance that question of jurisdiction is raised in the first instance before the court or forum, jurisdiction of which is under challenge so that it may decide the said question before raising the said question before any higher forum.*
- *It is mandatory for proper Administration of Justice that where an objection to jurisdiction of forum, authority or a court is raised, said forum, authority or court is under legal obligation to decide question of jurisdiction before embarking upon merits of the issue or matter requiring decision.*
- *Where jurisdiction is not vested in it, the same cannot be assumed even by consent of parties, hence, it is mandatory for court, forum or authority to first decide question of its own jurisdiction.*
- *The Court jurisdiction of which is under challenge is not debarred from determining the question of its own jurisdiction.*

LEGAL PRINCIPLES EXPOUNDED

Revisional jurisdiction under Section 115 CPC is confined to 'cases decided' - orders to which finality attaches; a Civil Revision does not lie against an ad-interim interlocutory injunctive order which is purely discretionary and lacks finality.

Source: *The impugned order, as also evident from subsequent order dated 11.12.2025, is an interlocutory procedural order which is purely discretionary in nature and finality is not attached to the same, to bring the same in the ambit of the expression "a case decided" as envisaged in Section 115 of CPC, which is a mandatory requirement for exercising jurisdiction of revision against a judicial order, therefore, Civil Revision against the said order is premature and not maintainable.*

Authority: *Section 115 CPC; Mst. Naseem Mai v. Muhammad Saleem Anjum (PLJ 2026 Lahore 165); Mian Muhammad Luqman v. Farida Khanum (1994 SCMR 1991); Nestle Milkpak v. Classic Needs (2006 SCMR 21); Abdul Razzaq v. Muhammad Ajmal Khan (PLD 2018 Lahore 491)*

A question of jurisdiction must be raised in the first instance before the forum whose jurisdiction is under challenge; every court is under a mandatory legal obligation to decide the question of its

own jurisdiction as a threshold matter before embarking on merits, and jurisdiction cannot be assumed even by consent.

Source: *It would be important to note here that it is of utmost importance that question of jurisdiction is raised in the first instance before the court or forum, jurisdiction of which is under challenge so that it may decide the said question before raising the said question before any higher forum. Moreover, it is mandatory for proper Administration of Justice that where an objection to jurisdiction of forum, authority or a court is raised, said forum, authority or court is under legal obligation to decide question of jurisdiction before embarking upon merits of the issue or matter requiring decision for the reason that unless jurisdiction is vested in it, its decision would be without any lawful authority and of not legal effect.*

Authority: *Rasheed Ahmed v. Chief Settlement Commissioner (2020 MLD 108); Izhar Alam Farooqi v. Sheikh Abdul Sattar Lasi (2008 SCMR 240); D.G. Customs Valuation, Karachi v. Trade International Lahore (2014 SCMR 15); Government of Punjab v. Ms. Sarosh Sultan (PLD 1995 SC 541)*

A constitutional petition under Article 199 against an interlocutory order passed by a Revisional Court is premature where the revision petition itself and the underlying interim-relief application are still pending; the right to approach the High Court matures only after the Revisional Court has ruled on its own jurisdiction and maintainability.

Source: *The Revisional Court is competent to decide the grievance of the petitioner in terms of the judgments referred to above and at this stage right to approach this Court against the impugned orders has not yet matured, hence, this petition is premature*

Authority: *Article 199, Constitution of Pakistan*

OPERATIVE ORDER

it would be appropriate to direct the learned Addl. District Judge, Lahore, to first determine the question whether revision petition was maintainable against an ad-interim interlocutory injunctive order passed by the trial court, which exercise shall be carried out, expeditiously, preferably within 15-days from the next date of hearing fixed before it and thereafter, if the petition is found to be maintainable the court shall proceed to decide revision petition as expeditiously as possible preferably within 03-months from the date of passing of this order and till decision of the revision petition the present position pertaining with regard to the suit property shall be maintained. Order accordingly. With these observations, the instant petition stands disposed of.

EVACUEE PROPERTY AND DISPLACED PERSONS LAWS (REPEAL) ACT 1975; EVACUEE PROPERTY AND DISPLACED PERSONS LAWS (REPEAL) (AMENDMENT) ACT 2022; POLICY NOTIFICATIONS OF 19.06.1978, 25.03.1989 AND 07.12.2000 - POST-REPEAL JURISDICTION OVER EVACUEE LAND AND MUTATION OF STALE ALLOTMENT ORDERS

Touseef Shahzad v. Commissioner, Multan Division, Multan etc.

PETITION DISMISSED IN LIMINE

W.P. No. 5214 of 2026 - 2026 LHC 4663 · Bench: Ch. Muhammad Iqbal, J (Multan Bench) · Decided: 04.05.2026 · Uploaded: 14.07.2026

FACTS

The petitioner's grandfather Shahab Din allegedly obtained evacuee land measuring 03 Kanals in Khasra No. 11/4, Karam Pur, Tehsil Mailsi, District Vehari, in an open auction on 19.10.1960, but no mutation was sanctioned. Decades later, the petitioner applied to the Commissioner, Multan Division, seeking incorporation of mutation of the evacuee land on the basis of PTO Nos. 95817 to 90201. Since the application was pending, the petitioner invoked Article 199 seeking direction to the Commissioner to attest the mutation.

LEGAL ISSUE

Whether, after the repeal of the settlement laws by the Evacuee Property and Displaced Persons Laws (Repeal) Act 1975 (w.e.f. 01.07.1974), and the subsequent Evacuee Property and Displaced Persons Laws (Repeal) (Amendment) Act 2022 transferring all such properties to the Government for public utilization, the Court can direct the incorporation of a stale allotment order in the revenue record on the basis of decades-old evacuee-property paperwork.

HOLDING

The evacuee laws stood repealed with effect from 01.07.1974. Only a limited jurisdiction under Section 2 of the Repealing Act 1975 remained with the Notified Officer to decide pending proceedings and matters remanded by the High Court or Supreme Court. Neither is any provision available for fresh allotment against unsatisfied pending units, nor is the Notified Officer competent to allot, transfer or grant alternate land (following Member Board of Revenue v. Abdul Majeed, PLD 2015 SC 166; Mirza Zafar Ali v. Lahore Cantonment Cooperative Housing Society, 2005 SCMR 985; Member, Board of Revenue v. Rafaqat Ali, 1998 SCMR 2596). Successive policy notifications - 19.06.1978, 25.03.1989 and 07.12.2000 - imposed permanent restrictions on incorporation of stale allotment orders; any allotment not incorporated in the revenue record before the Repeal Act came into force or within one year of the allotment order, whichever was later, is deemed obtained by fraud through ante-dating and stands cancelled. After the 2022 Amendment Act, all evacuee properties stood transferred to the Government for public purposes, ousting the jurisdiction of the Notified Officer, Chief Settlement Commissioner or Full Board for permanent disposal. The petition is misconceived and dismissed in limine.

LEGAL SIGNIFICANCE

This judgment is a compact treatise on the post-repeal evacuee-property regime and puts to rest a category of long-tail claims that continue to be pressed by descendants of purported allottees: (a) it confirms that after 01.07.1974 the Notified Officer's residual jurisdiction under Section 2 of the 1975 Repeal Act is confined to pending or remanded matters, with no power to make fresh allotments or grant alternate land; (b) it reproduces and enforces the three successive policy notifications (1978, 1989, 2000) that treat unincorporated stale allotment orders as presumptively fraudulent and cancelled; (c) it operationalises Section 3 of the 2022 Amendment Act as transferring all such properties to the Government for public utilization, ousting Notified Officer/Chief Settlement Commissioner/Full Board jurisdiction; and (d) it defines 'public purpose' by reference to Black's Law Dictionary (5th Ed.) as encompassing the health, safety, morals, general welfare, security, prosperity and contentment of inhabitants.

LEGAL PROPOSITIONS (VERBATIM)

— *With promulgation of Evacuee Property and Displaced Persons Act, 1975 (Repealing Act No.XIV of 1975), the evacuee laws stood repealed w.e.f. 01.07.1974, whereafter a limited jurisdiction under Section 2 of the Repealing Act ibid was left with the Notified Officer to decide only the pending proceedings as well as the matter remanded to him by the High Court or the Hon'ble Supreme Court.*

— *According to the above enactment, neither any provision is available to make fresh allotment of evacuee land against unsatisfied pending units nor Notified Officer was/is bestowed with any jurisdiction to allot or transfer or grant alternate land.*

— *It was mandatory for an allottee to get incorporate the allotment / order in the revenue record within the prescribed period and non-compliance of the above policy notification would frustrate the validity / veracity of the alleged order of allotment.*

— *After the promulgation of aforesaid enactment, all the evacuee properties stood transferred to the government for its utilization for public purposes and same went out from the jurisdictional domains of the Notified Officer, Chief Settlement Commissioner or the Full Board in the Settlement Department to decide qua its permanent disposal in any manner whatsoever, rather it is only the Government which has also a limited jurisdiction to utilize such land only for public purpose.*

LEGAL PRINCIPLES EXPOUNDED

After the 1975 Repeal Act, the Chief Settlement Commissioner / Notified Officer's jurisdiction is limited to pending proceedings and remanded matters; there is no power to make any fresh or alternate allotment of evacuee land against unsatisfied pending units in lieu of any belated claim.

Source: *According to the above enactment, neither any provision is available to make fresh allotment of evacuee land against unsatisfied pending units nor Notified Officer was/is bestowed with any jurisdiction to allot or transfer or grant alternate land.*

Authority: Section 2, Evacuee Property and Displaced Persons Laws (Repeal) Act 1975; Member Board of Revenue v. Abdul Majeed (PLD 2015 SC 166); Mirza Zafar Ali v. Lahore Cantonment Cooperative Housing Society (2005 SCMR 985); Member, Board of Revenue v. Rafaqat Ali (1998 SCMR 2596)

Any allotment of evacuee land not incorporated in the revenue record before the Repeal Act came into force, or within one year of the passing of the alleged allotment order (whichever is later), is deemed obtained by fraud through ante-dating and stands cancelled after hearing the so-called allottee; incorporation within the prescribed period is mandatory.

Source: Perusal of the aforesaid consecutive policy notifications shows that it was mandatory for an allottee to get incorporate the allotment / order in the revenue record within the prescribed period and non-compliance of the above policy notification would frustrate the validity / veracity of the alleged order of allotment.

Authority: Board of Revenue Notification No. 1624/78/855/RL dated 19.06.1978; Notification No. 238-89/PA/Secy.(R) dated 25.03.1989; Notification No. 2127-2000/3321/PA/Secy (S&R) dated 07.12.2000

Under Section 3 of the Evacuee Property and Displaced Persons Laws (Repeal) (Amendment) Act 2022, all evacuee properties (other than charitable, religious or educational trust properties) stood transferred to the Government for utilization for public purposes, ousting the jurisdiction of the Notified Officer, Chief Settlement Commissioner or Full Board over their permanent disposal.

Source: After the promulgation of aforesaid enactment, all the evacuee properties stood transferred to the government for its utilization for public purposes and same went out from the jurisdictional domains of the Notified Officer, Chief Settlement Commissioner or the Full Board in the Settlement Department to decide qua its permanent disposal in any manner whatsoever, rather it is only the Government which has also a limited jurisdiction to utilize such land only for public purpose.

Authority: Section 3, Evacuee Property and Displaced Persons Laws (Repeal) (Amendment) Act 2022 (XXI of 2022); Black's Law Dictionary (5th Ed.) definition of 'public purpose'

OPERATIVE ORDER

In view of above, this writ petition is misconceived, resultantly, the same is hereby dismissed in limine.

Sindh High Court

2 judgments

ARTICLE 199 CONSTITUTION; FOREIGNERS ACT 1946 - RETURN/DEPORTATION OF BANGLADESHI NATIONALS WITH VALID TRAVEL PERMITS; BALANCING CONSTITUTIONAL RIGHT TO TRAVEL WITH STATUTORY IMMIGRATION PROCEDURE

Khokan Mir & others v. Federation of Pakistan & others (with connected C.P. No. D-3620 of 2026, Shamim & others v. Federation of Pakistan & others)

PETITIONS DISPOSED OF; DIRECTIONS ISSUED TO FIA IMMIGRATION AND SPECIAL BRANCH/FOREIGNERS REGISTRATION OFFICE TO PROCESS THE MATTER STRICTLY IN ACCORDANCE WITH LAW AND FACILITATE RETURN/DEPORTATION AFTER COMPLETION OF ALL LEGAL REQUIREMENTS

Const. P. No. D-3619 of 2026 - 2026 SHC KHI 1425 · Bench: Adnan-ul-Karim Memon, J; Adnan Iqbal Chaudhary, J (Division Bench) · Decided: 14.07.2026 · Uploaded: 14.07.2026

FACTS

The petitioners, Bangladeshi nationals permanently belonging to Bangladesh and presently residing in Karachi, sought directions restraining respondents from restraining them from travelling to their country. They had obtained old Bangladeshi passports/documents through relatives and travel permits from the Bangladesh High Commission, Karachi, for their return. Despite valid travel permits and necessary communication to the relevant authorities, they were not allowed to depart through FIA Immigration at Jinnah International Airport. They alleged harassment and threats of arrest and case registration when they approached authorities for NOC and formalities. Similarly placed Bangladeshi nationals had earlier been allowed to return pursuant to orders of the Sindh High Court in constitutional petitions. The DAG submitted that the petitioners should obtain travel permits from the Bangladesh High Commission, verified by the Ministry of Foreign Affairs; identity be verified by NADRA through biometrics; CNICs (if registered) be blocked/cancelled with certificate; and all Foreigners Act 1946 formalities be completed.

LEGAL ISSUE

How to reconcile the constitutional right to travel and leave the country under the fundamental guarantees of liberty and dignity with the statutory procedure required under the Foreigners Act 1946 and related immigration/verification framework, particularly for foreign nationals with valid travel permits from their country of origin who are being restrained by the immigration authorities.

HOLDING

The right to travel and leave the country, subject to lawful restrictions imposed by competent authorities, is recognized as part of the fundamental guarantees of liberty and dignity under the Constitution. However, this Court, while exercising constitutional jurisdiction under Article 199, cannot bypass or substitute the statutory procedure required to be followed by the relevant departments - particularly in matters of immigration clearance, verification, and deportation formalities. Since the petitioners have expressed willingness to return to Bangladesh, have no claim to remain in Pakistan, and hold travel permits issued by their country of origin (subject to scrutiny), the respondents are required to facilitate completion of the necessary legal formalities in accordance with law and ensure that no unnecessary harassment or unlawful obstruction is caused to them.

LEGAL SIGNIFICANCE

This judgment (a) restates and applies a workable balance between the constitutional right to travel and the statutory immigration procedure - the writ court will not bypass or substitute the statutory framework of the Foreigners Act 1946 and related verification regime; (b) confirms that willing return of foreign nationals holding valid country-of-origin travel permits attracts a positive facilitation obligation on FIA Immigration and Special Branch/Foreigners Registration Office; (c) is a useful template order for the Sindh High Court's continuing docket of similar Bangladeshi-national deportation-facilitation petitions; and (d) reinforces the principle that authorities must act 'fairly, transparently, and within the bounds of law', ruling out harassment or unlawful obstruction.

LEGAL PROPOSITIONS (VERBATIM)

- *The right to travel and leave the country, subject to lawful restrictions imposed by competent authorities, is recognized as part of the fundamental guarantees of liberty and dignity under the Constitution.*
- *This Court, while exercising constitutional jurisdiction under Article 199 of the Constitution, cannot bypass or substitute the statutory procedure required to be followed by the relevant departments, particularly where matters relating to immigration clearance, verification, and deportation formalities are involved.*
- *Since the petitioners are already holding travel permits issued by their country of origin, subject to scrutiny by the concerned authority, the respondents are required to facilitate completion of the necessary legal formalities in accordance with law and ensure that no unnecessary harassment or unlawful obstruction is caused to them.*
- *Needless to mention that the respondents shall act fairly, transparently, and within the bounds of law.*

LEGAL PRINCIPLES EXPOUNDED

The right to travel and to leave the country, subject to lawful restrictions imposed by competent authorities, is part of the fundamental guarantees of liberty and dignity under the Constitution; however, in exercising Article 199 jurisdiction, the Court cannot bypass or substitute the statutory procedure applicable to immigration clearance, verification and deportation formalities.

Source: The right to travel and leave the country, subject to lawful restrictions imposed by competent authorities, is recognized as part of the fundamental guarantees of liberty and dignity under the Constitution. However, this Court, while exercising constitutional jurisdiction under Article 199 of the Constitution, cannot bypass or substitute the statutory procedure required to be followed by the relevant departments, particularly where matters relating to immigration clearance, verification, and deportation formalities are involved.

Authority: Article 199, Constitution of Pakistan; Foreigners Act 1946

Where foreign nationals expressing willingness to return to their country of origin already hold valid travel permits issued by that country (subject to scrutiny), the concerned Pakistani authorities are under an affirmative obligation to facilitate completion of the necessary legal formalities and to ensure no unnecessary harassment or unlawful obstruction is caused.

Source: Since the petitioners are already holding travel permits issued by their country of origin, subject to scrutiny by the concerned authority, the respondents are required to facilitate completion of the necessary legal formalities in accordance with law and ensure that no unnecessary harassment or unlawful obstruction is caused to them.

Authority: Foreigners Act 1946; NADRA verification framework

OPERATIVE ORDER

Accordingly, the instant petitions are disposed of with directions to the concerned authorities, including FIA Immigration and the Special Branch/Foreigners Registration Office, to process the matter of the petitioners strictly in

accordance with law and facilitate their return/deportation to Bangladesh after completion of all legal requirements. The petitioners shall cooperate with the authorities and provide all necessary documents for verification. Needless to mention that the respondents shall act fairly, transparently, and within the bounds of law.

SECTION 15 DEFACTION ORDINANCE 2002; SECTIONS 4, 12 & 29(2)(A) LIMITATION ACT 1908 - MEANING AND SCOPE OF 'TIME REQUISITE' FOR OBTAINING CERTIFIED COPY; EFFECT OF VACATION NOTIFICATION AND DELAY IN DEPOSITING COPYING FEE

Mir Shakil Ur Rahman v. Salman Iqbal & Another

PRELIMINARY OBJECTION SUCCEEDS; APPEAL DISMISSED AS TIME-BARRED BY 45 DAYS; NO ORDER AS TO COSTS

Miscellaneous Appeal No. 89 of 2025 - 2026 SHC KHI 1421 · Bench: Sana Akram Minhas, J · Decided: 14.07.2026 · Uploaded: 14.07.2026

FACTS

The Appellant Mir Shakil Ur Rehman preferred a Miscellaneous Appeal under Section 15 of the Defamation Ordinance 2002 assailing the judgment and decree dated 07.04.2025 of the Additional District & Sessions Judge-II dismissing his Civil Suit No. 41/2015 against Salman Iqbal & Another for failure to prove damages from an alleged defamatory broadcast. Section 15 of the Ordinance prescribes a 30-day appeal period. The judgment was announced 07.04.2025; the Appellant applied for certified copies on 11.04.2025 (copying fee estimated the same day); deposited the fee only on 08.05.2025 (26 days later); the certified copy was ready 10.05.2025; the Appellant supplied the stamp on 04.06.2025 and received the copy same day; the Appeal was filed only on 23.06.2025 - a prima facie delay of 45 days. The Appellant relied on Section 12 Limitation Act 1908 (time requisite for obtaining copy), the summer-vacation Notification dated 06.05.2025 (2.6.2025 to 3.8.2025), Section 4 Limitation Act 1908, and 2020 CLC 1068 (Asma Hassan v. Askari Bank). The Respondents relied on 2022 SCMR 1868 (Pak Leather Crafts v. Al-Baraka Bank).

LEGAL ISSUE

(i) Whether the period consumed by an appellant in depositing copying charges after the fee has been estimated by the Court on the same day the application for the certified copy was filed constitutes 'time requisite' for obtaining the certified copy under Section 12 of the Limitation Act 1908; (ii) whether the summer-vacation Notification dated 06.05.2025 and Section 4 Limitation Act 1908 assist an appellant whose limitation, after proper computation, had already expired before the vacation commenced; and (iii) whether the subsequent affixation of the stamp on the certified copy extends the 'time requisite'.

HOLDING

The expression 'time requisite' in Section 12 refers only to the period properly required for obtaining the certified copy - the time attributable to the Court/officials - and does not include delay attributable to the litigant. The burden lies on the party seeking exclusion to establish that the period was properly required and no part was due to their own default. Mere filing of an application does not suspend limitation; even after Section 12(5), limitation is not arrested merely by filing. An application for a certified copy presupposes payment of the prescribed charges and becomes effective only upon such payment; delay in depositing the fee (26 days here) is not 'time requisite' unless the estimation itself was delayed by the Court. The deeming fiction in Section 12(5) is confined to its narrow legislative purpose and cannot enlarge limitation or permit a litigant to suspend it by delaying payment. The material date for the 'copy ready' is when the copying branch prepared and made the copy ready (10.05.2025), not the subsequent affixation of the stamp on 04.06.2025. As the limitation expired on 08.05.2025 (well before the summer vacation began on 02.06.2025), the Vacation Notification and Section 4 do not apply. Asma Hassan v. Askari Bank does not assist - it presupposes that Section 12 exclusion had already been properly computed. The preliminary objection succeeds; the Appeal is dismissed as time-barred by 45 days.

LEGAL SIGNIFICANCE

This judgment (a) applies and consolidates Pak Leather Crafts v. Al-Baraka Bank (2022 SCMR 1868) as the governing statement of the 'time requisite' doctrine in Sindh; (b) sharply and clearly distinguishes between

periods attributable to the Court (excludable) and periods attributable to litigant default (not excludable), particularly in the context of delayed deposit of copying fees; (c) fixes the material date for a certified copy being 'ready' as the date the copying branch prepares and authenticates it, not the subsequent stamp affixation by the litigant; (d) explains and confines the Section 12(5) deeming fiction to its narrow legislative purpose; (e) reads *Asma Hassan v. Askari Bank* correctly, confining it to its own factual premise; (f) confirms via Section 29(2)(a) that Section 12 exclusion applies to Section 15 Defamation Ordinance appeals; and (g) is a definitive template for defamation and other short-limitation appeals in Sindh.

LEGAL PROPOSITIONS (VERBATIM)

— The expression 'time requisite' in Section 12 refers only to the period properly required for obtaining the certified copy, namely, the time attributable to the Court or its officials in processing, preparing and issuing the certified copy. It does not include delay attributable to the litigant.

— The mere filing of an application for a certified copy does not, by itself, suspend or stop the running of limitation. Even after the insertion of Section 12(5), limitation does not stand arrested merely because an application for a certified copy has been submitted.

— An application for a certified copy presupposes payment of the prescribed copying charges and becomes effective only upon such payment. Accordingly, the period consumed by a litigant in depositing these charges does not constitute 'time requisite' and is not liable to be excluded, unless the delay is shown to be attributable to the Court in estimating the prescribed copying charges or otherwise demanding payment thereof.

— For the purposes of Section 12 of the Limitation Act, the material date is the date on which the certified copy was prepared and made ready by the copying branch, namely, 10.05.2025.

LEGAL PRINCIPLES EXPOUNDED

The expression 'time requisite' in Section 12 of the Limitation Act 1908 refers only to the period properly required for obtaining the certified copy - time attributable to the Court or its officials in processing, preparing and issuing the copy - and does not include delay attributable to the litigant.

Source: The expression "time requisite" in Section 12 refers only to the period properly required for obtaining the certified copy, namely, the time attributable to the Court or its officials in processing, preparing and issuing the certified copy. It does not include delay attributable to the litigant.

Authority: Section 12(2), Limitation Act 1908; *Pak Leather Crafts Ltd v. Al-Baraka Bank Pakistan Ltd* (2022 SCMR 1868)

An application for a certified copy presupposes payment of the prescribed copying charges and becomes effective only upon such payment; the period consumed by a litigant in depositing these charges is not 'time requisite' unless the delay is attributable to the Court in estimating the charges or demanding payment.

Source: An application for a certified copy presupposes payment of the prescribed copying charges and becomes effective only upon such payment. Accordingly, the period consumed by a litigant in depositing these charges does not constitute "time requisite" and is not liable to be excluded, unless the delay is shown to be attributable to the Court in estimating the prescribed copying charges or otherwise demanding payment thereof.

Authority: Section 12, Limitation Act 1908; *Pak Leather Crafts* (2022 SCMR 1868)

The Section 12(5) deeming fiction must be confined to its narrow legislative purpose - removing uncertainty about the period between the effective application and the intimated date of delivery of the certified copy; it cannot enlarge the statutory period of limitation or enable a litigant to suspend limitation by delaying payment of copying charges.

Source: The deeming fiction introduced by Section 12(5) must be confined to the legislative purpose for which it was enacted. It was introduced for the limited purpose of removing uncertainty regarding the period between the effective application for a certified copy and the date intimated by the copying agency for its delivery. It cannot be

Authority: Section 12(5), Limitation Act 1908

The material date on which a certified copy is 'ready' for Section 12 purposes is the date on which the copying branch prepares and authenticates the copy; subsequent affixation of a stamp by the litigant does not constitute an essential step in preparation and does not extend the 'time requisite'.

Source: in any event, for the purposes of Section 12 of the Limitation Act, the material date is the date on which the certified copy was prepared and made ready by the copying branch, namely, 10.05.2025. This is evident from the endorsement of the copyist and is further fortified by the signature of the Reader/Serishtedar bearing the same date, signifying that the certified copy had been duly prepared and authenticated.

Authority: Section 12, Limitation Act 1908

The protection of Section 4 Limitation Act and any vacation-notification benefit are only available where the prescribed period of limitation, computed after giving effect to all permissible statutory exclusions under Section 12, expires during the vacation; they cannot revive a limitation period that had already expired before the vacation began.

Source: It follows that the Notification dated 6.5.2025 declaring the summer vacations has no application to the present case, since it can operate only where the prescribed period of limitation, computed after giving effect to all permissible statutory exclusions, expires during the period of vacation.

Authority: Section 4, Limitation Act 1908; Asma Hassan v. Askari Bank Ltd (2020 CLC 1068) distinguished; Province of Punjab v. Muhammad Saleem (PLD 2014 SC 783)

OPERATIVE ORDER

In view of the foregoing discussion, the preliminary objection succeeds. The Appellant is entitled neither to the exclusion contemplated by Section 12 of the Limitation Act, 1908 nor to the protection afforded by the Notification dated 6.5.2025 declaring the High Court's summer vacations. The present Appeal is, therefore, held to be barred by limitation and is accordingly dismissed as time - barred by forty - five (45) days. There shall be no order as to costs.