MANDVIWALLA & ZAFAR
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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Thursday, 19 November 2026

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w: Judgments approved for reporting and uploaded on the working days 13, 14, 16, 17, 18 and 19 November 2026, with stragglers from

FCC: 1 judgment | SC: 4 judgments | LHC: 6 judgments | SHC: 4 judgments | IHC: no new entries

1	4	6	4	15
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WINDOW, METHOD AND EXCLUSIONS

Window and method. This issue covers judgments approved for reporting and uploaded by the Supreme Court, the Federal Constitutional Court, the Lahore High Court and the Sindh High Court on the working days 13, 14, 16, 17, 18 and 19 November 2026. Sunday 15 November is excluded. Stragglers that appeared after the 12 November scan closed have been swept in: one Supreme Court judgment and one Lahore High Court judgment bearing 12 November upload dates. Every reporting endorsement was read rather than keyword-matched.

A limitation issue. Four of the fifteen entries turn on limitation, and they fit together. The Larger Bench judgment in C.A. 909/2013 settles when time begins to run in an inheritance suit; C.A. 359-L/2012 settles when it begins to run for execution of a decree; 2026 SHC KHI 2224 confines the plea that no limitation runs against a void order; and C.P.L.A. 1897-L/2024 holds that the Punjab Service Tribunal has no power to reopen its own judgment at all. Read together they are a short course in finality.

The lead entry is a Larger Bench judgment of 106 pages. C.A. 909/2013 and sixteen connected appeals and petitions were referred to a Bench of five to resolve a conflict between two lines of authority that had left litigants, in the Court's phrase, holding a lottery ticket rather than a secured right. Nine questions were answered, including one on succession under custom before the Shariat Application Laws that was added during argument. The judgment contains directions under Article 187 to revenue authorities in all Provinces and other areas, to registering and development authorities, cantonment boards and cooperative housing societies, to settlement officers in areas under first settlement including the merged tribal districts, and to trial courts; recommendations to the Legislature and the Law and Justice Commission; and a direction that copies be transmitted to the Secretary, Ministry of Law and Justice, the Law Secretaries of all Provinces, the Attorney-General, the Advocates-General and the Secretary, Law and Justice Commission. The entry below necessarily compresses it, and the judgment itself should be read in full before any inheritance suit is filed or defended. Two points of operation are flagged here: the law declared shall not reopen any decree or order which has attained finality, and the question in respect of the former Federally Administered Tribal Areas is expressly left open.

A thin Supreme Court window otherwise. Only four Supreme Court judgments bear in-window or straggler upload dates, and all four are digested; there is no negative endorsement to report for the third consecutive window. The three remaining items on the first page of the listing were digested in the 7 and 12 November issues.

The Federal Constitutional Court listing has turned over. All ten items now on the first page bear a 17 November upload date, and nine of them are marked 'Approved for Reporting: No'. Only F.C.P.L.A. No. 624 of 2026 is marked 'Yes', and it is digested. The nine omitted are F.C.R.P. No. 21 of 2026, C.M.A. No. 5286 of 2025, C.A. No. 9-L of 2010, C.P.L.A. No. 1807-L of 2021, C.P.L.A. No. 1023-L of 2018, C.P.L.A. No. 1077-L of 2018, F.C.R.P. No. 615 of 2026, C.P.L.A. No. 5070 of 2023 and C.P.L.A. No. 07-L of 2017, eight of them authored by Ali Baqar Najafi, J. The earlier items digested on 12 November have rolled off the first page.

CDA acquisitions, twice in a fortnight. F.C.P.L.A. 624/2026, on Sectors C-13 to C-16, should be read with C.P.L.A. 5595/2024 on Mouza Bheka Sayedan, digested on 12 November. Between them the Court has now addressed the finality of awards, the legally relevant valuation date, built-up property eligibility, additional compensation under section 32-A, the evidentiary limits of surveys, satellite imagery and commission reports, and the boundary between policy direction and statutory adjudication.

Lahore High Court. Seventeen judgments carry 13, 16, 17, 18 or 19 November upload dates, and one further item bears a 12 November date. Six are digested. Not taken up, each turning on its own facts or carrying no tag line: 2026 LHC 8937 (execution application, National Bank of Pakistan), 2026 LHC 8930 (regular first appeal, Wire Manufacturing Industry v. Habib Insurance), 2026 LHC 8921, 8912 and 8901 (three jail appeals by Muhammad Waheed Khan, J), 2026 LHC 8883 (miscellaneous writ), 2026 LHC 8873 (petition for special leave to appeal against acquittal), 2026 LHC 8866 and 8859 (two criminal appeals against conviction), 2026 LHC 8831 (family), 2026 LHC 8787 (regular first appeal) and 2026 LHC 8763 (jail revision, uploaded 12 November).

Islamabad High Court nil for a fifth consecutive window. The listing of judgments of sitting justices stands at the same eight items recorded in the 30 October, 4, 7 and 12 November scans, the most recent bearing a decision date of 30 September 2026. No fresh reported judgment has appeared in five windows, and the position is now recorded less as news than as a standing caution: the Islamabad High Court's reported output is not being captured by this portal.

Sindh High Court. Ninety-nine judgments bear 13, 16, 17 or 18 November order dates, of which eleven carry an assigned citation - the marker of approval for reporting on this portal. Four are digested. The seven not taken up are 2026 SHC MPK 2256, 2026 SHC MPK 2223, 2026 SHC KHI 2222 (a rent matter), 2026 SHC MPK 2246, 2026 SHC MPK 2255, 2026 SHC MPK 2195 and the group reported at 2026 SHC KHI 2213 to 2219, a single judgment in Const. P. 5526/2026 to which the

portal has assigned seven consecutive citations. The remaining eighty-eight in-window items carry no citation and are accordingly not approved for reporting.

The Sindh portal continues to fill retrospectively. As flagged on 12 November, items accrue well after the order date. The 12 November count has risen from nil at the time of the last scan to forty-five, and 5 November now stands at twelve against the thirteen recorded last week. None of the newly appearing 12 November items carries a citation. A scan run on the day will not capture everything, and the straggler sweep remains necessary.

Carry-forward queue. Three image-only Supreme Court scans remain unread for want of a text layer: C.P.L.A. 1157/2021, C.P.L.A. 788/2018 and C.A. 1468/2018. Also carried forward: C.P.L.A. 903 and 904 of 2026 and C.P.L.A. 422 of 2025 of the Supreme Court; C.P.L.A. 677-P/2026, whose text layer is scrambled; 2026 SHC KHI 2167 (Premier Oil Pakistan Kirthar B.V.); and the four Lahore High Court items listed in the 7 November issue.

Federal Constitutional Court of Pakistan

1 judgment

LAND ACQUISITION - SECTORS C-13 TO C-16, ISLAMABAD - THE LEGALLY RELEVANT VALUATION DATE UNDER SECTION 30(1) READ WITH SECTION 2(K)(III) OF THE CAPITAL DEVELOPMENT AUTHORITY ORDINANCE, 1960 - ELIGIBILITY FOR BUILT-UP PROPERTY BENEFITS - ADDITIONAL COMPENSATION UNDER SECTION 32-A - EVIDENTIARY VALUE OF A COMMISSION'S REPORT AND SATELLITE IMAGERY

Capital Development Authority through its Chairman and another v. Maqbool Hussain and others (and twenty-three connected petitions)

APPROVED FOR REPORTING (LISTING MARKED 'YES'). LEAVE GRANTED; PETITIONS CONVERTED INTO APPEALS AND ALLOWED TO THE EXTENT INDICATED.

F.C.P.L.A. No. 624 of 2026 and connected petitions · Bench: Amin-ud-Din Khan, Chief Justice and Ali Baqar Najafi, J (judgment by Amin-ud-Din Khan, CJ) · Decided: Heard 15 October 2026; announced in open Court on 17 November 2026 · Uploaded: 17 November 2026

FACTS

Twenty-four petitions challenged a consolidated judgment of the Islamabad High Court dated 18 November 2025, by which a learned Single Judge disposed of twenty-five writ petitions and one contempt petition concerning compensation and rehabilitation arising from the acquisition of 14,944 kanals and 9 marlas in four revenue estates for Sectors C-13 to C-16, Islamabad. Proceedings initiated under Directive No. 1337 dated 25 February 2008 and its addendum culminated in the land award dated 2 December 2008, providing monetary compensation and developed plots under the land-sharing arrangements, followed by a separate award for built-up properties dated 17 August 2023. The claimants alleged unpaid compensation, exclusion of structures, denial of rehabilitation benefits and unlawful demolition. After obtaining surveys and a court-appointed commission's report, the High Court directed payment, plot allotment, market reassessment, additional compensation under section 32-A, and recourse to statutory remedies followed by declaratory suits. Satellite imagery dated 19 January 2009 and 10 March 2020 was relied upon, and a 2021 survey. The Capital Development Authority (Amendment) Act, 2025, published on 2 January 2026 as Act No. I of 2026, inserted section 29-A on rehabilitation cases pending on 30 October 2024 and section 30(4) on non-monetary compensation.

LEGAL ISSUE

Does delay in satisfying an acquisition award warrant substitution of prevailing market value for the compensation determined in it without lawful modification of the award; does inclusion of a structure in a subsequent survey by itself establish entitlement to compensation or rehabilitation benefits; can a court-appointed commission's report conclusively determine statutory eligibility; and do the remedies directed by the High Court conform to the scheme of the Ordinance?

HOLDING

An award determines the rights and entitlements of the persons concerned, and its implementation gives effect to that determination. Failure to pay compensation lawfully awarded may warrant a direction for payment with such additional compensation as the statute permits, but mere delay neither alters the applicable valuation date nor enlarges the entitlement; conversely the Authority cannot invoke finality to evade its obligation to satisfy the award, the principle binding both parties alike. Section 30(1) read with section 2(k)(iii) fixes the legally relevant valuation date, and the potentiality of the acquired property must be assessed as at that date; reassessment founded solely on the passage of time circumvents both the valuation rule and the prescribed remedies, and Capital Development Authority v. Sub. Faqir Shah (PLD 2002 SC 243) does not authorise revaluation at prevailing market rates merely because compensation remains unpaid. Eligibility for built-up property benefits must be established at the date prescribed by the governing award and scheme; a subsequent survey may assist in reconstructing earlier conditions but cannot itself create entitlement arising from later construction, expansion or subdivision, and neither the 2021 survey nor the 2023 award independently creates eligibility. Satellite imagery and the commission's report are evidentiary aids, not substitutes for adjudication; factual acceptance cannot confer jurisdiction or override

statutory restrictions. The directions concerning declaratory suits are unduly broad, sections 49-E and 36 requiring consideration before civil recourse is directed, and civil suits cannot be prescribed as a general appellate remedy. Section 32-A operates on fulfilment of its conditions, with possession as the operative event; neither vesting nor announcement of the award establishes that date.

LEGAL SIGNIFICANCE

The second Federal Constitutional Court judgment on CDA acquisitions in a fortnight, and together with C.P.L.A. 5595/2024 (digested on 12 November) it now frames the whole field. Where the earlier judgment dealt with Mouza Bheka Sayedan and the finality of the 1969 award, this one addresses Sectors C-13 to C-16 and three questions of daily practical importance: the valuation date, built-up property eligibility, and additional compensation under section 32-A. The holding that administrative delay cannot move the valuation date is the heart of it, and the Court is careful to make the obligation reciprocal - the Authority cannot shelter behind finality to avoid paying. Three further points will be useful. First, the treatment of evidence: a 2021 survey, satellite imagery postdating the award and a commission's report under section 75 and Order XXVI, Rules 9 and 10, C.P.C. are aids to adjudication and no more, and where the Authority itself demolished a structure it cannot insist on physical inspection as the sole means of proof. Second, the Court gives effect to the Capital Development Authority (Amendment) Act, 2025 within its own terms, without presuming retrospective validation of every earlier administrative act, and expressly declines any wider ruling on retrospectivity. Third, a share in shamlat land does not by itself establish exclusive title to a particular site or entitlement to a separate plot. The constitutional framing at paragraph 6 - that Articles 4, 23 and 24 require compensation in accordance with law but do not empower the Court to substitute a compensation mechanism of its own, having regard to Article 24(4) - is a careful statement of the limits of judicial intervention in this field.

LEGAL PROPOSITIONS (VERBATIM)

— These guarantees require compensation in accordance with law; they do not empower the Court to substitute a compensation mechanism of its own for that prescribed by the legislature.

— Judicial intervention must rest upon an identifiable legal entitlement and a corresponding duty enforceable against the acquiring authority.

— Mere delay, however, neither alters the applicable valuation date nor enlarges the entitlement determined under the award. Conversely, CDA cannot invoke the finality of an award to evade its corresponding obligation to satisfy it. A subsisting award binds both parties and cannot be disregarded merely because its consequences have become inconvenient.

— Administrative delay neither alters that date nor, by itself, permits reopening an operative award at prevailing market rates.

— The potentiality of the acquired property must be assessed as at the legally relevant valuation date; it cannot justify incorporating subsequent appreciation attributable to Islamabad's development into a subsisting award.

— Reassessment founded solely on the passage of time circumvents both the governing valuation rule and the prescribed remedies.

— A subsequent survey may assist in reconstructing earlier conditions but cannot itself create entitlement arising from later construction, expansion or subdivision.

— Land ownership alone does not prove a structure's existence or dimensions, nor does a structure establish separate rehabilitation entitlement for every occupant.

— The satellite imagery and commission's report are evidentiary aids, not substitutes for adjudication.

— Civil suits cannot, however, be prescribed as a general appellate remedy, nor can their outcome or consequential benefits be predetermined.

— A share in shamlat land does not, by itself, establish exclusive title to a particular site or entitlement to a separate plot.

— The impugned judgment conflated enforcement of acknowledged liabilities with enlargement of disputed entitlements.

LEGAL PRINCIPLES EXPOUNDED

Constitutional guarantees against arbitrary deprivation of property require compensation in accordance with law but do not empower the Court to substitute a compensation mechanism of its own for that prescribed by the legislature.

Source: *These guarantees require compensation in accordance with law; they do not empower the Court to substitute a compensation mechanism of its own for that prescribed by the legislature.*

Authority: *F.C.P.L.A. 624/2026 etc., para 6; Articles 4, 10-A, 23 and 24 of the Constitution*

Mere delay neither alters the applicable valuation date nor enlarges the entitlement under an award; equally, the acquiring authority cannot invoke finality to evade its obligation to satisfy the award.

Source: *Mere delay, however, neither alters the applicable valuation date nor enlarges the entitlement determined under the award. Conversely, CDA cannot invoke the finality of an award to evade its corresponding obligation to satisfy it. A subsisting award binds both parties and cannot be disregarded merely because its consequences have become inconvenient.*

Authority: *F.C.P.L.A. 624/2026 etc., para 8; Capital Development Authority Ordinance, 1960, ss. 22, 25 to 32 and 32-A*

Potentiality is assessed as at the legally relevant valuation date fixed by section 30(1) read with section 2(k)(iii); subsequent appreciation attributable to the city's development cannot be incorporated into a subsisting award.

Source: *The potentiality of the acquired property must be assessed as at the legally relevant valuation date; it cannot justify incorporating subsequent appreciation attributable to Islamabad's development into a subsisting award.*

Authority: *F.C.P.L.A. 624/2026 etc., para 11; Capital Development Authority v. Sub. Faqir Shah, PLD 2002 SC 243, distinguished*

Eligibility for built-up property benefits must be established at the date prescribed by the governing award and scheme; a later survey may assist in reconstructing earlier conditions but cannot itself create entitlement arising from later construction, expansion or subdivision.

Source: *A subsequent survey may assist in reconstructing earlier conditions but cannot itself create entitlement arising from later construction, expansion or subdivision.*

Authority: *F.C.P.L.A. 624/2026 etc., para 14*

Satellite imagery and a commission's report are evidentiary aids and not substitutes for adjudication; factual acceptance cannot confer jurisdiction or override statutory restrictions.

Source: *The satellite imagery and commission's report are evidentiary aids, not substitutes for adjudication.*

Authority: *F.C.P.L.A. 624/2026 etc., para 15; C.P.C., s. 75 and Order XXVI, Rules 9 and 10*

OPERATIVE ORDER

Consequently, leave to appeal is granted, these petitions are converted into appeals and allowed. The impugned judgment dated 18.11.2025 is set aside to the extent challenged herein concerning the respondents. The awards dated 02.12.2008 and 17.08.2023 shall remain operative, subject to lawful variation by a competent forum; delay alone shall not justify revaluation at prevailing market rates. Disputed claims shall be determined expeditiously through competent statutory proceedings, subject to jurisdiction, limitation, the governing awards and applicable amendments. CDA shall discharge verified, subsisting liabilities and determine additional compensation under section 32-A upon fulfilment of its conditions. Possession and removal measures shall comply with statutory safeguards. Concluded proceedings and persons or matters beyond this appeal remain unaffected. No order as to costs.

■ **View Full Judgment**

Supreme Court of Pakistan

4 judgments

LIMITATION AND INHERITANCE - ARTICLE 120 OF THE LIMITATION ACT, 1908 - THE RULE OF THE KNOWN OVERT ACT - WAIVER, ESTOPPEL AND ACQUIESCENCE AMONG CO-HEIRS - PROTECTION OF BONA FIDE PURCHASERS - SUCCESSION UNDER CUSTOM BEFORE THE SHARIAT APPLICATION LAWS

Mst. Meraj Bibi and another v. Mst. Zar Gula (deceased) through LRs. and others (and sixteen connected appeals and petitions)

APPROVED FOR REPORTING. NINE QUESTIONS OF LAW ANSWERED; INDIVIDUAL APPEALS AND PETITIONS REMITTED TO THE APPROPRIATE BENCHES FOR DECISION ON MERITS.

C.A. No. 909 of 2013 and connected matters · Bench: Larger Bench of five: Shahid Waheed, Naeem Akhter Afghan, Aqeel Ahmed Abbasi, Shakeel Ahmad and Miangul Hassan Aurangzeb, JJ · Decided: 7 October 2026; announced on 13 November 2026 at Lahore · Uploaded: 13 November 2026

FACTS

A Larger Bench was constituted to resolve a conflict of authority that had divided the Court. The cases before it were appeals and petitions arising from suits for declaration, joint possession and partition in which the plaintiffs claimed shares in the estates of their propositi and the defendants pleaded limitation; they came from the Peshawar High Court and its Mingora, D.I. Khan and other Benches, the Lahore High Court Multan Bench and the High Court of Balochistan. The record showed that the courts below, each faithfully following one or another line of the Court's precedent, had reached opposite conclusions on materially similar facts. One line held that no limitation runs against a co-sharer and that time does not extinguish inheritance; the other held that the law of limitation applies with full force, particularly where third parties had acquired the land. Two learned amici curiae, Mr. Mahmood Ahmad Bhatti and Mr. Obaid-ur-Rehman Khan, Advocates Supreme Court, assisted the Court, tracing the questions through the Holy Qur'an, the Sunnah, the classical jurists and the case law. Nine questions were framed, the ninth added during argument to address propositi who died before the Muslim Personal Law (Shariat) Application Act of the relevant Province came into force.

LEGAL ISSUE

Is a suit for declaration and recovery of a share in inherited property governed by a specific period of limitation and, if so, from what point does time begin to run; can an heir's right be defeated by lapse of time; may the heirs of a deceased heir assert his unasserted claim; do silence, waiver, estoppel or acquiescence defeat an inheritance claim; what protection is available to a bona fide purchaser; and where the propositus died under custom before the Shariat Application Laws, is the devolution past and closed?

HOLDING

Time does not run against the heir; it runs against the heir's knowledge of a wrong. The right of an heir, vested at the moment of death, never lapses with time, section 28 of the Limitation Act, 1908 having ceased to have effect; only the remedy can be barred. Under Article 120, as between co-heirs, time runs from one moment only: the day an overt act repudiating the heir's title is brought home to the heir's knowledge. A wrong inheritance mutation and its repetition in the record are threatened denials which give an optional cause of action and do not start time. Article 142 applies only where the heir had actual possession and was dispossessed; Article 91 only where the heir seeks to avoid an instrument to which he was himself a party; Articles 123 and 127 do not apply to Muslim heirs. A successor takes the claim as it stood, and a predecessor's silence is never in itself a bar. Silence, inaction or delay never amount to waiver, relinquishment or abandonment, and relinquishment simpliciter of accrued inheritance is void. Estoppel does not operate in favour of a co-heir who brought about the exclusion, but may operate in favour of a third-party transferee on proof of four elements. A transferee takes no better title than the transferor had; a sale of the heir's share with delivery of possession is an actual denial, and against a transferee in good faith for value in open possession the heir is charged with what ordinary diligence would have shown. Where the propositus died before the Shariah became the rule of decision and no provision reaches back, the devolution under proved custom is past and closed, subject to the four exceptions stated, with Khyber Pakhtunkhwa governed by section 3(2) of the Act of 1935 read with the Act of 1962 as construed in Farida.

LEGAL SIGNIFICANCE

The most important judgment on inheritance litigation in a generation, and one that will be pleaded in almost every such suit in the country. Its practical core is the 'rule of the known overt act', stated as a bright line at paragraph 195: a suit concerning a share in inheritance is out of time only if the defendant proves an actual denial of the claimant's right, brought home to the claimant or his predecessor, more than six years before suit, or three years under Article 91 where the heir seeks to avoid his own instrument. The judgment supplies the machinery to apply it: a closed list of five acts amounting to an actual denial at paragraph 197(vi), a ten-step sequence of findings for trial courts at paragraph 197, mandatory issues at paragraph 196, and the rule that limitation in such a suit is a mixed question of law and fact not to be decided on the pleadings alone unless the plaint itself discloses an actual denial known more than six years before suit. Crucially, knowledge is not to be inferred from a revenue entry alone. The Court also issued directions under Article 187 to revenue authorities in all Provinces, registering and development authorities, cantonment boards, cooperative housing societies, settlement officers and trial courts, requiring NADRA family registration records, written notice to every heir including female heirs at their own address, and the personal appearance of an heir before any gift, sale, relinquishment or settlement mutation of inherited land, with a woman revenue officer present for a female heir where available; non-compliance may be taken into account in determining whether the heir had knowledge. Recommendations were commended to the Legislature and the Law and Justice Commission, including a specific article in the Limitation Act for suits by heirs with a long-stop for bona fide purchasers, a registered-instrument requirement for relinquishment or takharuj, and an amendment of section 498A of the Penal Code. The judgment declares the law as it has always stood but will not reopen any decree or order that has attained finality.

LEGAL PROPOSITIONS (VERBATIM)

— Time does not run against the heir; it runs against the heir's knowledge of a wrong. The right of an heir, vested at the moment of death, never lapses with time.

— But under Article 120, as between co-heirs, time runs only from one moment, to wit, the day an overt act repudiating the heir's title is brought home to the heir's knowledge. Until then no clock starts, whatever the lapse of years, and the heir's successors inherit an unspent claim.

— The clock of limitation is wound by denial and set going by knowledge; neither alone will do.

— A wrong inheritance mutation and its repetition in the record are threatened denials; each gives an optional cause of action, and neither starts time.

— Title vested by inheritance is not extinguished by lapse of time, section 28 of the Limitation Act, 1908, having ceased to have effect. Only the remedy can be barred, and only after an actual denial brought home to the heir and the expiry of six years thereafter.

— A fraudulent transaction to which the heir was not a party does not bind him and need not be set aside.

— The successor must plead which of these positions applies. A predecessor's silence is never, in itself, a bar.

— Silence, inaction or delay never amounts to waiver, relinquishment or abandonment of inheritance. Relinquishment simpliciter of accrued inheritance is void.

— Estoppel and acquiescence do not operate in favour of a co-heir who brought about the exclusion, nor against the law of succession itself.

— The transferee takes no better title than the transferor had.

— Long possession does not itself confer title. A purchaser who failed to inquire into the pedigree, the inheritance record and the nature of the vendor's possession is not a purchaser in good faith.

— We call it the rule of the known overt act: time runs only from the date the heir came to know, or as against a purchaser in good faith in open possession, ought by ordinary diligence to have known, of an overt act repudiating her title, that knowledge being proved directly or inferred from circumstances other than a revenue entry alone; nothing else starts the clock.

— Secondly, limitation in such a suit is a mixed question of law and fact, and shall not be decided on the pleadings alone unless the plaint itself discloses an actual denial known to the plaintiff more than six years before the suit.

— The law of limitation is rarely the true cause of an heir's loss. The cause is an exclusion made at the threshold, usually in the record, usually without notice, and usually against a woman, and then a distribution that never happens.

— Certainty in the law of inheritance is not a dry technical virtue; it is a condition of social peace.

LEGAL PRINCIPLES EXPOUNDED

Title vested by inheritance is never extinguished by lapse of time; only the remedy may be barred, and only after an actual denial brought home to the heir followed by six years.

Source: *Title vested by inheritance is not extinguished by lapse of time, section 28 of the Limitation Act, 1908, having ceased to have effect. Only the remedy can be barred, and only after an actual denial brought home to the heir and the expiry of six years thereafter.*

Authority: *C.A. 909/2013 etc., answer to question (ii), para 187; Limitation Act, 1908, Article 120*

The rule of the known overt act: time runs only from the date the heir knew, or as against a purchaser in good faith in open possession ought by ordinary diligence to have known, of an overt act repudiating the title; knowledge is not to be inferred from a revenue entry alone.

Source: *We call it the rule of the known overt act: time runs only from the date the heir came to know, or as against a purchaser in good faith in open possession, ought by ordinary diligence to have known, of an overt act repudiating her title, that knowledge being proved directly or inferred from circumstances other than a revenue entry alone; nothing else starts the clock.*

Authority: *C.A. 909/2013 etc., para 195*

A wrong inheritance mutation and its repetition in the record are threatened denials only; each gives an optional cause of action and neither starts time.

Source: *A wrong inheritance mutation and its repetition in the record are threatened denials; each gives an optional cause of action, and neither starts time.*

Authority: *C.A. 909/2013 etc., answer to question (i), para 186*

Silence, inaction or delay never amount to waiver, relinquishment or abandonment of inheritance, and relinquishment simpliciter of accrued inheritance is void; a share leaves an heir only by a lawful transfer proved strictly by the party relying on it.

Source: *Silence, inaction or delay never amounts to waiver, relinquishment or abandonment of inheritance. Relinquishment simpliciter of accrued inheritance is void.*

Authority: *C.A. 909/2013 etc., answer to question (iv), para 189*

A transferee takes no better title than the transferor had; long possession confers no title, and a purchaser who failed to inquire into the pedigree, the inheritance record and the nature of the vendor's possession is not a purchaser in good faith.

Source: *Long possession does not itself confer title. A purchaser who failed to inquire into the pedigree, the inheritance record and the nature of the vendor's possession is not a purchaser in good faith.*

Authority: *C.A. 909/2013 etc., answers to questions (vi) and (vii), paras 191-192; Transfer of Property Act, 1882, ss. 41 and 44*

Limitation in an inheritance suit is a mixed question of law and fact and is not to be decided on the pleadings alone unless the plaint itself discloses an actual denial known to the plaintiff more than six years before suit.

Source: *Secondly, limitation in such a suit is a mixed question of law and fact, and shall not be decided on the pleadings alone unless the plaint itself discloses an actual denial known to the plaintiff more than six years before the suit.*

Authority: *C.A. 909/2013 etc., para 196*

OPERATIVE ORDER

This judgment declares the law as it has always stood on a correct reading of the statutes. We make it clear, however, that it shall not reopen any decree or order which has attained finality, nor unsettle any transaction past and closed by such a decree or order. The principles stated herein shall govern suits and proceedings pending on, or instituted after, the date of this judgment, and appeals, revisions and petitions arising therefrom. ... Having answered the questions of law referred to this Larger Bench, we refrain from expressing any view on the merits of the individual appeals and petitions. The office is directed to place all the cases before the appropriate Benches, according to the roster, for decision on merits.

■ View Full Judgment

SERVICE LAW - WHETHER THE PUNJAB SERVICE TRIBUNAL POSSESSES THE POWER OF REVIEW - SECTION 5 OF THE PUNJAB SERVICE TRIBUNALS ACT, 1974 AND RULE 22 OF THE RULES OF 1975 - FUNCTUS OFFICIO AND CORAM NON JUDICE

Inspector General of Police, Punjab, Lahore and others v. Alamdar Hussain

APPROVED FOR REPORTING. PETITION CONVERTED INTO APPEAL AND ALLOWED; THE TRIBUNAL'S REVIEW ORDER SET ASIDE, WITHOUT PREJUDICE TO THE RESPONDENT'S REINSTATEMENT.

C.P.L.A. No. 1897-L of 2024 · Bench: Muhammad Ali Mazhar, J and bench · Decided: Announced in open court on 22 July 2026 · Uploaded: 14 November 2026

FACTS

The respondent, a member of a disciplined force, was served a charge sheet with a statement of allegations on 7 May 2021. A regular departmental inquiry under the Punjab Police (Efficiency and Discipline) Rules, 1975 found the charges proved and, despite various opportunities, he failed to appear for personal hearing; the major penalty of dismissal from service was imposed. His departmental appeal was rejected and the Punjab Service Tribunal dismissed his service appeal on 17 January 2023, holding the charges proved and that he deserved no leniency. Rather than filing a civil petition for leave to appeal, he applied the same day for re-hearing of the arguments, which was rejected on 18 January 2023, as was a similar application to the Chairperson. On 3 March 2023 he filed a review application under section 114, Order 47 and section 151, C.P.C. read with section 5 of the Punjab Service Tribunals Act, 1974. The department's objection to maintainability was repelled on the ground that section 5 confers the powers of a civil court, and on 14 May 2024 the Tribunal reviewed its own judgment and reinstated him. Before the Supreme Court the Additional Advocate General stated that the department had no issue with the reinstatement, another employee facing similar charges having been reinstated, but asked that the question of jurisdiction be decided so as not to create a precedent.

LEGAL ISSUE

Has the Punjab Service Tribunal been conferred the power to review its own judgment or order under the Punjab Service Tribunals Act, 1974; and can the power of a civil court conferred by section 5 for the purpose of deciding an appeal be read as including review jurisdiction?

HOLDING

No. The powers of a civil court conferred on the Tribunal are confined to deciding the appeal and leave no room for the assumption of review jurisdiction, which is not conferred by the Act or by the Rules, save the power under Rule 22 of the Rules of 1975 to rectify clerical or arithmetical mistakes arising from an accidental slip or omission - a power analogous to section 152, C.P.C. and distinct from review. Review jurisdiction is a different and independent remedy from appeal: an appeal is a continuation of the original proceedings, whereas review must be heard by the very court that passed the judgment. Both the right of appeal and the right of review must be the creation of statute, and a court or tribunal cannot assume review jurisdiction unless it is provided explicitly in the governing law; proceedings beyond the powers conferred are ultra vires and coram non judice. On passing its appellate judgment the Tribunal becomes functus officio and may exercise jurisdiction only for implementation or execution. The Court recorded that review is conferred on Service Tribunals by section 4A of the Service Tribunals Act, 1973 (Federal), section 7A of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and section 5A of the Balochistan Service Tribunals Act, 1974, but that no power of review is provided under the Punjab Service Tribunals Act, 1974 or the Sindh Service Tribunals Act, 1973.

LEGAL SIGNIFICANCE

A short, decisive judgment with an immediately useful comparative table: review lies before the Federal, Khyber Pakhtunkhwa and Balochistan Service Tribunals by express provision, and does not lie before the Punjab and Sindh Service Tribunals at all. Any review application pending or contemplated before those two Tribunals is now answered, and any order already passed on review by them is open to challenge as coram non judice. The reasoning is grounded in a long line of authority that review is a substantive right and never a

matter of mere procedure - Hussain Bakhsh (PLD 1970 SC 1), Muzaffar Ali (PLD 1981 SC 94) and S.A. Rizvi (1986 SCMR 965) - supported by the Indian decisions in Patel Narshi Thakershi, Kapra Mazdoor Ekta Union, Kuntesh Gupta and Kalabharati Advertising, and by Halsbury's and Corpus Juris on the doctrine of functus officio and the limited 'slip rule'. The Court also distinguishes its recent decision in Mst. Zubaida Khatoon (2026 SCP 24), where the anomaly in section 7A of the Khyber Pakhtunkhwa Act was read down purposively, from the present case where no power exists to construe at all. The maxim creatura non potest esse maior creatore suo - a creature cannot be greater than its creator - captures the holding: a tribunal cannot invent inherent powers its creator did not bequeath.

LEGAL PROPOSITIONS (VERBATIM)

— The reality is completely unmistakable that the powers of civil court conferred to the PST are only confined to decide the appeal and it leaves no room for speculation that these powers can be exercised to assume the jurisdiction of review which power is not conferred in the main statute or even not in the rules except allowing to rectify the clerical or arithmetical mistakes due to any accidental slip or omission which is analogous to the powers of Civil Courts under Section 152 CPC.

— a review jurisdiction is altogether a different and independent remedy which requires to be heard by the very same Court that passed the judgment or order in review originally rather than at a higher appellate forum.

— a Court or Tribunal cannot assume review jurisdiction unless it is provided explicitly in the governing law.

— On passing the appellate judgment, PST becomes functus officio and cannot reopen or change the substance of its decision on its own whims but can only exercise its jurisdiction for the implementation or execution of its judgment in its true force and spirit.

— Allowing a review to be treated as a continuation of appellate jurisdiction would destabilize the legal principle of finality, where litigation must sooner or later come to an end.

— In the absence of jurisdiction, the PST which is a creature of statute, cannot assume or invent inherent powers that its creator i.e. the lawmakers did not bequeath.

— Unlike procedural matters, Courts, Tribunals, or Administrative Authorities do not possess any inherent or equitable power to review their own final decisions unless that specific legislative enactment explicitly confers such jurisdiction upon them.

— When we delve into the area under discussion, it is revealed that power ... of review is conferred to Service Tribunal by means of Section 4A of the Service Tribunals Act 1973 (Federal Law); Section 7A of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and under Section 5A of the Balochistan Service Tribunals Act 1974 but no powers of review are provided under the Punjab Service Tribunals Act 1974 and Sindh Service Tribunals Act 1973.

— No Court has the right to decide any lawsuit which is beyond the purview of its jurisdiction and want of jurisdiction conveys an action beyond the domain earmarked to any particular Court or Tribunal which cannot be cured, even by consent or acquiescence of parties.

LEGAL PRINCIPLES EXPOUNDED

The power of a civil court conferred on a Service Tribunal for the purpose of deciding an appeal does not include review jurisdiction; a power to rectify clerical or arithmetical mistakes is analogous to section 152, C.P.C. and is distinct from review.

Source: *The reality is completely unmistakable that the powers of civil court conferred to the PST are only confined to decide the appeal and it leaves no room for speculation that these powers can be exercised to assume the jurisdiction of review which power is not conferred in the main statute or even not in the rules except allowing to rectify the clerical or arithmetical mistakes due to any accidental slip or omission which is analogous to the powers of Civil Courts under Section 152 CPC.*

Authority: *C.P.L.A. 1897-L/2024, para 8; s. 5 of the Punjab Service Tribunals Act, 1974; Rule 22 of the Punjab Service Tribunals (Procedure) Rules, 1975*

Both the right of appeal and the right of review are creations of statute; a court or tribunal cannot assume review jurisdiction unless it is expressly provided, and proceedings beyond the powers conferred are ultra vires and coram non judice.

Source: *a Court or Tribunal cannot assume review jurisdiction unless it is provided explicitly in the governing law.*

Authority: *Hussain Bakhsh v. Settlement Commissioner, Rawalpindi, PLD 1970 SC 1; Muzaffar Ali v. Muhammad Shafi, PLD 1981 SC 94; S.A. Rizvi v. Pakistan Atomic Energy Commission, 1986 SCMR 965*

Review is an independent remedy and not a continuation of appellate jurisdiction; treating it as such would destabilise the principle of finality, and on passing its appellate judgment the tribunal becomes functus officio.

Source: *On passing the appellate judgment, PST becomes functus officio and cannot reopen or change the substance of its decision on its own whims but can only exercise its jurisdiction for the implementation or execution of its judgment in its true force and spirit.*

Authority: *C.P.L.A. 1897-L/2024, para 10; Jameel Qadir v. Government of Balochistan, 2023 SCMR 1919*

No court or tribunal possesses inherent or equitable power to review its own final decision unless the enactment expressly confers it; a creature of statute cannot assume powers its creator did not bequeath.

Source: *In the absence of jurisdiction, the PST which is a creature of statute, cannot assume or invent inherent powers that its creator i.e. the lawmakers did not bequeath.*

Authority: *C.P.L.A. 1897-L/2024, para 11; Patel Narshi Thakershi v. Shri Pradyuman Singhji, (1971) 3 SCC 844; Kalabharati Advertising v. Hemant Vimalnath Narichania, AIR 2010 SC 3054*

Review lies before the Federal, Khyber Pakhtunkhwa and Balochistan Service Tribunals by express provision, but no power of review is conferred by the Punjab Service Tribunals Act, 1974 or the Sindh Service Tribunals Act, 1973.

Source: *no powers of review are provided under the Punjab Service Tribunals Act 1974 and Sindh Service Tribunals Act 1973.*

Authority: *C.P.L.A. 1897-L/2024, para 14; Mst. Zubaida Khatoon v. Government of Khyber Pakhtunkhwa, 2026 SCP 24, distinguished*

OPERATIVE ORDER

As a result of the above discussion and subject to the observation made in paragraph (3) above, this Civil Petition is converted into appeal and allowed. As a consequence thereof, the impugned order dated 14.05.2024 passed by the learned Punjab Services Tribunal on C.M. No.330/2023 moved in Service Appeal No.5189/2021 is set aside.

■ View Full Judgment

SALES TAX - THE THREE ELEMENTS OF THE TAXING EVENT IN SECTION 3(1) OF THE SALES TAX ACT, 1990 - THE DEFINITIONS OF 'SUPPLY' AND 'TAXABLE ACTIVITY' - ONUS OF ESTABLISHING THE ELEMENTS OF A CHARGE - SHEIKHOO SUGAR AND SANGHAR SUGAR DISTINGUISHED

Attock Refinery Limited, Morgah, Rawalpindi v. Appellate Tribunal Inland Revenue, Islamabad and others

APPROVED FOR REPORTING. LEAVE PETITION CONVERTED INTO AN APPEAL AND ALLOWED.

C.P.L.A. No. 2972 of 2022 · Bench: Munib Akhtar, Malik Shahzad Ahmad Khan and Salahuddin Panhwar, JJ (order by Munib Akhtar, J) · Decided: Heard 4 September 2026; announced in Court on 12 November 2026 · Uploaded: 12 November 2026 (straggler)

FACTS

The petitioner operates an oil refinery and purchases crude oil from exploring and producing companies including OGDCL. Under the agreements with the suppliers, decanting and desalting of the crude oil before processing is the responsibility of the supplier. The petitioner nonetheless accepted the crude oil without decanting or desalting, undertook those processes itself at its own premises, and required the suppliers to make payment for them. The Department treated those payments as consideration for services and brought the transactions to tax under section 3 for the tax periods 1 July 2008 to 30 June 2009, sales tax not having been charged. The petitioner's appeal before the Appellate Tribunal was dismissed and the tax reference met the same fate before the Islamabad High Court by judgment dated 27 April 2022 in STR No. 26/2012, the High Court relying on Sheikhoo Sugar Mills (2001 SCMR 1376) and Sanghar Sugar Mills (PLD 2007 SC 517).

LEGAL ISSUE

Did the application by the petitioner of decanting and desalting processes to crude oil supplied to it by third parties, for which those parties made payments to it, amount to or result in a 'taxable supply' or constitute a 'taxable activity' within the meaning of the Sales Tax Act, 1990, and hence attract tax under section 3?

HOLDING

No. Section 3(1) has three elements: the making of a taxable supply, by a registered person, in the course or furtherance of any taxable activity carried on by him; not only must each element exist but there must also be the necessary linkage between the first and third. On the first element, there was no identifiable and distinct product: there was only the crude oil, both before and after the processes, in contrast to Sheikhoo Sugar where a distinct product, bagasse, came into existence. Clause (a) of the definition of 'supply' as substituted by the Finance Act, 2008 required goods produced or manufactured in the course of taxable activity and put to use 'for purposes other than those of making a taxable supply' - a condition absent from the definition applicable in Sheikhoo Sugar - and the crude oil was used only for making taxable supplies of the refinery's petroleum products. The onus of establishing that all the ingredients of a taxing event exist lies on the State and not on the taxpayer. On the third element, the processes were not the rendering or providing of any services at all: the suppliers were contractually obliged to decant and desalt, so there was nothing to provide a service for, and the payments were in a commercial sense an adjustment or correction of the price. In any event 'taxable activity' is not a taxing event in its own right but the framework in or in relation to which the taxable supply must be made; the High Court had reversed the exercise by finding a taxable supply and then treating an incidental rendering of services in the course of it as a taxable activity.

LEGAL SIGNIFICANCE

A disciplined piece of charging-section analysis that will be cited whenever the Department seeks to tax an ancillary process or adjustment of price. Four points stand out. First, the Court sets out the correct order of inquiry: determine whether a taxable activity is being carried on, and then whether in the course or furtherance of it there has been a taxable supply - each a separate determination, with the linkage supplied by the words 'in the course or furtherance of'. Second, it states in terms that the onus of establishing every ingredient of a taxing event lies on the State. Third, it demonstrates how closely the tax periods must be matched to the applicable text, section 2 having been substituted in 1996 and the relevant clauses amended in 1998 and substituted in 2008; Sheikhoo Sugar turned on the 1996 definitions and Sanghar Sugar on periods from 1994 to 1999, and neither governs the amended provisions. Fourth, the Court identifies the singular contradiction in the High Court's reasoning: if the suppliers were contractually obliged to decant and desalt there was nothing to provide a service for, and if a service was being provided it could not be their contractual obligation. The observation that the same learned author Judge decided both Sheikhoo Sugar and Sanghar Sugar without referring to the former in the latter, confirming that the fact-situations were entirely different, is a useful caution against reading the two together.

LEGAL PROPOSITIONS (VERBATIM)

— For present purposes, s. 3(1) can be regarded as having three elements: (i) the making of a "taxable supply", (ii) by a registered person, (iii) in the course or in furtherance of any "taxable activity" carried on by him.

— While (obviously) both elements must exist for the taxing event to be completed each must also be examined in its own light.

— Put differently, not only must both elements—a "taxable supply" and a "taxable activity"—be shown to exist but there must also be the necessary linkage

— It is foundational that the onus of establishing that all the "ingredients" or elements of a taxing event exist lies on the State and not on the taxpayer.

— Of course, it is trite law that if even one element or "ingredient" of a taxing event is missing the charge fails, and in that sense what has been concluded as regards the first element may be regarded as dispositive.

— If the suppliers were contractually obliged to decant and desalt there was nothing to provide a service for. And if such a service was being provided to the suppliers then it could not be their contractual obligation.

— Secondly, the third element, i.e., "taxable activity" does not constitute a taxing event in its own right. Rather, it provides the framework or context in, or in relation to, which the "taxable supply" must be made for s. 3(1) to

apply.

— In our view, the correct approach to, and interpretation and application of, the definition is to first

— The decision is clearly distinguishable.

LEGAL PRINCIPLES EXPOUNDED

Section 3(1) of the Sales Tax Act, 1990 has three elements - a taxable supply, by a registered person, in the course or furtherance of a taxable activity - each of which must exist and be examined in its own light, with the necessary linkage between the first and third.

Source: *For present purposes, s. 3(1) can be regarded as having three elements: (i) the making of a "taxable supply", (ii) by a registered person, (iii) in the course or in furtherance of any "taxable activity" carried on by him.*

Authority: *C.P.L.A. 2972/2022, para 7*

The onus of establishing that all the ingredients of a taxing event exist lies on the State and not on the taxpayer; if even one element is missing, the charge fails.

Source: *It is foundational that the onus of establishing that all the "ingredients" or elements of a taxing event exist lies on the State and not on the taxpayer.*

Authority: *C.P.L.A. 2972/2022, para 14*

'Taxable activity' is not a taxing event in its own right but the framework or context in relation to which the taxable supply must be made; the correct order of inquiry is first whether a taxable activity is being carried on and then whether a taxable supply was made in the course or furtherance of it.

Source: *Secondly, the third element, i.e., "taxable activity" does not constitute a taxing event in its own right. Rather, it provides the framework or context in, or in relation to, which the "taxable supply" must be made for s. 3(1) to apply.*

Authority: *C.P.L.A. 2972/2022, para 16*

Where a process is the contractual obligation of the other party, its performance is not the rendering of a service to that party, and payment received for it is in commercial terms an adjustment of price rather than consideration for services.

Source: *If the suppliers were contractually obliged to decant and desalt there was nothing to provide a service for. And if such a service was being provided to the suppliers then it could not be their contractual obligation.*

Authority: *C.P.L.A. 2972/2022, para 15*

OPERATIVE ORDER

In view of the foregoing analysis and discussion we conclude that the question posed in para 4 above ought to be answered in the negative, in favor of the petitioner and against the Department. It is so held and declared. ... Accordingly, this leave petition is converted into an appeal and allowed. The impugned judgment of the learned High Court and the decision of the learned Appellate Tribunal are set aside. There will be no order as to costs.

■ **View Full Judgment**

LIMITATION - EXECUTION OF A DECREE - ARTICLE 181 OF THE FIRST SCHEDULE TO THE LIMITATION ACT, 1908 - WHETHER THE PENDENCY OF A PETITION FOR LEAVE TO APPEAL SUSPENDS THE RUNNING OF LIMITATION

Ali Ahmad v. Additional District Judge, Sialkot, etc.

APPROVED FOR REPORTING. APPEAL ALLOWED; EXECUTION APPLICATION DISMISSED AS BARRED BY LIMITATION.

Civil Appeal No. 359-L of 2012 · Bench: Shahid Waheed and Naeem Akhter Afghan, JJ (judgment by Shahid Waheed, J) · Decided: 18 November 2026 · Uploaded: 18 November 2026

FACTS

The decree-holders' suit was decreed by the trial court on 14 October 1981. The appeal against it was dismissed on 27 November 1984, and the High Court maintained the judgment and decree by dismissing the second appeal on 30 October 2001. The appellant then filed a petition for leave to appeal in the Supreme Court. During its pendency, the decree-holders instituted execution proceedings on 16 June 2006 to enforce the decree of 14 October 1981 as affirmed on 30 October 2001. The petition for leave to appeal was dismissed on 20 December 2006. The judgment-debtor objected that the execution application was governed by Article 181, which prescribes three years, running from 30 October 2001, and was therefore out of time; the decree-holders contended that the pendency of the leave petition extended or suspended limitation so that it ran only from 20 December 2006. The High Court accepted the decree-holders' stance and, by order dated 18 June 2010 in C.R. No. 1756/2010, declined to interfere with the execution proceedings.

LEGAL ISSUE

Where a judgment-debtor has pursued successive remedies and finally a petition for leave to appeal before the Supreme Court, does the mere pendency of that petition suspend the running of limitation for execution of the decree under Article 181 of the First Schedule to the Limitation Act, 1908?

HOLDING

No. Upon disposal of an appeal or revision by the court of last instance, the decree passed by that court becomes the operative decree for purposes of execution and limitation is computed accordingly. Where a petition for leave to appeal is subsequently filed, its mere pendency does not suspend the running of limitation. The period during which execution is stayed by a competent court is liable to be excluded under section 15 of the Limitation Act, 1908, but mere pendency without an order staying execution does not attract that provision. Where leave is granted, the petition converted into an appeal and the appeal ultimately allowed, the doctrine of merger operates and limitation is computed in accordance with the order of the Supreme Court. Here the right to seek execution accrued at the latest on 30 October 2001; leave was refused, so the petition was never converted into an appeal, and no stay order was brought to notice. The execution application of 16 June 2006 was therefore plainly barred, and under section 3 every proceeding instituted after the prescribed period is liable to be dismissed notwithstanding that limitation has not been set up as a defence. The subsequent dismissal of the leave petition on 20 December 2006 could neither revive a remedy already time-barred nor provide a fresh starting point.

LEGAL SIGNIFICANCE

A clean and immediately applicable rule for execution practice. It follows and applies Anjuman Ghulaman Mustafa v. Darul Islamia Society (PLD 2024 SC 489), which had reconciled Maulvi Abdul Qayyum (1992 SCMR 241) and Bakhtiar Ahmad (2013 SCMR 5), and it settles the position that had been left open there. The practical upshot for a decree-holder is that the clock starts when the court of last instance in the appellate or revisional chain disposes of the matter, and the filing of a leave petition by the losing party is no reason to hold back: unless the Supreme Court stays execution or grants leave and allows the appeal, limitation runs throughout. The decision also marks the two routes by which the position can change - exclusion under section 15 where execution is stayed, and merger where leave is granted and the appeal allowed - and reminds practitioners that under section 3 the court must dismiss a time-barred proceeding even if the point is not pleaded. Any decree-holder currently awaiting the outcome of a leave petition before taking out execution should read this judgment at once.

LEGAL PROPOSITIONS (VERBATIM)

— The principle emerging from the above judgment is that, upon disposal of an appeal or revision by the court of last instance, the decree passed by that court becomes the operative decree for purposes of execution, and limitation is computed accordingly.

— However, where a petition for leave to appeal is subsequently filed before this Court, its mere pendency does not suspend the running of limitation.

— Mere pendency of a petition for leave to appeal, without an order staying execution, does not attract this provision.

— Likewise, where leave is granted, the petition is converted into an appeal and the appeal is ultimately allowed, the doctrine of merger operates and limitation is computed in accordance with the order passed by this Court.

— The subsequent filing of a petition for leave to appeal by the appellant did not, by itself, suspend the operation of the decree or arrest the running of limitation.

— Furthermore, under Section 3 of the Limitation Act, 1908, every proceeding instituted after the prescribed period of limitation is liable to be dismissed, notwithstanding that limitation has not been set up as a defence, subject to the statutory exceptions.

— The subsequent dismissal of the petition for leave to appeal on 20.12.2006 could neither revive the remedy of execution, which had already become time-barred, nor provide a fresh starting point for computing limitation.

LEGAL PRINCIPLES EXPOUNDED

On disposal of an appeal or revision by the court of last instance, the decree of that court becomes the operative decree for execution and limitation is computed from it.

Source: *The principle emerging from the above judgment is that, upon disposal of an appeal or revision by the court of last instance, the decree passed by that court becomes the operative decree for purposes of execution, and limitation is computed accordingly.*

Authority: *Anjuman Ghulaman Mustafa v. Darul Islamia Society, PLD 2024 SC 489; Maulvi Abdul Qayyum v. Syed Ali Asghar Shah, 1992 SCMR 241*

The mere pendency of a petition for leave to appeal does not suspend the running of limitation for execution; the period is excluded under section 15 only where execution has been stayed by a competent court.

Source: *Mere pendency of a petition for leave to appeal, without an order staying execution, does not attract this provision.*

Authority: *Bakhtiar Ahmad v. Mst. Shamim Akhtar, 2013 SCMR 5; Limitation Act, 1908, s. 15*

Where leave is granted, the petition converted into an appeal and the appeal allowed, the doctrine of merger operates and limitation runs from the order of the Supreme Court.

Source: *Likewise, where leave is granted, the petition is converted into an appeal and the appeal is ultimately allowed, the doctrine of merger operates and limitation is computed in accordance with the order passed by this Court.*

Authority: *C.A. 359-L/2012, para 4*

Under section 3 of the Limitation Act, 1908 a proceeding instituted after the prescribed period must be dismissed even though limitation has not been pleaded as a defence, and a later event cannot revive a remedy already barred or furnish a fresh starting point.

Source: *Furthermore, under Section 3 of the Limitation Act, 1908, every proceeding instituted after the prescribed period of limitation is liable to be dismissed, notwithstanding that limitation has not been set up as a defence, subject to the statutory exceptions.*

Authority: *C.A. 359-L/2012, para 6; Limitation Act, 1908, ss. 3 and Article 181*

OPERATIVE ORDER

For the foregoing reasons, this appeal is allowed. The impugned order dated 18.06.2010 passed by the High Court is set aside. Consequently, the objections filed by the appellant are accepted and the execution application instituted by the decree-holders on 16.06.2006 is dismissed as barred by limitation.

■ View Full Judgment

Lahore High Court

6 judgments

SALES TAX - THE EXTENDED DEFINITION OF 'REGISTERED PERSON' IN SECTION 2(25) - COMPULSORY REGISTRATION UNDER SECTION 14 AND RULE 6(4) OF THE SALES TAX RULES, 2006 - EFFECT OF THE OMISSION OF SECTION 19 BY THE FINANCE ACT, 2004 - WHETHER LIABILITY MAY BE IMPOSED RETROSPECTIVELY FOR THE PRE-REGISTRATION PERIOD

Commissioner Inland Revenue v. M/s Shoaib Traders

APPROVED FOR REPORTING. REFERENCE APPLICATIONS DISMISSED; THE TRIBUNAL'S ORDERS MAINTAINED.

2026 LHC 8946 (S.T.R. No. 40130 of 2022, with S.T.R. Nos. 40131, 40132 and 40134 of 2022) · Bench: Hassan Nawaz Makhdoom and Muhammad Ajmal Zahid, JJ (judgment by Muhammad Ajmal Zahid, J) · Decided: Announced and dictated 11 November 2026; signed 18 November 2026 · Uploaded: 19 November 2026

FACTS

On the basis of reports from the Directorate of Intelligence and Investigation, Faisalabad, the department alleged that a manufacturer of ghee and cooking oil had made supplies to registered and unregistered persons during the tax periods falling within July 2015 to June 2019, with declared values of Rs. 15,726,738 for Tax Year 2016, Rs. 14,620,086 for 2017, Rs. 16,472,068 for 2018 and Rs. 12,852,012 for 2019, attracting sales tax at 17 per cent under section 3 read with Serial No. 24 of the Sixth Schedule. Show-cause notices were issued and demands raised for periods preceding the date on which the person was registered. The Appellate Tribunal Inland Revenue, Division Bench-I, Islamabad, by order dated 15 March 2022 in STA Nos. 202 to 205/IB/2021, concluded that the department had not lawfully established its authority to impose sales tax for the periods preceding compulsory registration. The department brought reference applications under section 47, relying principally on this Court's judgment in S.K. Steel Casting.

LEGAL ISSUE

May the department, relying on the extended definition of 'registered person' in section 2(25) of the Sales Tax Act, 1990, dispense with the compulsory registration procedure and impose the entire liability of a registered person retrospectively for a period preceding the date of registration?

HOLDING

No. The combined reading of sections 2(24), 2(25), 3, 6, 7, 11 and 14 and the omitted section 19, with Rule 6 of the Rules of 2006, makes it evident that the department must follow the prescribed procedure for compulsory registration before proceeding to charge sales tax under section 3, and Rule 6(4) expressly requires a person compulsorily registered to comply with the Act and Rules from the date of compulsory registration. Such a statutory prescription cannot be rendered ineffective by an expansive interpretation of the definition clause. The expression 'liable to be registered' identifies a person upon whom the law imposes an obligation to obtain registration, but the consequences flowing from actual or compulsory registration must be determined in accordance with the Act and Rules; the liability to pay tax and the liability to obtain registration are legally distinct though interrelated obligations, and it cannot be presumed that every consequence attached to an actually registered person operates retrospectively from the date the person first became liable. The legislative intent is discernible from the change in scheme: whereas the erstwhile section 19 contemplated deemed registration retrospectively, Rule 6(4) requires compliance from the date of compulsory registration. S.K. Steel Casting, far from being ignored, was correctly applied; its observation that the department may proceed against a taxpayer for pre-registration contraventions prevents a claim of complete immunity, but such proceedings must be founded on the relevant provisions and cannot become an unrestricted power to impose a retrospective demand.

LEGAL SIGNIFICANCE

A clear answer to a recurring departmental practice, and one that materially affects demands raised against unregistered or late-registered persons. The judgment identifies the decisive statutory change: the omission of section 19 by the Finance Act, 2004, which had contemplated deemed registration retrospectively from the date liability arose, and its replacement by Rule 6(4), which requires compliance only from the date of compulsory registration. Reading the extended definition in section 2(25) so as to impose retrospective

liability would render the words 'from the date of compulsory registration' redundant. The Court is careful to leave the department its remedies - the Act provides specific consequences for failure to register, and the department is not rendered powerless - while insisting that each proceeding must stand on its own legal foundation, with the factual and legal basis of the charge established and the prescribed opportunity of hearing afforded. The practical sequence is set out at paragraph 51: initiate compulsory registration proceedings, determine liability to registration under Rule 6, and then proceed under the relevant provisions. The observation that the statutory framework does not give an unregistered person the same mechanism for issuing tax invoices and filing electronic returns as an actually registered person goes to the heart of why retrospective imposition of a registered person's liability is incoherent in a VAT system.

LEGAL PROPOSITIONS (VERBATIM)

— In the present controversy, the combined reading of Section 2(24), Section 2(25), Section 3, Section 14, omitted section 19 and Rule 6(4) does not support the proposition that the department may dispense with the compulsory registration procedure and impose the entire liability of a registered person retrospectively for a period preceding the date of such registration.

— The department is not rendered powerless merely because the person was not registered during the relevant period. However, the existence of such penal consequences cannot be used as a substitute for the statutory procedure governing compulsory registration and assessment. Each proceeding must stand on its own legal foundation.

— However, such proceedings must be founded upon the relevant provisions of the Act and cannot be converted into an unrestricted power to impose a retrospective tax demand without satisfying the statutory requirements.

— It is also pertinent to observe that the liability to pay tax and the liability to obtain registration are legally distinct, although interrelated, obligations.

— The failure to obtain registration may attract consequences under the Act; however, it cannot be presumed that every consequence attached to an actually registered person automatically operates retrospectively from the date on which the person first became liable to registration.

— Whereas the erstwhile Section 19 contemplated deemed registration retrospectively from the date on which a person became liable to be registered, Rule 6(4) expressly requires compliance with the provisions of the Act and the Rules from the date of compulsory registration.

— The expression "liable to be registered" identifies a person upon whom the law imposes an obligation to obtain registration; however, the consequences flowing from actual or compulsory registration must be determined in accordance with the provisions of the Act and the Rules framed thereunder.

— Such a statutory prescription cannot be rendered ineffective by resorting to an expansive interpretation of the definition clause.

— The appropriate course available to the department was to initiate compulsory registration proceedings, determine the liability of the respondent-registered person in accordance with Rule 6 of the Rules, and thereafter proceed under the relevant provisions of the Act.

LEGAL PRINCIPLES EXPOUNDED

The department must follow the prescribed procedure for compulsory registration before charging sales tax under section 3; the extended definition in section 2(25) cannot be read so as to dispense with it.

Source: *In the present controversy, the combined reading of Section 2(24), Section 2(25), Section 3, Section 14, omitted section 19 and Rule 6(4) does not support the proposition that the department may dispense with the compulsory registration procedure and impose the entire liability of a registered person retrospectively for a period preceding the date of such registration.*

Authority: *2026 LHC 8946, para 44; Sales Tax Act, 1990, ss. 2(24), 2(25), 3 and 14; Sales Tax Rules, 2006, Rule 6*

The liability to pay tax and the liability to obtain registration are legally distinct obligations; the consequences attaching to an actually registered person do not automatically operate retrospectively from the date liability to register first arose.

Source: *It is also pertinent to observe that the liability to pay tax and the liability to obtain registration are legally distinct, although interrelated, obligations.*

Authority: *2026 LHC 8946, para 52*

The omission of section 19 by the Finance Act, 2004 and the insertion of Rule 6(4) signify that liability arising from compulsory registration is not to be extended retrospectively to the pre-registration period.

Source: *Whereas the erstwhile Section 19 contemplated deemed registration retrospectively from the date on which a person became liable to be registered, Rule 6(4) expressly requires compliance with the provisions of the Act and the Rules from the date of compulsory registration.*

Authority: *2026 LHC 8946, para 53; Finance Act, 2004; Sales Tax Rules, 2006, Rule 6(4)*

The department retains its remedies for failure to register, but penal consequences cannot substitute for the statutory procedure governing compulsory registration and assessment, and each proceeding must stand on its own legal foundation.

Source: *The department is not rendered powerless merely because the person was not registered during the relevant period. However, the existence of such penal consequences cannot be used as a substitute for the statutory procedure governing compulsory registration and assessment. Each proceeding must stand on its own legal foundation.*

Authority: *2026 LHC 8946, para 42; S.K. Steel Casting, applied*

OPERATIVE ORDER

Consequently, we find no legal infirmity in the impugned orders dated 15.03.2022 passed by the learned Appellate Tribunal Inland Revenue, Division Bench-I, Islamabad, warranting interference by this Court in its reference jurisdiction, therefore, instant Sales Tax Reference Application, along with connected STR Nos.40131/2022, 40132/2022 and 40134/2022, are dismissed. The impugned orders dated 15.03.2022 passed by the learned Tribunal are maintained.

■ View Full Judgment

LAND ACQUISITION - APPEAL UNDER SECTION 54 OF THE LAND ACQUISITION ACT, 1894 - DETERMINATION OF COMPENSATION UNDER SECTION 23 - POTENTIALITY AND MARKET VALUE - IMPERMISSIBILITY OF BIFURCATING A CONTIGUOUS PARCEL INTO FRONTAGE AND REAR PORTIONS

Mst. Nargis Khatoon and others v. The Land Acquisition Collector and others

APPROVED FOR REPORTING. APPEAL ALLOWED; UNIFORM RATE OF RS. 500,000 PER MARLA ASSESSED FOR THE ENTIRE ACQUIRED LAND.

2026 LHC 8809 (R.F.A. No. 583 of 2023) · Bench: Abid Hussain Chattha and Jawad Hassan, JJ (judgment by Jawad Hassan, J) · Decided: Announced in open Court on 16 November 2026 · Uploaded: 16 November 2026

FACTS

The appellants own six kanals comprised in Khewat No. 369/379, Khatooni No. 670 Min, Khasra Nos. 46/13/2, 14/1/2 and 14/2 in Mouza Bouapur, Tehsil and District Multan. An area measuring five kanals, seven marlas and five sarsai was acquired by the Commissioner, Multan Division at the request of the City Police Officer, Multan for the construction of Police Station Seetal Mari. Dissatisfied with the compensation assessed, the appellants filed objections on 14 December 2019 and sought a reference under section 18. The Senior Civil Judge (Civil Division), Multan, sitting as Referee Court, framed issues, recorded evidence and dismissed the reference by judgment and decree dated 12 October 2023. This Court had earlier remanded the matter by judgment dated 14 April 2025, but the Supreme Court set that order aside on 21 January 2026 in C.P. No. 2691 of 2026 and remanded the matter to be decided on merits on the available record. The acquired land lies along Main Khanewal Road, in proximity to established commercial markets, showrooms, a populated locality and Paramount Society, and the Local Commissioner had reported on its nature and potential. The Collector and the Referee Court had bifurcated the acquired land into frontage and rear portions and awarded compensation at different rates.

LEGAL ISSUE

May a single contiguous parcel acquired for one public purpose be bifurcated into frontage and rear portions and compensated at different rates; and how is compensation under section 23 of the Land Acquisition Act,

1894 to be determined where neither party has established the market value with precision?

HOLDING

No, the land may not be so bifurcated. Determination of compensation must be founded upon the collective potentiality and actual market value of the acquired property rather than an artificial division of one integrated parcel into separate portions. Where land is acquired for one project, the potential value of the entire area being acquired is relevant, and measuring the land in small parcels based on ownership and revenue classifications is to the disadvantage of the landowners because it undermines the potential value. Compensation under section 23 is not governed merely by the classification or nature of land in the revenue record; actual market value, location, neighbourhood and potentiality are the relevant considerations. Where the acquisition process spans a period of time, price escalation occurring during that interval must be factored into the determination of potential value. Where neither party has established its claim with mathematical precision, the Court must undertake a judicial appraisal of the entire record rather than confine itself to the deficiencies in the evidence of either party, and must arrive at a just, fair and reasonable assessment. Compensation in compulsory acquisition must not be illusory or symbolic but fair, just, reasonable and commensurate with the actual worth and potential of the property, Articles 23 and 24 requiring that a citizen deprived of property be placed as nearly as possible in the same financial position as if the acquisition had not taken place.

LEGAL SIGNIFICANCE

A practical and generous application of the Supreme Court's reasoning in Federal Government of Pakistan v. Mst. Zakia Begum (PLD 2023 SC 277), whose review was dismissed in 2023 SCMR 2092, to a small acquisition, and an answer to the common departmental device of splitting a single holding into frontage and rear strips. Three features will be useful to anyone appearing in a section 54 appeal. First, the Court holds that the unit of valuation in a single-project acquisition is the entire area acquired, not its parts, and that revenue classifications have no relevance to the calculation of compensation. Second, it accepts that where the acquisition process spans a period, price escalation during the interval must be factored into potential value - a point of real consequence given the delays typical in these matters. Third, and perhaps most useful, it rejects the proposition that a landowner's failure to produce contemporaneous sale deeds is fatal: where both sides have failed to establish their respective positions, the Court undertakes a judicial appraisal of the cumulative effect of the oral and documentary evidence, including the location and the Local Commissioner's report, rather than allowing the deficiencies in the evidence to defeat the statutory entitlement. The collected authorities - Surraya Mehmood Jan (2015 SCMR 28), Nasir Munir Ahmed (2022 CLC 2072), National Command Authority v. Zahoor Azam (2024 CLC 1) and Lalarukh Saqlain (2023 YLR 222) - make this a convenient citation for the whole topic.

LEGAL PROPOSITIONS (VERBATIM)

— Articles 23 and 24 of the Constitution of Islamic Republic of Pakistan, 197 3 guarantee that no person shall be deprived of property without adequate compensation

— To hold otherwise would be to allow the acquiring authority to benefit from the fortuitous absence of a witness and to render nugatory the statutory entitlement of the landowner to full and just indemnification.

— In view of the foregoing authoritative pronouncements, it is evident that the determination of compensation must be founded upon the collective potentiality and actual market value of the acquired property, rather than an artificial division of one integrated parcel into separate portions.

— In such circumstances, the Court is required to undertake a judicial appraisal of the entire record rather than confine itself to the deficiencies in the evidence of either party.

— It is by now a settled principle of law that compensation in compulsory acquisition cases must not be illusory or symbolic;

— The constitutional guarantees embodied in Articles 23 and 24 of the Constitution require that a citizen deprived of his property for a public purpose must receive adequate compensation so as to place him, as nearly as possible, in the same financial position in which he would have remained had the acquisition not taken place.

— Measuring the land in small parcels, based on ownership and revenue classifications is to the disadvantage of the landowners, because it undermines the potential value particularly when the acquisition is of a large area of land for a single project.

— the classification of the land in the Revenue Record cannot be the sole criteria for determining its value and its potential i.e. the use of which the said land can be put, must also be a factor. In this behalf, the use of the land in its vicinity needs to be examined.

LEGAL PRINCIPLES EXPOUNDED

Compensation must be founded upon the collective potentiality and actual market value of the acquired property, not upon an artificial division of one integrated parcel into separate portions.

Source: *In view of the foregoing authoritative pronouncements, it is evident that the determination of compensation must be founded upon the collective potentiality and actual market value of the acquired property, rather than an artificial division of one integrated parcel into separate portions.*

Authority: *2026 LHC 8809, para 26; Federal Government of Pakistan v. Mst. Zakia Begum, PLD 2023 SC 277, applied*

Where land is acquired for a single project, the unit of valuation is the entire area acquired; measuring it in small parcels by reference to ownership and revenue classifications undermines the potential value to the landowner's disadvantage.

Source: *Measuring the land in small parcels, based on ownership and revenue classifications is to the disadvantage of the landowners, because it undermines the potential value particularly when the acquisition is of a large area of land for a single project.*

Authority: *Federal Government of Pakistan v. Mst. Zakia Begum, PLD 2023 SC 277, para 16; review dismissed, 2023 SCMR 2092*

Classification of land in the revenue record cannot be the sole criterion of value; actual market value, location, neighbourhood and potentiality, including the use of land in the vicinity, are relevant considerations under section 23.

Source: *the classification of the land in the Revenue Record cannot be the sole criteria for determining its value and its potential i.e. the use of which the said land can be put, must also be a factor. In this behalf, the use of the land in its vicinity needs to be examined.*

Authority: *Land Acquisition Collector, G.S.C., N.T.D.C. (WAPDA), Lahore v. Mst. Surraya Mehmood Jan, 2015 SCMR 28*

Where neither party establishes market value with precision, the Court must undertake a judicial appraisal of the entire record and arrive at a just and reasonable assessment rather than let evidential deficiencies defeat the statutory entitlement.

Source: *In such circumstances, the Court is required to undertake a judicial appraisal of the entire record rather than confine itself to the deficiencies in the evidence of either party.*

Authority: *2026 LHC 8809, para 27*

Compensation in compulsory acquisition must not be illusory or symbolic; Articles 23 and 24 require that the owner be placed as nearly as possible in the same financial position as if the acquisition had not occurred.

Source: *The constitutional guarantees embodied in Articles 23 and 24 of the Constitution require that a citizen deprived of his property for a public purpose must receive adequate compensation so as to place him, as nearly as possible, in the same financial position in which he would have remained had the acquisition not taken place.*

Authority: *2026 LHC 8809, para 28; Mst. Lalarukh Saqlain v. Punjab Health Department, 2023 YLR 222*

OPERATIVE ORDER

In view of the foregoing discussion, the evidence available on record and the settled principles laid down by the Supreme Court of Pakistan regarding determination of compensation under Section 23 of the "Act", we are inclined to allow this appeal and hold that neither the Land Acquisition Collector nor the "Referee Court" assessed the true market value of the acquired land in its correct perspective. ... Keeping in view the totality of circumstances, the location and potential of the acquired land, the prevailing market conditions at the relevant time and the judicial precedents referred to hereinabove, we are of the considered opinion that the ends of justice would be adequately met by assessing the entire land at a uniform rate of Rs.5,00,000/- per marla. Compulsory acquisition charges of 15% already awarded under Section 23(2) of the "Act" shall remain intact. No order as to costs.

■ View Full Judgment

RENT - LEAVE TO CONTEST UNDER SECTION 22 OF THE PUNJAB RENTED PREMISES ACT, 2009 - ACTUS CURIAE NEMINEM GRAVABIT - STRICT CONSTRUCTION OF A PROVISION ATTACHING PENAL CONSEQUENCES - INTERLOCUTORY ORDERS AND THE BAR IN SECTION 28

Zahid Bashir v. Senior Civil Judge and others

APPROVED FOR REPORTING. PETITION DISMISSED.

2026 LHC 8844 (W.P. No. 2271 of 2026) · Bench: Mirza Viqas Rauf, J · Decided: Dictated 16 October 2026; signed and announced in open Court on 17 November 2026 · Uploaded: 17 November 2026

FACTS

The petitioner, claiming to be landlord of four shops in Abdullah Market, Library Road, Jhelum, filed an application under section 19 of the Punjab Rented Premises Act, 2009 before the Rent Tribunal on 19 July 2021, seeking eviction on the grounds of expiry of the tenancy period and default in payment of rent. The respondent appeared with counsel before the Rent Tribunal on 29 July 2021 and requested leave to submit an application for leave to contest, whereupon the Tribunal adjourned the proceedings to 7 September 2021 - the adjournment apparently occasioned by the summer vacation running from 1 August to 31 August 2021, so that the next date fell within ten days of the first appearance if the vacation is excluded. The matter has a checkered history: leave to contest was initially declined on 6 December 2021 and an eviction order passed; the Additional District Judge, Jhelum allowed the respondent's appeal on 1 June 2022; this Court accepted the landlord's W.P. No. 1638 of 2022 on 24 October 2022; and leave to contest was ultimately allowed by the order now impugned, on the footing that the application had been filed within time.

LEGAL ISSUE

Where a Rent Tribunal, on the tenant's first appearance, itself adjourns the proceedings to a later date for the specific purpose of submitting an application for leave to contest, can the tenant be held to have filed that application beyond the period prescribed by section 22(2) of the Punjab Rented Premises Act, 2009?

HOLDING

No. On the date the respondent first appeared with counsel the proceedings were adjourned by the Tribunal with the specific purpose of submission of the application for leave to contest on the next date, apparently because of the summer vacation, and there was thus no occasion for the respondent to submit it earlier. The law is well settled that no party can be vexed on account of an act of the Court: no individual should bear any detriment arising from the Court's error, and no act of the Court should operate to anyone's disadvantage, the doctrine resting on the maxim actus curiae neminem gravabit and embodying a wider basis essential for the fair and proper administration of justice, with the Court obliged to remedy any harm caused to a party by its own actions. Further, where a provision of law attaches penal consequences to a particular act or omission, its language must be construed strictly and not extended beyond its plain and ordinary meaning; where such language is capable of two reasonable interpretations, the one favourable to the person sought to be penalised must ordinarily be preferred. The impugned order is in any event interlocutory, and section 28 provides an appeal only against a final order, the legislature having purposely immunised interim orders from appellate scrutiny; constitutional jurisdiction cannot be employed as a substitute for appeal, review or revision.

LEGAL SIGNIFICANCE

A useful judgment on two fronts. The first is the application of actus curiae neminem gravabit to the computation of the period for leave to contest - a point that arises constantly in rent practice, where the Tribunal's own adjournment, vacation listing or office objection may consume the statutory period. The Court draws on Muhammad Ijaz (2016 SCMR 834), Muhammad Yar (2003 SCMR 1772) and the extended passage from Abid Jan (2023 SCMR 1451), which brings in the doctrine of ex debito justitiae and the principle of restitution: where the Court is satisfied that it has committed a mistake, the party should be restored to the position he would have occupied had the mistake not happened, and the correction must be made without

shifting blame to the parties. The second is the treatment of section 22(2) as a provision attaching penal consequences, to be construed strictly with any reasonable doubt resolved in favour of the party sought to be penalised, supported by State Bank of Pakistan v. SECP (PLD 2018 SC 52) and the passages there collected from Maxwell and the Indian and Pakistani authorities. The closing observation that an order granting leave to contest is interlocutory and therefore outside the appeal provided by section 28, and that constitutional jurisdiction is no substitute for appeal, review or revision, is a reminder of the narrow compass of such a challenge.

LEGAL PROPOSITIONS (VERBATIM)

— Law to this effect is also well settled that no party can be vexed on account of act of the Court. No individual should bear any detriment arising from the Court's error, and no act of the Court should operate to anyone's disadvantage.

— This doctrine embodies the wider basis essential for the fair and proper administration of justice. It is further linked to the principle that the Court is obligated to remedy any harm caused to a party by its own actions.

— It is thus evident that on the date when the respondent for the first time appeared before the Rent Tribunal alongwith his counsel on 29

— There was thus no occasion for the respondent to submit the application for leave to contest prior to the date fixed by the Rent Tribunal.

— It is an oft-repeated principle of statutory interpretation that where a provision of law attaches penal consequences to a particular act or omission, its language must be construed strictly and not extended beyond its plain and ordinary meaning.

— It is equally well-settled that where the language of a penal statute is capable of two reasonable interpretations, the interpretation favourable to the person sought to be penalized must ordinarily be preferred.

— Such a rule of construction stems from the fundamental principle that penal liability must be founded upon clear and unambiguous statutory language, and that any reasonable doubt as to the applicability or scope of a penal provision must benefit the person against whom such consequences are sought to be imposed.

— The impugned order even otherwise for all intents and purposes, is an interlocutory order as per contemplation of the provisions of the Act, 2009. Section 28 of the Act, 2009 provides remedy of appeal only against the final order. The legislature thus purposely immune the scrutiny of the interim orders from the purview of the appellate court. ... appeal, review or revision.

— According to the principle of restitution, if the Court is satisfied that it has committed a mistake, then such person should be restored to the position which he would have acquired if the mistake did not happen.

LEGAL PRINCIPLES EXPOUNDED

No party may be prejudiced by an act of the Court; the doctrine actus curiae neminem gravabit obliges the Court to remedy any harm caused to a party by its own actions.

Source: *Law to this effect is also well settled that no party can be vexed on account of act of the Court. No individual should bear any detriment arising from the Court's error, and no act of the Court should operate to anyone's disadvantage.*

Authority: *Muhammad Ijaz v. Muhammad Shafi through L.Rs., 2016 SCMR 834; Muhammad Yar through Legal Heirs v. Muhammad, 2003 SCMR 1772*

Where the Court itself is satisfied that it has committed a mistake, the principle of restitution requires that the party be restored to the position he would have occupied had the mistake not happened, the correction being made without shifting blame to the parties.

Source: *According to the principle of restitution, if the Court is satisfied that it has committed a mistake, then such person should be restored to the position which he would have acquired if the mistake did not happen.*

Authority: *Abid Jan v. Ministry of Defence, 2023 SCMR 1451; Homoeo Dr. Asma Noreen Syed v. Government of the Punjab, 2022 SCMR 1546*

A provision attaching penal consequences must be construed strictly and not extended beyond its plain meaning; where it admits of two reasonable interpretations, the one favourable to the person sought to be penalised is to be preferred.

Source: *It is equally well-settled that where the language of a penal statute is capable of two reasonable interpretations, the interpretation favourable to the person sought to be penalized must ordinarily be preferred.*

Authority: *State Bank of Pakistan v. Securities and Exchange Commission of Pakistan, PLD 2018 SC 52*

An order granting leave to contest is interlocutory; section 28 of the Punjab Rented Premises Act, 2009 provides an appeal only against a final order, and constitutional jurisdiction is not a substitute for appeal, review or revision.

Source: *Section 28 of the Act, 2009 provides remedy of appeal only against the final order. The legislature thus purposely immune the scrutiny of the interim orders from the purview of the appellate court.*

Authority: *2026 LHC 8844, para 17; President, All Pakistan Women Association, Peshawar Cantt v. Muhammad Akbar Awan, 2020 SCMR 260; Khalid Pervaiz ul Haq v. Mst. Minha Asif, PLD 2025 SC 847*

OPERATIVE ORDER

For the foregoing reasons, this Court finds no jurisdictional defect or patent illegality in the impugned order warranting interference in the exercise of constitutional jurisdiction. Consequently, the instant petition, being devoid of any merits is dismissed, with no order as to costs.

■ **View Full Judgment**

RENT - WHETHER PREMISES FORMING PART OF A WAQF ESTATE FALL WITHIN THE EXCLUSION IN SECTION 2(A) OF THE PUNJAB RENTED PREMISES ACT, 2009 - COMPETENCY OF A MUTAWALLI TO INSTITUTE EJECTMENT PROCEEDINGS AS 'LANDLORD' UNDER SECTION 2(D)

Habib Ullah v. Additional District Judge and others

APPROVED FOR REPORTING. PETITION DISMISSED IN LIMINE.

2026 LHC 8777 (W.P. No. 6712 of 2026) · Bench: Syed Ahsan Raza Kazmi, J · Decided: Decided 2026 · Uploaded: 13 November 2026

FACTS

Respondent No. 3, claiming authority as Mutawalli under a registered Waqf Deed dated 25 April 2019, instituted an ejectment petition under the Punjab Rented Premises Act, 2009 against the petitioner and others. The tenants filed a written reply on various grounds. The ejectment petition was initially allowed on 24 September 2024, but the Appellate Court set that order aside and directed the Rent Tribunal to record the evidence of both parties and decide afresh. Issues were framed and the respondent's evidence was recorded; the petitioners failed to submit their affidavit in evidence in accordance with the procedure prescribed under the Act, and their subsequent application seeking permission to produce evidence was dismissed. The Rent Tribunal allowed the ejectment petition by order and memo of costs dated 14 April 2026, directing the tenants to vacate within fifteen days and to pay rent at Rs. 4,500 per month from October 2022 until vacation. The appeal was dismissed by the Additional District Judge, Minchinabad on 13 October 2026. The premises comprise a commercial shop or room allegedly let out for commercial and residential use. The petitioner had separately challenged the Waqf Deed and Mutation No. 1053 by civil suit, and contended that no landlord-tenant relationship existed because he and his brothers had themselves constructed the house.

LEGAL ISSUE

Does the exclusion in section 2(a) of the Punjab Rented Premises Act, 2009 relating to a place of religious worship apply to every portion of a Waqf estate whose rental income is applied to religious purposes; and is a Mutawalli competent to institute ejectment proceedings as a 'landlord' under section 2(d)?

HOLDING

The exclusion is confined to premises which, by their nature and use, constitute a place where religious worship is actually performed. The mere fact that ownership vests in a Waqf estate, or that the rental income is intended for religious or charitable purposes, does not transform every portion of such an estate into a place of religious worship; the distinction between the principal place of worship and its independent ancillary or commercial premises cannot be overlooked, and applicability is determined by the nature and character of the demised premises and the purpose of the letting rather than the status of ownership. That conclusion is fortified by section 3, which contemplates exemption by notification in the official Gazette, no such notification having been produced. On competency, section 2(d) defines a landlord to include a person for the time being

entitled or authorised to receive rent, and is not confined to the owner; a Mutawalli, responsible for the management and administration of Waqf property, may lawfully institute proceedings for its protection and recovery provided the requisite authority is established. The petitioner's pleas were self-contradictory: he could not deny the tenancy by asserting his own ownership and simultaneously invoke the exclusion on the footing that the premises form part of a Waqf estate used for religious purposes. A party who, despite being afforded an opportunity, fails to lead evidence cannot discredit the proceedings merely because its own version was not accepted, and the mere institution of a separate civil suit challenging the Waqf Deed does not render those documents ineffective or suspend the Rent Tribunal's proceedings.

LEGAL SIGNIFICANCE

A clear answer on a jurisdictional objection frequently raised to defeat ejectment proceedings over Waqf property, and one that will be welcome to those administering endowments. The judgment separates ownership from use: the section 2(a) exclusion attaches to a place where worship is actually performed, not to a commercial shop whose rent happens to fund a mosque or madrasah, and the absence of a Gazette notification under section 3 is fatal to any wider claim of exemption. On the second question it confirms, following Phipsons Company (PLD 2026 Lahore 172) and Shahzad v. Rehan Dar (2026 CLC 1150), and with reference to the Punjab Waqf Properties Ordinance, 1979 and Sikandar Hayat Khan Jogazai (PLD 2019 SC 730), that a duly authorised Mutawalli is a landlord within section 2(d) and his competency is not defeated by his not being the personal owner. Two further points are of general use: inconsistent pleas advanced to defeat ejectment weaken the credibility of the defence, particularly where unsupported by evidence; and the Rent Tribunal is to examine the relationship and the grounds of ejectment on the material before it, not to adjudicate the ultimate title to the Waqf property.

LEGAL PROPOSITIONS (VERBATIM)

— A plain reading of Section 2(a) of the Act indicates that the exclusion relating to a place of religious worship is confined to premises which, by their nature and use, constitute a place where religious worship is actually performed.

— The mere fact that the ownership of a property vests in a Waqf estate or that its rental income is intended to be utilized for religious or charitable purposes does not, by itself, transform every portion of such estate into a place of religious worship.

— The distinction between the principal place of worship and its independent ancillary or commercial premises cannot be overlooked. The applicability of rent legislation is to be determined with reference to the nature and character of the demised premises and the purpose for which the same have been let out, rather than merely the status of their ownership.

— In the absence of such notification, the petitioner cannot claim exemption merely on the basis of the Waqf character of the property.

— The definition is not confined exclusively to the owner of the property; rather, it also encompasses a person lawfully authorized to administer the premises and receive rent on behalf of the person or institution entitled thereto.

— Consequently, where the Mutawalli is duly authorized to administer the property and receive rent, his competency to invoke the statutory remedy cannot be defeated merely because he is not the personal owner of the demised premises.

— Such inconsistent pleas, particularly in the absence of any supporting evidence, considerably weaken the credibility of his defence.

— A party who, despite being afforded an opportunity, fails to lead evidence cannot subsequently seek to discredit the proceedings merely on the ground that its own version was not accepted.

— Needless to observe that the Rent Tribunal was required to examine the relationship of landlord and tenant and the grounds of ejectment on the basis of the material available before it, and not to adjudicate upon the ultimate title to the Waqf property.

LEGAL PRINCIPLES EXPOUNDED

The exclusion for a place of religious worship in section 2(a) of the Punjab Rented Premises Act, 2009 is confined to premises where worship is actually performed; ownership by a Waqf estate or application of rental income to religious purposes does not bring every portion within it.

Source: *A plain reading of Section 2(a) of the Act indicates that the exclusion relating to a place of religious worship is confined to premises which, by their nature and use, constitute a place where religious worship is actually performed.*

Authority: *2026 LHC 8777, para 6; Waheed Younas v. Additional District Judge, Gujranwala, PLD 2024 Lahore 608*

The applicability of rent legislation turns on the nature and character of the demised premises and the purpose of the letting, not on the status of ownership; in the absence of a Gazette notification under section 3 no exemption can be claimed.

Source: *The distinction between the principal place of worship and its independent ancillary or commercial premises cannot be overlooked. The applicability of rent legislation is to be determined with reference to the nature and character of the demised premises and the purpose for which the same have been let out, rather than merely the status of their ownership.*

Authority: *2026 LHC 8777, paras 6-7; Punjab Rented Premises Act, 2009, ss. 2(a), 2(f) and 3*

A 'landlord' under section 2(d) includes a person for the time being entitled or authorised to receive rent; a duly authorised Mutawalli may institute ejectment proceedings notwithstanding that he is not the personal owner.

Source: *Consequently, where the Mutawalli is duly authorized to administer the property and receive rent, his competency to invoke the statutory remedy cannot be defeated merely because he is not the personal owner of the demised premises.*

Authority: *Messrs Phipsons Company (Pvt.) Limited v. Zahid Moyeen, PLD 2026 Lahore 172; Shahzad v. Rehan Dar, 2026 CLC 1150; Punjab Waqf Properties Ordinance, 1979*

A party afforded an opportunity who fails to lead evidence cannot afterwards discredit the proceedings because its version was not accepted; and the Rent Tribunal decides the relationship and grounds of ejectment on the material before it, not the ultimate title.

Source: *A party who, despite being afforded an opportunity, fails to lead evidence cannot subsequently seek to discredit the proceedings merely on the ground that its own version was not accepted.*

Authority: *2026 LHC 8777, paras 10-11*

OPERATIVE ORDER

For the reasons recorded above, finding no merit in the instant Constitutional Petition, the same is hereby dismissed in limine.

■ **View Full Judgment**

EDUCATION - CANCELLATION OF AN LL.B. PART-III RESULT CARD WHERE THE CANDIDATE HAD NOT PASSED PART-II WITHIN THE PRESCRIBED CHANCES - NO ESTOPPEL AGAINST LAW - LOCUS POENITENTIAE - ARTICLE 18 SUBJECT TO QUALIFICATIONS PRESCRIBED BY LAW

Arslan Amjad v. Controller of Examinations and others

APPROVED FOR REPORTING. INTRA COURT APPEAL DISMISSED.

2026 LHC 8798 (I.C.A. No. 232395 of 2018) · Bench: Ch. Muhammad Iqbal and Muzamil Akhtar Shabir, JJ · Decided: 11 November 2026 · Uploaded: 16 November 2026

FACTS

The appellant appeared in Parts I, II and III of the LL.B. examination of the University of the Punjab through the College of Law, Gujranwala, clearing each part piecemeal and none at the first attempt. He cleared Part-I at the last of his four permissible attempts. Under Regulation 5 of Chapter IV of Part VII of the University Calendar, a candidate granted exemption in four or more papers may join and complete lectures for the Part-III class but is not eligible to appear in the Part-III examination until he has passed Part-II. By notification dated 15 May 2013, issued by the Vice-Chancellor under section 15(3) of the University of the Punjab Act, 1973 in anticipation of approval and later confirmed by the Syndicate on 15 June 2013, failing candidates in up to three subjects of Parts I and II with 45 per cent in other subjects were allowed to appear in the next annual examination of the higher part along with the failing subjects of the previous part. The appellant

appeared in Part-II from Annual 2014 and was declared full fail in Supplementary 2015, his four chances having expired; he had meanwhile cleared Part-III in Supplementary 2015, though the Gazette recorded his status as 'Fail previous part'. A Part-III pass result card was nonetheless issued, on the strength of which he obtained a licence to practise from the Punjab Bar Council on 22 July 2017. The University, on validation, found the card mistakenly issued and asked him to surrender it; he did so. He passed Part-II in Supplementary 2016 and then sought issuance of the earlier Part-III result card, which was declined by letter dated 28 September 2017. His writ petition was dismissed by a learned Single Judge on 3 April 2018.

LEGAL ISSUE

Can a candidate who failed to pass LL.B. Part-II within the prescribed chances claim the benefit of a Part-III result card mistakenly issued to him, on the grounds of estoppel, locus poenitentiae and the right to freedom of profession under Article 18 of the Constitution?

HOLDING

No. The notification of 15 May 2013 permitted a candidate to appear in the higher part simultaneously, in anticipation that he would pass the lower part before or together with it, but it does not form an exception to or overrule the regulation making the passing of Part-II the eligibility criterion for passing Part-III. The roll number slip is expressly provisional and the result intimation carries a note that an entry in it does not itself confer any right or privilege; mere issuance of a roll number slip or result card does not create or confer a vested right to be declared pass on a candidate who was not eligible to appear or had not qualified. There is no estoppel against law, and the law required Part-II to be cleared before Part-III. The principle of locus poenitentiae is the power of receding until a decisive step is taken; the appellant's result was never declared pass in the Gazette notification, which recorded 'Fail previous part', so the erroneous issuance of a result card was not a decisive step and created no vested right. In any event locus poenitentiae is not available against an illegal order and can cure an irregularity of procedure but not an illegality; perpetual rights cannot be gained on the basis of an illegal order. As to the licence to practise, the right under Article 18 is subject to qualifications prescribed by law, and the law prescribes that the LL.B. examination be cleared in accordance with law before a licence can be obtained.

LEGAL SIGNIFICANCE

A compact statement of three principles that recur far beyond the examination context. First, no estoppel against law - supported by University of Malakand v. Dr. Alam Zeb (2021 SCMR 678), Zarai Taraqiati Bank v. Said Rehman (2013 SCMR 642) and Karachi Development Authority (PLD 2007 SC 633) - so an administrative mistake, however prejudicial its correction, cannot confer what the law withholds. Second, the proper limits of locus poenitentiae: it operates only until a decisive step is taken, it cures irregularity of procedure and not illegality, and it is unavailable against a patently illegal order, following Syed Azam Shah (2022 SCMR 201) and Engineer-in-Chief Branch v. Jalaluddin (PLD 1992 SC 207). Third, that the freedom of profession guaranteed by Article 18 is expressly subject to such qualifications as may be prescribed by law, applying D.G. Khan Cement (2021 SCMR 834). The judgment is also a caution of practical value: a provisional roll number slip and a result intimation bearing the customary 'errors and omissions excepted' note confer no vested right, a point that may be relied upon by any examining body correcting its own error - and, conversely, one that candidates and those admitting them to professional rolls should bear in mind.

LEGAL PROPOSITIONS (VERBATIM)

— However, the said notification does not entitle the appellant to claim declaration that he had passed his LLB Part-III

— From the above it is clear that mere issuance of a roll number slip or issuance of a result card does not create or confer a vested right in favour of a candidate to be declared as 'Pass', who otherwise was not eligible to appear in the examination or had not qualified the same.

— suffice it to say that there is no estoppel against law

— Moreover, the principle of locus poenitentiae would also not be available to the appellant as it provides that the power of receding is available till a decisive step is taken

— Hence, by erroneous issuance of result card for Part-III, it cannot be stated that a decisive step had been taken and vested right had been created.

— Moreover, the principle of locus poenitentiae is not available against an illegal order and could only be applied to cure irregularity of procedure but not an illegality for the reason that locus poenitentiae is the power of receding till a decisive step is taken but it is not a principle of law that order once passed becomes irrevocable and it is past and closed transaction. If the order is patently illegal, then

— suffice it to observe that the right under Article 18 is subject to qualification prescribed by law and the law prescribes that LLB examination has to be cleared in accordance with law before licence to practice as an advocate can be obtained from the Bar Council

— granted under Article 18 of the Constitution were "subject to such qualifications" that had been "prescribed by law".

LEGAL PRINCIPLES EXPOUNDED

There is no estoppel against law; an administrative mistake cannot confer on a candidate a status which the governing regulations withhold.

Source: *suffice it to say that there is no estoppel against law*

Authority: *University of Malakand v. Dr. Alam Zeb, 2021 SCMR 678; Zarai Taraqiati Bank Limited v. Said Rehman, 2013 SCMR 642; Karachi Development Authority v. Pakistan, PLD 2007 SC 633*

A provisional roll number slip or a result card issued subject to errors and omissions confers no vested right to be declared pass on a candidate who was not eligible to appear or had not qualified.

Source: *From the above it is clear that mere issuance of a roll number slip or issuance of a result card does not create or confer a vested right in favour of a candidate to be declared as 'Pass', who otherwise was not eligible to appear in the examination or had not qualified the same.*

Authority: *2026 LHC 8798, para 9*

Locus poenitentiae is the power of receding until a decisive step is taken; it cures an irregularity of procedure but not an illegality, and is not available against a patently illegal order.

Source: *Moreover, the principle of locus poenitentiae is not available against an illegal order and could only be applied to cure irregularity of procedure but not an illegality for the reason that locus poenitentiae is the power of receding till a decisive step is taken but it is not a principle of law that order once passed becomes irrevocable and it is past and closed transaction. If the order is patently illegal, then*

Authority: *Syed Azam Shah v. Federation of Pakistan, 2022 SCMR 201; Engineer-in-Chief Branch v. Jalaluddin, PLD 1992 SC 207*

The right to freedom of profession under Article 18 is subject to such qualifications as are prescribed by law, including the requirement that the LL.B. examination be cleared in accordance with law before a licence to practise is obtained.

Source: *suffice it to observe that the right under Article 18 is subject to qualification prescribed by law and the law prescribes that LLB examination has to be cleared in accordance with law before licence to practice as an advocate can be obtained from the Bar Council*

Authority: *D.G. Khan Cement Company Ltd. v. Government of Punjab, 2021 SCMR 834; Article 18 of the Constitution*

OPERATIVE ORDER

In view of what has been discussed above, there is no illegality or jurisdictional defect in the impugned order passed by learned Single Judge in Chambers of this Court, whereby the said Court has declined to set-aside the order of cancellation of result of LLB (Part-III) of the appellant, hence, this Appeal being devoid of any merits is dismissed.

■ View Full Judgment

CIVIL - TEMPORARY INJUNCTION UNDER ORDER XXXIX, RULES 1 AND 2, C.P.C. - INQUIRY INTO UNSOUNDNESS OF MIND UNDER ORDER XXXII, RULE 15, C.P.C. - RELINQUISHMENT WITHOUT CONSIDERATION AND SECTION 25 OF THE CONTRACT ACT, 1872 - LOSS OF IMMOVABLE PROPERTY AS IRREPARABLE INJURY

Mst. Musarrat Muhammad Din v. Safdar Ali and others

APPROVED FOR REPORTING. PETITION DISMISSED; INTERIM RELIEF MAINTAINED.

2026 LHC 8839 (W.P. No. 29489 of 2026) · Bench: Muzamil Akhtar Shabir, J · Decided: 12 November 2026 · Uploaded: 17 November 2026

FACTS

The petitioner and respondents Nos. 1 and 2 are sister and brothers. Respondent No. 1, Safdar Ali, through his real brother Muhammad Yaqoob as next friend, sued for a declaration that he is owner in possession of the suit property and that relinquishment deed No. 530/1 dated 25 June 2023 in favour of respondent No. 2, Mehboob Ali, mutation No. 79885 dated 31 August 2023, and gift deed No. 2357/1 dated 30 December 2023 with mutation No. 81030 dated 20 January 2024 in favour of the petitioner, are the result of fraud, misrepresentation and collusion. The central assertion is that respondent No. 1 is a person of unsound mind and unable to enter into any lawful and binding transaction. The Civil Judge, Chiniot held an inquiry under Order XXXII, Rule 15, C.P.C., summoned respondent No. 1 in person and examined him; he was unable to answer any of the questions put to him except to give his own name and state that the plaintiff and defendant are his real brothers. The court held the suit through a next friend maintainable, finding prima facie that he does not have capacity to understand and grasp his personal interests, and passed an ad-interim injunction restraining further alienation. That order was confirmed on 27 May 2025 and the petitioner's revision was dismissed by the Additional District Judge, Chiniot on 17 March 2026.

LEGAL ISSUE

Was interim relief rightly granted restraining further alienation of the suit property, where the plaintiff's claim is that he is a person of unsound mind and the defendant has controverted that assertion?

HOLDING

Yes. The mental and legal capacity of respondent No. 1 to enter into a valid contract is in question in the suit, and it remains to be determined whether he had the capacity to contract or to relinquish his property, and whether the relinquishment was made by his free will and for any consideration. A legally binding contract requires an offer, acceptance, consideration, parties having legal capacity, a lawful purpose and free consent; where consent is procured by coercion, undue influence, fraud, misrepresentation or mistake, the consent is not free. An agreement of relinquishment without consideration is a nullity in the eye of law on account of section 25 of the Contract Act, 1872. The allegation of fraud must be given due consideration because fraud vitiates the most solemn of proceedings. Valuable property is involved, and further alienation would ensue multiplicity of litigation, so a prima facie arguable case is made out and the balance of inconvenience tilts in the plaintiff's favour. The loss of immovable property is always considered irreparable loss and injury, especially where the transfer is stated to be without consideration and based on fraud.

LEGAL SIGNIFICANCE

A short judgment that nonetheless brings together the three ingredients of interim relief and anchors each in authority. Its most quotable proposition is that the loss of immovable property is always considered irreparable loss and injury, especially where the transfer is said to be without consideration and founded on fraud - a formulation that will be relied upon in every application under Order XXXIX, Rules 1 and 2 concerning land. The judgment is also a useful illustration of the inquiry under Order XXXII, Rule 15, C.P.C.: the trial court summoned the plaintiff in person, examined him, recorded that he could answer nothing beyond his own name and the identity of his brothers, and on that basis held the suit through a next friend maintainable while expressly confining the finding to the prima facie stage. The reliance on Muhammad Zaffar Khan v. Syed Shumaila Zaidi (2025 SCMR 1961) for the elements of a binding contract and consensus ad idem, and on Sadar Din v. Mst. Khatoon (2004 SCMR 1102) for the proposition that a relinquishment unsupported by consideration is a nullity under section 25 of the Contract Act, makes this a convenient

citation where an intra-family relinquishment or gift of inherited land is impugned - a context that should be read alongside the Larger Bench judgment in C.A. 909/2013, digested above, which holds relinquishment simpliciter of accrued inheritance to be void.

LEGAL PROPOSITIONS (VERBATIM)

— A legally binding contract requires several elements i.e. an offer, acceptance of that offer, consideration, the parties having legal capacity to contract but not for an unlawful purpose, surely with a free consent (meeting of the minds or consensus ad idem). If the consent is procured by coercion, undue influence, fraud, misrepresentation or mistake, the consent is not free.

— The allegation of fraud has also to be given due consideration to determine the fate of the suit for the reason that fraud vitiates most solemn of proceedings.

— It is pertinent to mention here that valuable property of respondent No. 1 is involved in the lis and, if the same is further alienated or transferred to anyone else, it will surely ensue multiplicity of litigation. Thus, the ingredient of a prima facie arguable case is fulfilled in favour of respondent No. 1.

— The loss of immovable property is always considered irreparable loss and injury especially when the transfer of property is stated to be without consideration and based on fraud as agreement without consideration is void and fraud vitiates the most solemn of proceedings, hence respondent No.1 was entitled to interim relief for protection of his property.

— This document (Exh. D.1) was thus found to be nullity in the eye of law on account of section 25 of the Contract Act, 1872.

— It was observed by the learned civil court that respondent No.1 was unable to answer any of the questions put by the court except to tell his own name and mention the fact that plaintiff and defendant are his real brothers.

— The learned civil court held an inquiry under Order XXXII Rule 15 CPC to determine authenticity of the plea of insanity and unsoundness of respondent No.1 wherein, respondent No.1 was summoned in person and examined by learned civil court.

LEGAL PRINCIPLES EXPOUNDED

A binding contract requires offer, acceptance, consideration, legal capacity, a lawful purpose and free consent; consent procured by coercion, undue influence, fraud, misrepresentation or mistake is not free.

Source: *A legally binding contract requires several elements i.e. an offer, acceptance of that offer, consideration, the parties having legal capacity to contract but not for an unlawful purpose, surely with a free consent (meeting of the minds or consensus ad idem). If the consent is procured by coercion, undue influence, fraud, misrepresentation or mistake, the consent is not free.*

Authority: *Muhammad Zaffar Khan v. Syed Shumaila Zaidi, 2025 SCMR 1961*

An agreement of relinquishment unsupported by consideration is a nullity in the eye of law under section 25 of the Contract Act, 1872.

Source: *This document (Exh. D.1) was thus found to be nullity in the eye of law on account of section 25 of the Contract Act, 1872.*

Authority: *Sadar Din v. Mst. Khatoon, 2004 SCMR 1102; Contract Act, 1872, s. 25*

The loss of immovable property is always considered irreparable loss and injury, particularly where the transfer is said to be without consideration and founded on fraud.

Source: *The loss of immovable property is always considered irreparable loss and injury especially when the transfer of property is stated to be without consideration and based on fraud as agreement without consideration is void and fraud vitiates the most solemn of proceedings, hence respondent No.1 was entitled to interim relief for protection of his property.*

Authority: *2026 LHC 8839, para 9; C.P.C., Order XXXIX, Rules 1 and 2*

Where unsoundness of mind is pleaded, the court is to hold an inquiry under Order XXXII, Rule 15, C.P.C., summoning and examining the person concerned, and may on that basis find prima facie that he lacks capacity and permit suit through a next friend.

Source: *The learned civil court held an inquiry under Order XXXII Rule 15 CPC to determine authenticity of the plea of insanity and unsoundness of respondent No.1 wherein, respondent No.1 was summoned in person and examined by learned civil court.*

Authority: *2026 LHC 8839, para 5; C.P.C., Order XXXII, Rule 15*

An allegation of fraud must receive due consideration because fraud vitiates the most solemn of proceedings.

Source: *The allegation of fraud has also to be given due consideration to determine the fate of the suit for the reason that fraud vitiates most solemn of proceedings.*

Authority: *Pir Shah Abdul Haq (deceased) through L.Rs. v. Muhammad Irfan, 2026 SCMR 1019; Faqir Ali v. Sakina Bibi, PLD 2022 SC 85*

OPERATIVE ORDER

In view of what has been discussed above, this petition being devoid of merits is dismissed. However, the observations recorded above shall not preclude the learned trial court to decide the suit on its own merits in accordance with law after recording evidence and hearing the parties.

■ **View Full Judgment**

Sindh High Court

4 judgments

CUSTOMS - ADDITIONAL CUSTOMS DUTY ON IMPORTS UNDER THE AUTOMOTIVE DEVELOPMENT POLICY - PROTECTION OF FISCAL INCENTIVES UNDER SECTION 6 OF THE PROTECTION OF ECONOMIC REFORMS ACT, 1992 - VESTED RIGHTS AND LEGITIMATE EXPECTATION - SECTION 19(3) OF THE CUSTOMS ACT, 1969

M/s. Indus Motor Company Ltd. and others v. Federation of Pakistan and others

APPROVED FOR REPORTING. PETITIONS ALLOWED; FURTHER LEVY OF ADDITIONAL CUSTOMS DUTY DECLARED UNLAWFUL.

2026 SHC KHI 2254 (C.P. No. D-6167 of 2019 and connected petitions) · Bench: Adnan Iqbal Chaudhry and Muhammad Jaffer Raza, JJ · Decided: 16 November 2026 · Uploaded: 16 November 2026

FACTS

A large batch of petitions by vehicle and auto-part manufacturers - including Indus Motor, Thal, Pak Suzuki, Master Motor, Procon Engineering, Atlas Honda, Atlas Autos, Atlas Hitec, Hinopak, Honda Atlas Cars, PCI Automotive, Al-Haj Faw Motors, Ghandhara Industries, Ghandhara DF, Ghandhara Nissan and Exide Pakistan - challenged the further levy of additional customs duty ('ACD') on imports made under the Automotive Development Policy. The petitioners fell into two classes: Greenfield Investors, excluded from a further levy of ACD by the proviso to S.R.O. 484(I)/2016 read with S.R.O. 837/2021 dated 30 June 2021; and Existing Manufacturers, in respect of whom the rate of ACD notified by S.R.O. 484/2016 was capped for a specified period of five years. The incentivising instruments were the ADP Tariff Notification, the ADP Investor Notification and S.R.O. 484/2016. The petitioners had made heavy investment, and presumably entered into contracts, in reliance on those commitments. The Federal Government did not withdraw the incentivising notifications during their five-year validity; its case was that they did not cover ACD at all. The impugned SROs imposed the further levy.

LEGAL ISSUE

Were the fiscal incentives notified under the Automotive Development Policy protected by section 6 of the Protection of Economic Reforms Act, 1992, so that the Federal Government could not impose a further levy of additional customs duty during their currency; and does section 19(3) of the Customs Act, 1969 displace that protection?

HOLDING

Yes to the first question, and no to the second. The commitments made by the Federal Government were not mere declarations: they were given statutory effect through the notifications and could not be taken away as long as those notifications held the field. Having been granted the incentive and having made heavy investment in reliance on it, the petitioners had a vested right and legitimate expectation to be dealt with strictly in accordance with the fiscal incentives relied upon. A greater protection is afforded by section 6 of the Act of 1992, which applies to a statutory order having a term or duration specified in it - that is, to time-bound

incentives - and once a notification comes within its scope it cannot be altered to the disadvantage of the investor. The ADP Tariff Notification, the ADP Investor Notification and S.R.O. 484/2016 came within section 6, having incentivised investment by committing that Greenfield Investors would not be charged ACD for five years and that customs duties for Existing Manufacturers would remain capped for five years; though the Federal Government did not withdraw them, it breached them by issuing the impugned SROs, and the protection was thereby contravened. Section 19(3) of the Customs Act, 1969, inserted after Gatron (Industries) to override the Act of 1992 and the doctrine of promissory estoppel, is triggered only where the incentive or exemption is expressly withdrawn by the Federal Government; none of the incentivising notifications was ever withdrawn during the five-year validity period, and it was not even the Federal Government's case that they had been.

LEGAL SIGNIFICANCE

The most consequential customs judgment of the window, and one with substantial fiscal implications for the automotive sector. Its importance lies in the identification of a protection stronger than promissory estoppel: section 6 of the Protection of Economic Reforms Act, 1992 attaches to any statutory order with a specified term and forbids its alteration to the investor's disadvantage, so that an investor who relied on a time-bound fiscal incentive need not establish the elements of estoppel at all. The Court traces the line from Gatron (Industries) (1999 SCMR 1072), where the Supreme Court held that a statutory right of exemption could be taken away only by legislative measure and not by executive notification under section 21 of the General Clauses Act, through Ibrahim Fibers (2013 PTD 2025), Ravi Spinning and Dewan Salman Fiber (2023 SCMR 1871). Equally important is the treatment of section 19(3) of the Customs Act, 1969: although enacted to override the Act of 1992 and promissory estoppel, it operates only on an express withdrawal of the incentive by notification, and a government which keeps its incentivising notification on the books while contradicting it by a later SRO cannot invoke it. The Court also notes the distinction, drawn in Shahnawaz (2011 PTD 1558), between a 'bare right' under an exemption notification and a 'vested right' arising once the importer alters his position by entering into contracts. Practitioners advising on any time-bound fiscal incentive - not only in the auto sector - should read paragraphs 60 to 65.

LEGAL PROPOSITIONS (VERBATIM)

— The commitments made by the Federal Government to the Petitioners were not mere declarations. The same were given statutory effect through notifications mentioned above, and could not be taken away as long as those notifications held the field.

— The protection of the noted Section is available to a statutory order having a term/duration specified therein i.e. it applies to such notifications that contain time-bound incentives, and if a notification came within the scope of section 6, it could not then be altered to the disadvantage of the investor

— In other words, as long as the exemption is from all customs duties and for a specified period, same is protected by the noted section.

— It is well-settled principle of interpretation of statutes that vested rights cannot be taken away save by express words and necessary intendment.

— Though the Federal Government did not withdraw the incentivizing notifications, it breached those notifications by issuing the Impugned SROs. Resultantly, the protection under the noted section was contravened by issuance of the Impugned SROs.

— However, that provision is triggered where the incentive or exemption is expressly withdrawn by the Federal Government. As already stated, in the cases before us, none of the incentivizing notifications were ever withdrawn during the validity period of 5 years.

— In fact, it was not even the case of the Federal Government that the incentivizing notification were withdrawn, rather their case was that the incentivizing notifications did not cover ACD at all, which contention, as discussed above, is a fallacy.

— That statutory right could not, therefore, be taken away through the subsequent notification purported to supersede the first notification unless it is taken away through a legislative measure.

LEGAL PRINCIPLES EXPOUNDED

Fiscal commitments given statutory effect through notifications are not mere declarations and cannot be taken away so long as those notifications hold the field.

Source: *The commitments made by the Federal Government to the Petitioners were not mere declarations. The same were given statutory effect through notifications mentioned above, and could not be taken away as long as those notifications held the field.*

Authority: *2026 SHC KHI 2254, para 60; Shahnawaz (Pvt.) Ltd. v. Pakistan, 2011 PTD 1558*

Section 6 of the Protection of Economic Reforms Act, 1992 protects a statutory order containing a time-bound incentive, which may not thereafter be altered to the disadvantage of the investor.

Source: *The protection of the noted Section is available to a statutory order having a term/duration specified therein i.e. it applies to such notifications that contain time-bound incentives, and if a notification came within the scope of section 6, it could not then be altered to the disadvantage of the investor*

Authority: *Protection of Economic Reforms Act, 1992, s. 6; Collector of Customs v. Ibrahim Fibers Ltd., 2013 PTD 2025; Federal Board of Revenue v. Dewan Salman Fiber Ltd., 2023 SCMR 1871*

A statutory right of exemption acquired under a notification for a specified period cannot be taken away by a subsequent executive notification; vested rights cannot be taken away save by express words and necessary intendment, and only by legislative measure.

Source: *That statutory right could not, therefore, be taken away through the subsequent notification purported to supersede the first notification unless it is taken away through a legislative measure.*

Authority: *Gatron (Industries) Limited v. Government of Pakistan, 1999 SCMR 1072*

A government which keeps an incentivising notification in force but contradicts it by a later SRO breaches the protection of section 6; the levy so imposed is unlawful.

Source: *Though the Federal Government did not withdraw the incentivizing notifications, it breached those notifications by issuing the Impugned SROs. Resultantly, the protection under the noted section was contravened by issuance of the Impugned SROs.*

Authority: *2026 SHC KHI 2254, para 64*

Section 19(3) of the Customs Act, 1969, which overrides the Act of 1992 and promissory estoppel, is triggered only where the incentive or exemption is expressly withdrawn by the Federal Government.

Source: *However, that provision is triggered where the incentive or exemption is expressly withdrawn by the Federal Government. As already stated, in the cases before us, none of the incentivizing notifications were ever withdrawn during the validity period of 5 years.*

Authority: *2026 SHC KHI 2254, para 65; Customs Act, 1969, s. 19(3)*

OPERATIVE ORDER

In light of what has been discussed above, the listed petitions are allowed as follows: ... It is declared that the proviso to SRO 484(I)/2016 had excluded the Petitioners who were declared Greenfield Investors from a further levy of ACD for the period specified in the proviso read with SRO 837/2021 dated 30.06.2021; ... it is declared that the rate of ACD notified vide SRO 484/2016 was capped for the specified period of 5 years; ... Resultantly, the further levy of ACD on the Petitioners by the Impugned SROs is declared to be unlawful. The Respondents are restrained from recovering ACD from the Petitioners under the Impugned SROs. Any security submitted by the Petitioners to secure ACD levied by the Impugned SROs shall be returned to them.

■ **View Full Judgment**

SERVICE LAW - APPEAL UNDER SECTION 4 OF THE SINDH SERVICE TRIBUNALS ACT, 1973 - CONDONATION OF DELAY UNDER SECTION 5 OF THE LIMITATION ACT, 1908 - THE NARROW COMPASS OF THE PLEA THAT NO LIMITATION RUNS AGAINST A VOID ORDER

Ashraf Yar Khan v. High Court of Sindh through Registrar

APPROVED FOR REPORTING. APPLICATION FOR CONDONATION DISMISSED; APPEAL DISMISSED AS TIME BARRED, WITH NO EXPRESSION ON THE MERITS.

2026 SHC KHI 2224 (Service Appeal No. 13 of 2016, Sindh Subordinate Judiciary Service Tribunal) · Bench: Agha Faisal and Dr. Shah Nawaz Memon, JJ, sitting as the Sindh Subordinate Judiciary Service Tribunal (order by Dr. Shah Nawaz Memon, J) · Decided: Heard 2 November 2026; decided 16 November 2026 · Uploaded: 16 November 2026

FACTS

By order dated 9 April 2016 the Chief Justice, acting as Authority, imposed on the appellant, then a Senior Civil Judge, the major penalty of compulsory retirement under Rule 4(1)(b)(ii) of the Sindh Civil Servants (Efficiency and Discipline) Rules, 1973. The order records that he was absent from duty from 1 July 2014 to 22 November 2015, that medical leave of 32 days had been granted, and that the remaining absence was without sanction. On 9 May 2016, the thirtieth day, he applied to the Authority for review under the proviso to Rule 10(1), an order of the Chief Justice not being appealable but open to review; the review was never decided and no order on it was communicated. The appeal was presented on 27 September 2016, brought through an attorney who verified the memorandum and affirmed the supporting affidavit, the power of attorney being dated 9 June 2016. A firm of advocates had been engaged since 9 June 2016 and an advocate of that firm drafted the memorandum. The application for condonation was filed on 3 January 2017 after an office objection, about six weeks after the week sought on 12 November 2016, and gave two different figures for the delay. The medical papers relied upon for the attorney's illness were dated variously in 2015, May 2016, July 2016, 8 August 2016, 3 September 2016, 26 September 2016 and after the appeal was filed.

LEGAL ISSUE

Has sufficient cause been shown under section 5 of the Limitation Act, 1908 for condoning the delay in presenting a service appeal; and does the plea that no limitation runs against a void order assist an appellant challenging an order of a competent authority on grounds of fact, law or procedural unfairness?

HOLDING

No, on both counts. A party who arranges to be away when a statutory step will fall due must see that the step is taken; the appellant had from 8 August 2016 until 6 September 2016 to act, and no statement of his own explains why he did not. The power of attorney allowed the attorney to appoint advocates, a firm had been engaged, and what remained - verification and the affidavit - the appellant could have done himself. Illness of counsel is no excuse unless it is shown to have prevented the step during the days of delay, and advice of bed rest is not a certificate that a person was unable to sign or swear an affidavit. A plea of sufficient cause calls for an explanation that is complete and consistent. As to voidness, the principle that no limitation runs against a void order has a narrow place: at its highest it reaches an order that is a nullity, passed by an authority having no jurisdiction over the subject matter or the person, and does not reach an order made by a competent authority which is said to be wrong in fact or law, or made in breach of procedure or fairness. Such an order stands until set aside by the competent forum, which must be approached within the time the statute allows. The impugned order was made by the Chief Justice, who is the Authority under the proviso to Rule 2(2), and Rule 4-A(2) in any case allows the Authority to exercise all the powers of the authorised officer; the appellant's complaints presuppose that the power existed and are grounds for appeal, which must be filed in time. His own conduct treated the order as operative: he applied for review, waited the ninety days the proviso requires, and then invoked section 4.

LEGAL SIGNIFICANCE

A rigorous and well-organised treatment of two issues that arise in every out-of-time service appeal. On condonation, the judgment is a catalogue of what will not do: a general account of illness without showing that the party was prevented from instructing counsel (Parveen Asif, 2008 SCMR 419), a seriously ailing Advocate-on-Record (Ahmed, 2005 SCMR 119), the absence of a certificate showing how long counsel's

illness lasted (SKB-KNK, 2022 SCMR 1615), and an unexplained delay after an office objection (Akram Yaseen, 2013 SCMR 1099); set against the recognised exception where counsel's absence was due to death or incapacitation (CDA, 2026 SCMR 1033). On the void-order plea, the judgment draws the line that matters in practice: nullity for want of jurisdiction over subject matter or person, as against error, illegality or procedural unfairness by a competent authority - and it carefully distinguishes the three Supreme Court decisions pressed on the Tribunal, showing that Land Acquisition Collector, Nowshera (PLD 2001 SC 514) states the principle without answering the question, that Postmaster General (1999 SCMR 1311) spoke of prejudice rather than nullity and involved an authorised officer acting in a dual capacity, and that Naseeb Khan (2008 SCMR 1369) turned on denial of natural justice and did not discuss section 5. The observation that if every order challenged as unlawful were free of limitation, section 4 would have no work to do, puts the point in a sentence. The judgment is also notable as a decision of the Sindh Subordinate Judiciary Service Tribunal constituted by the High Court itself, and should be read with the Supreme Court's judgment in C.P.L.A. 1897-L/2024, digested above, on the absence of review power in the Punjab and Sindh Service Tribunals.

LEGAL PROPOSITIONS (VERBATIM)

— A party who arranges to be away when a statutory step will fall due must see that the step is taken.

— Illness of counsel is no excuse unless it is shown to have prevented the step during the days of delay.

— Those matters do not decide the application, but a plea of sufficient cause calls for an explanation that is complete and consistent, and this one is not.

— The appellant says that no limitation runs against a void order. The principle has a narrow place. At its highest it reaches an order that is a nullity, passed by an authority that had no jurisdiction over the subject matter or the person. It does not reach an order made by an authority that was competent to make it, which is said to be wrong in fact or in law, or to have been made in breach of procedure or of fairness.

— Such an order stands until it is set aside by the competent forum, and the forum must be approached within the time that the statute allows.

— If every order challenged as unlawful were free of limitation, section 4 would have no work to do.

— The complaints presuppose that the power existed. They are grounds for appeal, and an appeal must be filed in time.

— A party who takes the statutory remedy takes it with its limits. He also could not sit still and rely afterwards on the voidness of the order to disregard the period the statute prescribes.

LEGAL PRINCIPLES EXPOUNDED

A party who arranges to be absent when a statutory step falls due must ensure it is taken; illness of counsel is no excuse unless shown to have prevented the step during the days of the delay.

Source: *Illness of counsel is no excuse unless it is shown to have prevented the step during the days of delay.*

Authority: *Parveen Asif, 2008 SCMR 419; Ahmed, 2005 SCMR 119; SKB-KNK Joint Venture, 2022 SCMR 1615; contrast CDA, 2026 SCMR 1033*

A plea of sufficient cause under section 5 of the Limitation Act, 1908 calls for an explanation that is complete and consistent.

Source: *Those matters do not decide the application, but a plea of sufficient cause calls for an explanation that is complete and consistent, and this one is not.*

Authority: *2026 SHC KHI 2224, para 18; Akram Yaseen, 2013 SCMR 1099*

The rule that no limitation runs against a void order is narrow: it reaches an order that is a nullity for want of jurisdiction over subject matter or person, and not an order of a competent authority said to be wrong in fact or law or made in breach of procedure or fairness.

Source: *The appellant says that no limitation runs against a void order. The principle has a narrow place. At its highest it reaches an order that is a nullity, passed by an authority that had no jurisdiction over the subject matter or the person. It does not reach an order made by an authority that was competent to make it, which is said to be wrong in fact or in law, or to have been made in breach of procedure or of fairness.*

Authority: *Raz Khan, PLD 1997 SC 397, approved in Blue Star, 2013 SCMR 587; Sindh Irrigation and Drainage Authority, 2026 SCMR 190*

An order of a competent authority stands until set aside by the competent forum, which must be approached within the statutory period; were every order challenged as unlawful free of limitation, the appeal provision would have no work to do.

Source: *If every order challenged as unlawful were free of limitation, section 4 would have no work to do.*

Authority: *2026 SHC KHI 2224, para 19; Sindh Service Tribunals Act, 1973, ss. 4 and 6-A*

A party who takes a statutory remedy takes it with its limits and cannot afterwards rely on the voidness of the order to disregard the prescribed period.

Source: *A party who takes the statutory remedy takes it with its limits. He also could not sit still and rely afterwards on the voidness of the order to disregard the period the statute prescribes.*

Authority: *2026 SHC KHI 2224, para 22*

OPERATIVE ORDER

For these reasons, C.M.A. No. 10/2017 is dismissed. The appeal, having been presented beyond the period prescribed by section 4 of the Act, is dismissed as time barred. C.M.A. No. 9/2017 stands disposed of. The parties shall bear their own costs. The observations above are confined to limitation and are not an expression on the merits of the allegations against the appellant.

■ **View Full Judgment**

IMPORT - PLANT QUARANTINE - WHETHER A PHYTOSANITARY CERTIFICATE ISSUED AT THE COUNTRY OF RE-EXPORT SATISFIES THE IMPORT CONDITION WHERE NO CERTIFICATE WAS ISSUED AT THE COUNTRY OF ORIGIN - IMPORT POLICY ORDER, 2022 AND THE PAKISTAN PLANT QUARANTINE RULES, 2019

M/s Marium International v. Federation of Pakistan and others

APPROVED FOR REPORTING. PETITION DISMISSED.

2026 SHC KHI 2227 (C.P. No. D-2422 of 2026) · Bench: Yousuf Ali Sayeed and Adnan Iqbal Chaudhry, JJ (judgment by Adnan Iqbal Chaudhry, J) · Decided: Heard 15 September 2026; decided 17 November 2026 · Uploaded: 17 November 2026

FACTS

Under an import permit from the Department of Plant Protection, the petitioner imported 166,881 kg of groundnuts in shell (not roasted) from the U.A.E., specifying Afghanistan as the country of origin, and applied for a Release Order under Rule 44 of the Pakistan Plant Quarantine Rules, 2019. The application enclosed two phytosanitary certificates: one purportedly from the Plant Protection and Quarantine Department of Afghanistan and one from the U.A.E. Ministry of Climate Change and Environment issued at the country of re-export. The DPP declined the Release Order on the ground that the Afghan certificate was fake, and by letter dated 7 March 2026 passed that information to the Collector of Customs with a recommendation that legal proceedings be taken. The DPP's comments enclosed an email of 18 February 2026 from the NPPO of Afghanistan confirming that certificate No. 369770 dated 16 October 2025 had not been issued by it. The import permit, produced in full by the DPP, required the consignment to be accompanied by a certificate from the NPPO of Afghanistan, to have been inspected by the NPPO of the exporting country and certified free from specified quarantine pests and biosecurity risks, and to have been fumigated at the country of origin with methyl bromide. The U.A.E. certificate for re-export certified only that the groundnuts had been tested for aflatoxin levels prior to re-shipment.

LEGAL ISSUE

Where no phytosanitary certificate was ever issued at the country of origin, is a phytosanitary certificate issued at the country of re-export sufficient compliance with the conditions of import for a plant product?

HOLDING

No. The import conditions for groundnuts under Part-IV, Appendix-B of the Import Policy Order, 2022 clearly require a phytosanitary certificate from the NPPO of the country of origin and a phytosanitary certificate for re-export where the country of export is other than the country of origin; both are required, not one or the other. Rule 57 of the Pakistan Plant Quarantine Rules, 2019 mandates certificates both from the country of

origin and from the re-exporting country, the latter to be accompanied by a copy of the country-of-origin certificate duly attested by the NPPO of the re-exporting country. The purpose of requiring such measures, as manifest in Rule 65, is to safeguard against possible exposure to infestation or contamination by regulated pests at the place where the commodity was grown or produced. The absence of a certificate issued at Afghanistan presumes that the groundnuts were shipped from the country of origin without any phytosanitary measures; the U.A.E. certificate certified only aflatoxin testing, did not certify freedom from specified quarantine pests and biosecurity risks, and did not state that the consignment had been fumigated with methyl bromide as the permit required. The petitioner's plea that it was unaware the Afghan certificate was fake may best serve it in any proceedings taken for submitting a fake document, but does not assist on the question of compliance.

LEGAL SIGNIFICANCE

A short, clean judgment of direct practical use to importers of plant products and to those advising on detained consignments. It establishes that the two certificates required by the Import Policy Order are cumulative and not alternative, so a re-export certificate cannot cure the absence of a certificate at origin; and it explains why, by reference to Rule 65, the origin certificate is the one that matters for the purpose the rules serve - the risk the regime addresses arises at the place where the commodity was grown. The Court also makes a useful separation between two questions that importers tend to run together: whether the importer knew the origin certificate was fake, which is relevant to any penal proceedings for submitting a false document, and whether the import conditions were satisfied, which they were not regardless of the importer's state of mind. The judgment records that the DPP's Focal Person stated the petitioner had the option of applying to re-export the goods, which is the practical course where an origin certificate cannot be produced. Anyone relying on a chain of supply through a third country should treat the attestation requirement in Rule 57(2) - a copy of the origin certificate attested by the NPPO of the re-exporting country - as a checklist item before shipment.

LEGAL PROPOSITIONS (VERBATIM)

— The import conditions clearly require a phytosanitary certificate from the NPPO of the country of origin (in this case, Afghanistan) 'and' a phytosanitary certificate for re-export if the country of export is other than the country of origin (in this case, the U.A.E.).

— Rule 57 of the PPQR which deals with foreign phytosanitary requirments for imports into Pakistan, also mandates phytosantary certificates both from the country of origin and the re-exporting country

— As manifest in Rule 65 of the PPQR, the purpose of requiring such phytosanitary measures is to safeguard against possible exposure to infestation or contamination by regulated pests at the place where the commodity was grown or produced.

— The absence of a phytosanitary certificate issued at Afghanistan presumes that the Groundnuts were shipped from the country of origin without any phytosanitary measures.

— The phytosanitary certificate for re-export issued at the U.A.E. only certifies that the Groundnuts were tested for aflatoxin levels prior to re-shipment. It does not certify that the Groundnuts are free from specified quarantine pests and biosecurity risks, nor does it state that the consignment was fumigated at the U.A.E. with methyl bromide as required by the import permit.

— However, that plea may best serve the Petitioner if any proceedings are taken against it for submitting a fake document.

— For present purposes it will suffice to observe that no phytosanitary certificate was ever issued at Afghanistan where the goods originated.

— Consequently, DPP's refusal to issue a Release Order for such goods and the impugned letter issued to the Collector of Customs, do not warrant interference.

LEGAL PRINCIPLES EXPOUNDED

The import conditions for a plant product require a phytosanitary certificate from the NPPO of the country of origin and a certificate for re-export where the country of export differs; the requirements are cumulative, not alternative.

Source: *The import conditions clearly require a phytosanitary certificate from the NPPO of the country of origin (in this case, Afghanistan) 'and' a phytosanitary certificate for re-export if the country of export is other than the country of origin (in this case, the U.A.E.).*

Authority: *Import Policy Order, 2022, Part-IV, Appendix-B, serial No. 272*

Rule 57 of the Pakistan Plant Quarantine Rules, 2019 mandates certificates from both the country of origin and the re-exporting country, the latter accompanied by an attested copy of the origin certificate.

Source: *Rule 57 of the PPQR which deals with foreign phytosanitary requirments for imports into Pakistan, also mandates phytosantary certificates both from the country of origin and the re-exporting country*

Authority: *Pakistan Plant Quarantine Rules, 2019, Rule 57*

The purpose of the phytosanitary regime is to guard against infestation or contamination by regulated pests at the place where the commodity was grown or produced, which is why the origin certificate cannot be dispensed with.

Source: *As manifest in Rule 65 of the PPQR, the purpose of requiring such phytosanitary measures is to safeguard against possible exposure to infestation or contamination by regulated pests at the place where the commodity was grown or produced.*

Authority: *Pakistan Plant Quarantine Rules, 2019, Rule 65*

An importer's lack of knowledge that an origin certificate was fake may bear on penal proceedings for submitting a false document but does not establish compliance with the conditions of import.

Source: *However, that plea may best serve the Petitioner if any proceedings are taken against it for submitting a fake document.*

Authority: *2026 SHC KHI 2227, para 5*

OPERATIVE ORDER

Therefore, the argument of the Petitioner's counsel that the phytosanitary certificate for re-export issued at the U.A.E. was sufficient compliance with the conditions of ... import, does not have any force. Consequently, DPP's refusal to issue a Release Order for such goods and the impugned letter issued to the Collector of Customs, do not warrant interference. The petition is dismissed.

■ **View Full Judgment**

CIVIL - DERIVATIVE TITLE AND THE BURDEN OF PROVING THE TITLE OF ONE'S VENDORS - CANCELLATION OF INSTRUMENTS UNDER SECTION 39 OF THE SPECIFIC RELIEF ACT, 1877 - NON-JOINDER OF NECESSARY PARTIES - CO-SHARERS AND THE EXCLUSION OF CIVIL JURISDICTION BY SECTION 172 OF THE SINDH LAND REVENUE ACT, 1967

Muzamil Kartio and another v. Abdul Qadir Kartio and others

APPROVED FOR REPORTING. CIVIL REVISION APPLICATION DISMISSED.

2026 SHC LAR 2226 (Civil Revision Application No. S-01 of 2020) · Bench: Arbab Ali Hakro, J · Decided: Heard 2 November 2026; judgment 13 November 2026 · Uploaded: 13 November 2026

FACTS

The applicants, minors when the suit was filed, sued through their mothers as next friends, who acted through an attorney. They claimed shares in S. Nos. 256, 259, 271, 279 and 17/2 of Deh Kothi Sodhari, Taluka Mehar to the extent of 25 paisa and in S. No. 258 to the extent of 37½ paisa, pleading that the land originally belonged to one Illahi Bux as old khatedar, devolved on his son Lakhidino and then on Lakhidino's heirs, who sold it to the applicants by registered sale deed dated 2 August 2005, followed by entry No. 270 dated 8 September 2005 in V.F. VII-B. They sought cancellation of sale deeds of 1934 and 1936 standing in favour of Sidhu Mal, Haji son of Gul Muhammad and Haji Pandhi, and of a Maqata deed. None of the three sale deeds was exhibited in evidence, nor was the Maqata deed; PW-1 admitted he had not produced it, and the trial court itself recorded in issue No. 3 that no copy of the Maqata deed had been produced. The persons in whose favour the old deeds stood, or their successors, were not impleaded. The only material against the old deeds was a rubkari dated 25 January 2005, a certificate of a negative fact whose author was not examined; when the Sub-Registrar, Dadu appeared with his registers, the applicants put no questions about it. Against it stood entry No. 83 dated 22 August 1934 of the old record of rights, produced by the Tapedar from official

custody. The trial court decreed the suit on 8 October 2018; the II-Additional District Judge, Mehar set that aside on 2 October 2019 and dismissed the suit.

LEGAL ISSUE

Where a plaintiff claims through a purchase from persons alleged to be the heirs of the original owner, on whom does the burden of proving the vendors' title lie; and may a court cancel instruments which are not on its record and whose holders have not been impleaded?

HOLDING

A plaintiff claiming derivative title must prove the title of his vendors; want of rebuttal does not by itself make a claim succeed, and failure to produce the best available evidence operates against the party who withholds it. Relief under section 39 of the Specific Relief Act, 1877 is discretionary and presupposes that the instrument is before the Court and that those who take under it are heard; neither condition was met, and a Court cannot cancel instruments it has not seen. The persons in whose favour the 1934 and 1936 deeds stood are those whose title would be extinguished by a decree of cancellation, and none was impleaded; Order I, Rule 9, C.P.C. does not help where the person left out is a necessary party in whose absence no effective decree can be passed. On the merits, a certificate of a negative fact whose author was not examined cannot prevail over an entry made more than eighty years ago by a public servant in the discharge of his duty, which is relevant under Article 49 of the Qanun-e-Shahadat Order, 1984; the trial court's reliance on the rubkari while not noticing that entry was a failure to read material evidence, and the burden of proving fraud lay on those who alleged it. A co-sharer has an interest in every inch of the joint property and cannot claim any specific portion until partition, partition of an agricultural holding being the function of the Revenue Officer under section 135 and the following provisions of the Sindh Land Revenue Act, 1967, with section 172 excluding civil jurisdiction in that field; a decree directing delivery of 'vacant possession' of an undivided share could not have been passed in any case.

LEGAL SIGNIFICANCE

A carefully reasoned revision judgment that will repay reading in any suit for cancellation of old instruments. Four propositions stand out. First, derivative title: the plaintiff must prove his vendors' title, and the absence of rebuttal is not proof, Article 129(g) of the Qanun-e-Shahadat Order operating against the party who withholds the best evidence. Second, the conditions for relief under section 39 of the Specific Relief Act: the instrument must be before the Court and those claiming under it must be heard, and a court cannot cancel what it has not seen - a point reinforced by the first proviso to Article 161, that a judgment must rest on facts relevant and duly proved. Third, non-joinder: Order I, Rule 9 does not save a suit where the party omitted is one in whose absence no effective decree can be passed, following Muhammad Iqbal Rafi (1986 SCMR 680). Fourth, the evidentiary weight of an eighty-year-old entry in the record of rights produced from official custody, as against a rubkari certifying a negative fact whose author never entered the witness box. The Court also corrects the appellate court in two respects, declining to endorse its observation that the applicants' own 2005 sale deed seemed bogus when no issue was framed on it and no cancellation sought, and holding that the appellate court went further than necessary in treating the suit itself as barred under section 172 - a co-sharer kept out is not without remedy before the civil court for declaration and joint possession, even though a decree for vacant possession of an undivided share cannot be passed.

LEGAL PROPOSITIONS (VERBATIM)

> *— the Supreme Court held that a want of rebuttal does not, by itself, make a claim succeed, and that failure to produce the best available evidence operates against the party who withholds it.*
>
> *— The relief is discretionary. It also presupposes that the instrument is before the Court and that those who take under it are heard. Neither condition was met.*
>
> *— A Court cannot cancel instruments it has not seen.*
>
> *— shall be defeated by reason of misjoinder or non-joinder of parties, but the rule does not help where the person left out is a necessary party in whose absence no effective decree can be passed.*

— An entry made more than eighty years ago by a public servant in the discharge of his duty is relevant under Article 49 of QSO, 1984, and cannot be brushed aside on the strength of a certificate whose author never entered the witness box.

— The trial court relied on the rubkari and did not notice this entry at all. That was a failure to read material evidence. The burden of proving fraud lay on the applicants who alleged it, and it was not discharged.

— A co-sharer has an interest in every inch of the joint property and cannot claim any specific portion until partition, as held in

— A co-sharer who is kept out is not without remedy before the civil court for declaration and joint possession. But a decree directing the respondents to hand over "vacant possession" of an undivided share could not have been passed in any case.

— The applicants had to succeed on the strength of their own case.

LEGAL PRINCIPLES EXPOUNDED

A plaintiff claiming derivative title must prove the title of his vendors; want of rebuttal does not make the claim succeed, and failure to produce the best available evidence operates against the party who withholds it.

Source: *the Supreme Court held that a want of rebuttal does not, by itself, make a claim succeed, and that failure to produce the best available evidence operates against the party who withholds it.*

Authority: *2026 SHC LAR 2226, para 12; Qanun-e-Shahadat Order, 1984, Article 129(g)*

Relief under section 39 of the Specific Relief Act, 1877 is discretionary and presupposes that the instrument is before the Court and that those claiming under it are heard; a court cannot cancel instruments it has not seen.

Source: *The relief is discretionary. It also presupposes that the instrument is before the Court and that those who take under it are heard. Neither condition was met.*

Authority: *Specific Relief Act, 1877, s. 39; Mst. Akhtar Sultana v. Major Retd. Muzaffar Khan Malik, PLD 2021 SC 715; Qanun-e-Shahadat Order, 1984, Article 161 first proviso*

Order I, Rule 9, C.P.C. does not save a suit where the person omitted is a necessary party in whose absence no effective decree can be passed.

Source: *shall be defeated by reason of misjoinder or non-joinder of parties, but the rule does not help where the person left out is a necessary party in whose absence no effective decree can be passed.*

Authority: *Muhammad Iqbal Rafi v. The Province of Punjab, 1986 SCMR 680*

An entry made more than eighty years ago by a public servant in the discharge of his duty is relevant under Article 49 of the Qanun-e-Shahadat Order, 1984 and cannot be displaced by a certificate of a negative fact whose author was never examined.

Source: *An entry made more than eighty years ago by a public servant in the discharge of his duty is relevant under Article 49 of QSO, 1984, and cannot be brushed aside on the strength of a certificate whose author never entered the witness box.*

Authority: *Qanun-e-Shahadat Order, 1984, Article 49*

A co-sharer kept out of joint property may sue in the civil court for declaration and joint possession, but no decree for vacant possession of an undivided share can be passed, partition of an agricultural holding being for the Revenue Officer under the Sindh Land Revenue Act, 1967.

Source: *A co-sharer who is kept out is not without remedy before the civil court for declaration and joint possession. But a decree directing the respondents to hand over "vacant possession" of an undivided share could not have been passed in any case.*

Authority: *Abdul Ghani v. Abrar Hussain, 1999 SCMR 348; Sindh Land Revenue Act, 1967, ss. 135 and 172*

OPERATIVE ORDER

For these reasons, the decree of the trial court cannot be sustained. It placed the burden on the wrong party, overlooked material evidence, and ordered the cancellation of documents not on its record, in the absence of those who held them. The conclusion of the appellate court, though briefly reasoned, is the one supported by the evidence. No illegality or material irregularity within the meaning of Section 115 C.P.C. has been shown. The Civil Revision Application is, therefore, dismissed, with no order as to costs.

■ **View Full Judgment**