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Pakistan Superior Courts — Verified Judgment Digest

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SINDH CIVIL SERVANTS SENIORITY — RULE 11(A) 1975 RULES; LOCUS STANDI OF THE STATE

Province of Sindh through Chief Secretary v. Abdul Sattar Khokhar & others (and 17 connected CPLAs)

CIVIL PETITIONS DISMISSED

C.P.L.A. No.1065-K/2025 (& C.P.L.A. Nos.45-K/2025, 46-K, 47-K, 97-K to 110-K of 2026) · Bench: Justice Muhammad Ali Mazhar (author); Justice Aqeel Ahmed Abbasi; Justice Muhammad Shafi Siddiqui · Decided: 18.03.2026 · Uploaded: 22-06-2026

FACTS

The College Education and Literacy Department, Government of Sindh sent a combined requisition for Lecturers (BPS-17) in 23 different subjects, including the respondents' subjects (Pakistan Studies, Micro-Biology, Statistics and Geography). The Sindh Public Service Commission (SPSC) advertised the posts vide Advertisement No.10/2012 dated 02.11.2012. Separately, SPSC issued Advertisement No.05/2013 dated 20.02.2013 for English Lecturers. SPSC made piecemeal recommendations to the department on different dates — first batch (22 male + 2 female English candidates) communicated on 21.05.2013; the second batch (165 male/female candidates of different subjects including the respondents) communicated on 31.05.2013; subsequent batches up to 30.04.2015. The department prepared a final seniority list dated 29.08.2023 which did not reflect the respondents' selection date of 31.05.2013. The Lecturers of English subject had their seniority corrected on representation. The respondents' departmental appeals dated 18.09.2023 remained undecided; they approached the Sindh Service Tribunal, which by majority allowed their appeals (one member dissenting). The Government of Sindh filed eighteen Civil Petitions for Leave to Appeal. The AAG argued that all batches were covered by Rule 11(a) of the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules, 1975 and that the combined seniority list was lawfully issued under the proviso to Rule 9(2).

LEGAL ISSUE

Whether, under the Sindh Civil Servants (Probation, Confirmation & Seniority) Rules 1975, where multiple batches of Lecturers are recruited through a combined advertisement but SPSC issues piecemeal recommendations on different dates, inter se seniority in the combined seniority list of Lecturers in the Collegiate Branch (Non-Technical) of the Education Department is governed by the proviso to Rule 11(a) — earlier selection ranks senior — by reference to the date of SPSC's recommendation; and whether the Provincial Government has locus standi to challenge a Tribunal's seniority adjustment where no affected civil servant has filed an appeal.

HOLDING

The Court held that the proviso to sub-rule (2) of Rule 9 — combined seniority list of Lecturers in the Collegiate Branch (Non-Technical) — cannot be read in isolation and must be read in harmony with Rules 10 and 11 of the 1975 Rules. Rule 10(1) makes seniority subject to Rule 11; the proviso to Rule 11(a) is decisive — 'a person selected in earlier selection shall rank senior to a person selected in a later selection.' Once the same analogy had been applied to Lecturers of English subject (separate advertisement and earlier recommendation), the same rule had to apply uniformly to the candidates recruited under Advertisement No.10/2012, with the temporal benchmark being the date of SPSC's recommendation. The Tribunal's directions required no interference. Additionally, the Court held that the Government of Sindh, as petitioner, was not an aggrieved person entitled to challenge the seniority adjustment under Article 212 of the Constitution; the locus to challenge a seniority dispute typically vests in the directly-affected civil servant. The Government may approach the Supreme Court on misinterpretation of law, jurisdictional error or conflict with rules/precedents, but not as a victim of seniority. Where no civil servant has appealed, the Tribunal's decision attains finality and must be implemented; the State must act as a neutral employer and not as a rival contestant. Reliance: Province of Punjab v. Dr. Muhammad Afzal (PLD 1999 SC 337).

LEGAL SIGNIFICANCE

The judgment consolidates two strands. First, on substantive seniority law: it harmonises Rule 9(2) (combined seniority list) with Rules 10 and 11 of the 1975 Rules; the proviso to Rule 11(a) governs inter se seniority even within a combined seniority list and the temporal benchmark is the date of SPSC's recommendation. It reaffirms Service Appeals 878-879/2019 (SST 13.03.2020) and the Supreme Court's affirmation in CMA Nos.529-K & 530-K/2020. Secondly, it applies the doctrine of 'no aggrieved person, no appeal' against the State itself, restricting the Provincial Government's right to litigate the seniority of its own employees where no civil servant has been aggrieved. Drawing on the maxims ubi jus ibi remedium, damnum sine injuria and interest republicae ut sit finis litium, the Court treats State persistence in such situations as 'out-heroding the herod'. The decision will discipline appellate strategy by the Sindh Government in service matters and reinforce finality of Tribunal awards under Article 212.

LEGAL PROPOSITIONS (VERBATIM)

- A person selected in earlier selection shall rank senior to a person selected in a later selection.
- The provisions of sub-rule (2) of Rule 9 cannot be read in isolation but it should be read in harmony with the provisions contained under Rules 10 and 11 of the 1975 Rules.
- If no civil servant/employee challenges the order or judgment of the Tribunal, the decision attains finality and it must be implemented.
- The State should act impartially and fair and square and not as a private opponent or contender.
- A person can be found aggrieved only if his legal right or rights are adversely affected, however mere discontent or displeasure is not enough but there must be an actual legal injury.
- Seniority goes along with the rules but not by preferences.

LEGAL PRINCIPLES EXPOUNDED**The combined seniority list under the proviso to Rule 9(2) must be read harmoniously with Rules 10 and 11 of the 1975 Rules; the proviso to Rule 11(a) governs inter se seniority.**

Source: the dictates of Rule 9(1) cannot be disregarded simply which press for a separate seniority list ... but the parameters with proper framework for determination of inter se seniority is jotted down under Rule 11 of the 1975 Rules with a clear proviso that a person selected in earlier selection shall rank senior to a person selected in a later selection.

Authority: Rules 9, 10 and 11, Sindh Civil Servants (Probation, Confirmation & Seniority) Rules 1975; Section 26, Sindh Civil Servants Act 1973

For piecemeal SPSC recommendations under a single combined advertisement, inter se seniority of selected candidates is fixed by date of recommendation (not date of advertisement).

Source: the most indispensable point in issue which is rather sine qua non is the date of recommendations forwarded by SPSC for selection with reference to advertisement No.10/2012 dated 02.11.2012.

Authority: Proviso to Rule 11(a), 1975 Rules

The doctrine of 'aggrieved person' applies to the State itself; the Provincial Government cannot litigate the seniority of its own employees as a contestant where no affected employee has appealed.

Source: the petitioner cannot be regarded as an aggrieved person at least for the purpose of challenging a Tribunal's decision on the issue of seniority. ... If no civil servant/employee challenges the order or judgment of the Tribunal, the decision attains finality.

Authority: Article 212, Constitution of Pakistan 1973; Province of Punjab v. Dr. Muhammad Afzal (PLD 1999 SC 337)

Doctrines of locus standi and finality of litigation — ubi jus ibi remedium, damnum sine injuria and interest republicae ut sit finis litium — operate as gatekeeping principles to filter frivolous litigation and ensure finality.

Source: The doctrine of locus standi is meant to filter out frivolous litigation for saving precious time of Courts ... while 'damnum sine injuria' explicates 'no legal right is infringed so no action lies' and whereas the maxim 'interest republicae ut sit finis litium' ensures finality of litigation.

Authority: Province of Punjab v. Dr. Muhammad Afzal (PLD 1999 SC 337)

OPERATIVE ORDER

In the wake of the above discussion, we do not find any illegality, irregularity or perversity in the impugned Judgment passed by the learned Tribunal. All the Civil Petitions are dismissed.

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SPECIFIC PERFORMANCE — TIME OF THE ESSENCE; READINESS & WILLINGNESS; DEPOSIT OF BALANCE CONSIDERATION

Amjad Javed v. Maqsood Ahmad & others (and connected appeal)

BOTH APPEALS DISMISSED; APPELLANT TO BEAR RESPONDENTS' COSTS IN C.A.173-L/2020

C.A. No.173-L/2020 and C.A. No.284-L/2020 · Bench: Justice Shakeel Ahmad; Justice Miangul Hassan Aurangzeb (author) · Decided: 14.05.2026 · Uploaded: 22-06-2026

FACTS

On 11.03.2014 the respondents agreed to sell 5 kanals and 4 marlas of land in khasra No.6012/1, khewat No.294, khatooni No.365, situated in Revenue Estate Urban Chowinda, Tehsil Pasrur, District Sialkot to the appellant for total Rs.7,280,000/-. Rs.800,000/- was paid as earnest money; the balance Rs.6,480,000/- was to be paid by 27.07.2014 at the time of registration. The agreement explicitly provided that on failure to pay the balance by 27.07.2014, the respondents would be entitled to forfeit the earnest money and have the agreement enforced through court. The respondents issued notice dated 09.09.2014 demanding payment; the appellant did not place a copy of the notice on record. On 25.09.2014 the appellant filed a suit for specific performance + permanent injunction before the Civil Judge, Pasrur; on the same date the trial court restrained alienation. On 18.12.2014 the trial court recorded statements of respondent No.2 (Aamir Mustafa) and respondent No.1 (Maqsood Ahmed, also GPA of respondents No.3 and No.4) that they had no objection to a decree if the appellant deposited the balance Rs.6,480,000/-. The appellant did not deposit by 05.01.2015 (fixed date); the trial court granted extension to 20.01.2015. The appellant again did not deposit; the trial court refused a further extension and on 20.01.2015 invoked Order XVII Rule 3 CPC dismissing the suit. The appellate court (15.01.2018) allowed the appellant's appeal holding the trial court should have decreed on the respondents' admmissive statements. The Lahore High Court (04.03.2020) in Civil Revision No.180498/2018 allowed the respondents' civil revision, set aside the appellate court's judgment, restored the trial court's dismissal — with the modification that the respondents return double the earnest money (Rs.1,600,000) to the appellant. The appellant deposited Rs.64,80,000/- on 24.01.2018, nearly 3.5 years after the contractual deadline.

LEGAL ISSUE

(i) Whether, in an agreement to sell immovable property containing an explicit forfeiture-of-earnest-money / enforce-through-court clause for non-payment by a stipulated date, time can be held to be of the essence of the contract; (ii) whether continuous readiness and willingness — including compliance with trial-court orders to deposit balance sale consideration — is a condition precedent for the equitable remedy of specific performance; (iii) whether the High Court could properly direct the respondents to return double the earnest money where their counsel had made such an offer before the High Court.

HOLDING

The Court held that the time fixed for payment of balance consideration was of the essence because the agreement expressly provided for forfeiture and enforcement on non-payment, applying *Liaqat Ali v. Falak Sher* (PLD 2014 SC 506) and *Mst. Gulshan Hamid v. Kh. Abdul Rehman* (2010 SCMR 334). The archaic rule that time is generally not of the essence in real-estate contracts cannot be applied indiscriminately in the modern era of rapid real-estate price appreciation — *Muhammad Abdur Rehman Qureshi v. Sagheer Ahmad* (2017 SCMR 1696). Specific performance is an equitable remedy; continuous readiness and willingness is a condition precedent. The appellant's failure to deposit the balance despite TWO opportunities (orders 18.12.2014 and 05.01.2015) demonstrated he was neither ready, willing nor able to pay; Forms 47 and 48 of Appendix A to the CPC require the plaintiff/purchaser to plead readiness and willingness — the appellant's non-compliance with deposit directions ipso facto rendered his pleading untrue and destroyed his cause of

action. His conduct evidenced speculative litigation and abuse of equitable jurisdiction. Deposit of Rs.64,80,000/- on 24.01.2018 (3.5 years late) did not cure the default. He who seeks equity must do equity; the appellant's default disentitled him from equitable relief — *Adil Tiwana v. Shaukat Ullah Khan Bangash* (2015 SCMR 828). The double-earnest-money direction was not interfered with because the respondents' counsel before the High Court had submitted that the respondents were ready to return such amount; the presumption of correctness attached to a High Court judgment/decree cannot be dislodged by a bare denial unsupported by affidavit.

LEGAL SIGNIFICANCE

A modernising restatement of (a) the 'time is of the essence' doctrine in real-estate transactions — endorsing *Sagheer Ahmad* (2017 SCMR 1696) and pressing courts to abandon the archaic blanket rule in light of rapid price appreciation; (b) the link between continuous readiness/willingness and compliance with trial-court deposit orders — non-deposit ipso facto refutes the Form 47/48 pleading and destroys the cause of action; and (c) the binding effect of submissions recorded in High Court judgments/decree, which carry a presumption of correctness that bare denials cannot dislodge. The decision will be widely applied by trial courts dismissing specific-performance suits where the plaintiff has failed to deposit balance consideration after directions.

LEGAL PROPOSITIONS (VERBATIM)

— *When the non performance within such period entails upon certain consequences and such consequences are also given in the contract, the time becomes of essence.*

— *Given the rapid increase in real estate values in modern times, delay in payment undermines contractual efficacy.*

— *The continuous readiness and willingness on the part of a plaintiff to pay the agreed consideration is a condition precedent for the grant of relief of specific performance.*

— *If a plaintiff does not deposit the balance sale consideration amount within the time stipulated by the trial court, the presumption would be that the plaintiff was not serious in prosecuting his remedy.*

— *A plaintiff/purchaser, in his suit for specific performance, cannot be said to have a cause of action against the defendant/seller where the former has not been able to demonstrate his readiness and willingness to pay the balance sale consideration to the latter.*

— *There is a presumption of correctness as to facts expressly mentioned in the judgment as well as the decree of the High Court, and such presumption cannot be dislodged simply because the respondents say, without swearing an affidavit, that their counsel had not made such submission.*

LEGAL PRINCIPLES EXPOUNDED

Where the agreement to sell contains a clause stipulating consequences (forfeiture, enforceability through court) for non-payment by a fixed date, time is of the essence.

Source: It was specifically provided that if the contract is not completed within 15 days and balance amount is not paid, the advance money would stand forfeited and above all the contract would stand cancelled. Here the time was, therefore, of the essence of the contract.

Authority: *Liaqat Ali v. Falak Sher* (PLD 2014 SC 506); *Mst. Gulshan Hamid v. Kh. Abdul Rehman* (2010 SCMR 334)

The archaic rule that 'in real-estate transactions time is generally not of the essence' must be revisited in the modern era of rapid real-estate price appreciation; courts must interpret agreements in light of current economic realities.

Source: a seller cannot be left at the mercy of the buyer to bind him in an agreement to sell and then delay completion of the contract for as long as he may wish hiding behind an archaic legal principle that in contracts involving immovable properties, time is generally not of the essence. ... It is high time that this rule was revisited and revised keeping in view the changed circumstances and the ground realities of the real estate market.

Authority: *Muhammad Abdur Rehman Qureshi v. Sagheer Ahmad* (2017 SCMR 1696)

Continuous readiness and willingness to pay the agreed consideration is a condition precedent for specific performance; failure to comply with trial-court deposit directions ipso facto refutes the Form 47/48 pleading and destroys the cause of action.

Source: *the appellant's failure to comply with the trial court's said directions shows that he was neither ready, nor able or willing to pay the balance sale consideration ... his failure to comply with the direction for the deposit of the balance sale consideration ipso facto renders such pleading to be untrue leaving him without a cause of action.*

Authority: Order XVII Rule 3 CPC; Forms 47 and 48 of Appendix A to First Schedule, CPC

He who seeks equity must do equity; a plaintiff who has defaulted in payment of balance consideration AND in compliance with trial-court deposit orders is disentitled to specific performance.

Source: *It is well settled that he who seeks equity must do equity. ... By failing to pay the balance sale consideration in accordance with the terms of the said agreement or in compliance with the trial court's directions, the appellant cannot be considered to have done equity.*

Authority: Adil Tiwana v. Shaukat Ullah Khan Bangash (2015 SCMR 828); Section 22, Specific Relief Act 1877

OPERATIVE ORDER

In view of the above, both the appeals are dismissed. The appellant shall bear the respondents' costs in Civil Appeal No.173-L/2020.

■ View Full Judgment

SECTION 115 CPC — REVISIONAL JURISDICTION; MOULDING OF RELIEF UNDER ORDER VII RULE 7 CPC

Province of Khyber Pakhtunkhwa through Secretary Forest/Environment Department, Peshawar v. Sher Muhammad & others

APPEAL ALLOWED; JUDGMENTS OF APPELLATE COURT AND HIGH COURT SET ASIDE; TRIAL COURT'S JUDGMENT RESTORED

C.A. No.328 of 2018 with CMA No.979-P of 2017 · Bench: Chief Justice Yahya Afridi; Justice Shakeel Ahmad (author) · Decided: 14.05.2026 · Uploaded: 22-06-2026

FACTS

The respondents instituted a suit for declaration and permanent injunction against the Province of KP (through Secretary Forest/Environment Department Peshawar) challenging legal validity of letters Nos.2653, 2655, 2657 and 2659 dated 06.05.2010 and letters Nos.2716, 2720, 2722 and 2724 dated 10.05.2010 issued by appellant No.4 to appellant No.3 cancelling lots auctioned in their favour. Respondents pleaded they were lawful allottees of 563 of 607 dead/dry trees across Lots 1-13/Divil and 31/Divil (covering KRC Dagbasood, KRC Badber, left canal Zangali, GFC Urmar Beat, Pabbi Cherat Road, GFC Jalozai Beat, GFC Regi Beat, Bara Beat, Dalazak Road, KRC Chamkani Beat, Kurvi Branch, Hazarkhwani Beat, and Charsadda) auctioned on 15.01.2008 and 15.04.2008. The Trial Court (02.03.2013) dismissed the suit; the Appellate Court (13.06.2013) allowed the appeal. The Peshawar High Court (27.09.2017) in CR No.248-P/2014 partially accepted the civil revision, holding that although the respondents themselves had failed to comply with auction terms and conditions, in view of laches/silence of respondents until 2010 the impugned judgment was modified directing respondents to deposit the remaining bid amount and required fine within one month; the department to execute the required contract; and thereafter respondents could harvest the auctioned trees within one further month. Province of KP appealed.

LEGAL ISSUE

Whether the High Court, exercising revisional jurisdiction under Section 115 CPC over a purely declaratory suit challenging cancellation of an auction, could convert the suit into one for specific performance and decree it on deposit-then-execute-contract terms — when neither specific performance had been prayed nor were foundational pleadings (readiness/willingness, valid contract, waiver, extension or prevention) made; and the proper scope of the doctrine of moulding of relief under Order VII Rule 7 CPC.

HOLDING

The Court held that a Court exercising revisional jurisdiction under Section 115 CPC cannot travel beyond the pleadings to grant a new or inconsistent relief. The respondents' suit was purely declaratory; specific performance was neither sought nor implied from the pleadings. Converting a declaratory suit into one for specific performance — particularly where the respondents had themselves defaulted in depositing balance

bid amount — resulted in manifest prejudice and denial of fair opportunity. The doctrine of moulding of relief under Order VII Rule 7 CPC enables tailoring of relief to substantial justice but is an exception to the rule that parties are bound by pleadings; it must flow from pleadings and proved facts, remain consistent with the nature of proceedings, and not take the opposite party by surprise. Permissible moulding includes granting possession where the facts justify, lesser/alternative relief, consequential relief, adjusting equities in light of subsequent events, or correcting technical defects in prayers; it does NOT extend to converting a declaratory suit into one for specific performance, granting ownership where only an injunction was sought, enforcing a contract where such relief was never claimed, or granting relief wholly inconsistent with the pleadings. A suit for specific performance under the Specific Relief Act 1877 stands on an even stricter footing — requires specific pleading and proof of readiness/willingness, valid enforceable contract, compliance with essential terms and proper court-fee valuation. A revisional court cannot assume the role of trial/appellate court to grant substantive equitable relief absent pleadings and framed issues; revisional jurisdiction is confined to correcting jurisdictional errors, material irregularities, or illegalities. Reliance on *Syed Phool Badshah v. ADBP* (2012 SCMR 1688) was misconceived — distinguishable on facts and in any event reaffirming that no relief can be granted on matters outside the pleadings. On merits, respondents had failed to deposit balance sale consideration within stipulated 7-day period — wilful default — and the alleged agreement neither attained enforceability nor could be lawfully concluded.

LEGAL SIGNIFICANCE

A significant restatement of the limits of revisional jurisdiction under Section 115 CPC and of the doctrine of moulding of relief under Order VII Rule 7 CPC. The judgment articulates with precision the permissible scope (granting possession, lesser/alternative relief, consequential relief, adjusting equities, correcting technical prayer defects) and impermissible scope (converting one category of suit into another, introducing new causes of action, granting relief alien to pleadings) of moulding. It draws a sharp line between a declaratory suit challenging legality of cancellation and a suit seeking enforcement of contract — they are 'legally distinct proceedings' and 'one cannot ordinarily be substituted for the other through judicial improvisation.' It distinguishes *Syed Phool Badshah* and reinforces that specific performance under the 1877 Act requires specific pleading and proof of readiness/willingness, a valid contract, essential-term compliance and proper court-fee valuation. The decision will discipline High Courts exercising revisional powers in declaratory suits involving auctions, tenders and contracts.

LEGAL PROPOSITIONS (VERBATIM)

- *[A revisional court] cannot travel beyond the pleadings so as to grant an entirely new or inconsistent relief, which was neither claimed nor founded in the plaint.*
- *The doctrine of moulding of relief does not permit the Court to introduce an entirely new cause of action or to substitute one category of suit for another.*
- *A declaratory suit challenging the cancellation of a contract and a suit seeking enforcement of the contract are thus legally distinct proceedings. ... One cannot ordinarily be substituted for the other through judicial improvisation under Order VII Rule 7 CPC.*
- *A plaintiff seeking [specific performance] must specifically plead and prove readiness and willingness to perform his or her contractual obligations, the existence of a valid and enforceable contract, compliance with essential terms, and, where relevant, proper Court fee valuation.*
- *The revisional jurisdiction is confined to correcting jurisdictional errors, material irregularities, or illegalities in the exercise of jurisdiction.*
- *Permissible moulding of relief may include, inter alia, granting possession where the facts justify such relief, awarding a lesser or alternative relief, granting consequential relief, adjusting equities in light of subsequent events, or correcting technical defects in the formulation of prayers.*

LEGAL PRINCIPLES EXPOUNDED

Revisional jurisdiction under Section 115 CPC is confined to correcting jurisdictional errors, material irregularities or illegalities; it cannot be invoked to grant substantive equitable relief absent pleadings and framed issues.

Source: a Court' exercising revisional jurisdiction under Section 115 CPC cannot assume the role of a trial Court or appellate Court so as to grant substantive equitable relief in the absence of pleadings and framed issues.

Authority: Section 115 CPC

The doctrine of moulding of relief (Order VII Rule 7 CPC) permits tailoring relief flowing from pleadings and proved facts, but cannot convert one category of suit into another or grant relief wholly inconsistent with pleadings.

Source: the concept of moulding of relief does not permit the Court to introduce an entirely new cause of action or to substitute one category of suit for another. It only permits the Court to adjust or shape relief flowing from the pleadings suitably and proved facts so as to do complete justice within the framework of the case as presented by the parties.

Authority: Order VII Rule 7 CPC

A declaratory suit challenging cancellation of an auction/contract and a suit for specific performance are legally distinct proceedings — one cannot be substituted for the other through judicial improvisation.

Source: a declaratory suit challenging the cancellation of a contract and a suit seeking enforcement of the contract are thus legally distinct proceedings. The former is confined to examining the legality and validity of the impugned act, whereas the latter seeks affirmative enforcement of reciprocal obligations arising from a concluded and enforceable contract.

Authority: Specific Relief Act 1877

Specific performance requires specific pleading and proof of (i) readiness/willingness, (ii) valid enforceable contract, (iii) compliance with essential terms, and (iv) proper court-fee valuation; where the plaintiff has defaulted in stipulated payment and the foundational pleas of waiver/extension/prevention have not been pleaded, the suit cannot be converted into one for specific performance.

Source: A plaintiff seeking such relief must specifically plead and prove readiness and willingness to perform his or her contractual obligations, the existence of a valid and enforceable contract, compliance with essential terms, and, where relevant, proper Court fee valuation.

Authority: Specific Relief Act 1877

OPERATIVE ORDER

For the reasons stated above, we are of the considered view that the High Court, while exercising revisional jurisdiction, has fallen into error by converting the relief into one for specific performance of the contract, resulting in a manifest miscarriage of justice. ... Consequently, this appeal is allowed. The impugned judgments and decrees of the learned Appellate Court and the High Court are set aside, and that of the Trial Court is restored. No order as to costs. The listed CMA also stand disposed of.

■ [View Full Judgment](#)

PIO 2001 SECTION 15 ULTRA VIRES — AUCTION WITHOUT REGISTERED CONVEYANCE; BONAFIDE AUCTION PURCHASER'S REMEDY**Zarai Taraqiati Bank Ltd. v. Sher Muhammad & another (and Sikandar Khan v. Sher Muhammad)**

C.A. 232-L/2017 (ZTBL) DISMISSED; C.A. 1553/2017 (AUCTION PURCHASER) PARTLY ALLOWED — RESTITUTION OF DEPOSIT WITH MARK-UP AT PREVAILING BANKING RATE

*C.A. Nos.232-L and 1553 of 2017 · Bench: Chief Justice Yahya Afridi; Justice Naeem Akhter Afghan; Justice Shakeel Ahmad (author) · Decided: 04.05.2026 · Uploaded: 22-06-2026***FACTS**

The judgment debtor Sher Muhammad had availed a finance facility from Zarai Taraqiati Bank Ltd. (ZTBL) against mortgage of his landed property through Mortgage Mutation No.583 dated 18.07.1995. Without instituting a suit under Section 15 of the Financial Institutions (Recovery of Finances) Ordinance 2001, ZTBL proceeded to auction the mortgaged property through public auction on 12.05.2008; Sikandar Khan was the auction purchaser. Possession at all material times remained with the judgment debtor; no registered sale deed was executed in favour of the auction purchaser, though a mutation was effected. On learning of the auction, the judgment debtor filed an objection petition under Section 9 of the Ordinance read with Order XXI Rule 66 CPC before the Banking Court. ZTBL filed a petition under Section 15(10) seeking adjustment of outstanding liability on the auction proceeds. During pendency, the vires of Section 15 came under challenge — declared ultra vires by the Lahore High Court Full Bench in Muhammad Umer Rathor v. Federation of Pakistan (PLD 2009 Lah 268), affirmed by the Supreme Court in National Bank of Pakistan v. SAF Textile Mills Ltd. (PLD 2014 SC 283), with the rider that the declaration would not affect past and closed transactions. The Banking Court (13.10.2015) allowed ZTBL's petition; the judgment debtor's EFA No.1649/2015 was allowed by the Lahore High Court (26.09.2017) — objection petition accepted, ZTBL's petition dismissed. Both ZTBL and the auction purchaser appealed.

LEGAL ISSUE

(i) The legal effect of an auction conducted without execution and registration of a sale deed under the statutory framework, particularly where possession was never assumed by the Bank; (ii) the effect and legal consequences of the striking down of Section 15 of the Financial Institutions (Recovery of Finances) Ordinance 2001; (iii) the scope and extent of objection proceedings before the Banking Court; (iv) the statutory scheme governing recovery proceedings under the Ordinance — particularly Section 15 — as it stood before being struck down; and (v) the equities of a bonafide auction purchaser whose acquisition has become legally infirm in the aftermath of the ultra-vires declaration.

HOLDING

The Court held that under the statutory scheme then prevailing, Section 15 treated issuance of sale certificate and attestation of mutation as sufficient to effect transfer of title even without a registered sale deed — a marked departure from general property law (Transfer of Property Act 1882 read with Registration Act 1908) under which transfer of immovable property of prescribed value can only be effected by a duly executed and registered instrument. Once Section 15 was struck down, it was ordinarily treated as void ab initio; though prospective overruling can temper consequences, past and pending transactions may still be scrutinised where rights have not attained finality. Mutation entries are primarily fiscal and do not, by themselves, confer or divest title — title can only be transferred by a duly executed and registered conveyance under the Registration Act 1908. In the absence of registered conveyance AND delivery of possession, the alleged title of the auction purchaser remained legally infirm and unperfected. The High Court was justified in setting aside the Banking Court's order: (1) striking down of Section 15 removed the statutory foundation of the recovery mechanism; (2) transfer of immovable property without registered conveyance is not valid in law; (3) mutation entries are merely fiscal and do not confer title; (4) possession having remained with the judgment debtor indicates the sale was never fully worked out; (5) absence of registered sale deed deprives the auction purchaser of enforceable proprietary interest. ZTBL's appeal accordingly dismissed. As to the auction purchaser (C.A. 1553/2017), applying principles of proportionality, equity and protection of bonafide

purchasers — paid full consideration, acted bonafide pursuant to process conducted under colour of lawful authority — though he could not sustain title in strict law, he could not be left without remedy; entitled to restitution of his deposit together with mark-up at prevailing banking rate from date of deposit until actual payment.

LEGAL SIGNIFICANCE

A consolidating restatement of (i) the post-Umer Rathor / National Bank position on retrospective effect of declaring Section 15 of the FIO 2001 ultra vires — past/pending transactions remain open to scrutiny where rights have not attained finality; (ii) the elementary but frequently-overlooked principle that mutation entries are fiscal and do not, by themselves, confer or divest title in immovable property — only a duly executed and registered conveyance can; (iii) the equity-balancing rule that a bonafide auction purchaser whose title becomes legally infirm through subsequent ultra-vires declaration is entitled to restitution of his sale consideration + mark-up at prevailing banking rate. The decision will be of routine application in pending Banking Court proceedings involving pre-Umer-Rathor auctions and will discipline future financial-institution practice.

LEGAL PROPOSITIONS (VERBATIM)

— *Mutation entries are primarily fiscal in nature and do not, by themselves, confer or divest title, which can only be transferred through a duly executed and registered conveyance in accordance with the Registration Act, 1908.*

— *Once a statutory provision is declared ultra vires, it is ordinarily treated as void ab initio, as if it had never existed in law. However, the Court retains the discretion to temper the consequences of such a declaration by applying the doctrine of prospective overruling.*

— *In the absence of a registered conveyance and delivery of possession, the alleged title of the auction purchaser remains legally infirm and unperfected.*

— *Although the auction purchaser may not be able to sustain a valid title in strict law, he cannot be left without remedy where he has acted bonafide, without fraud or collusion, and pursuant to a process conducted under colour of a lawful authority.*

— *Courts must remain equally vigilant in safeguarding the interests of third parties, particularly of a bonafide auction purchaser.*

LEGAL PRINCIPLES EXPOUNDED

Mutation entries are fiscal in nature; transfer of immovable property is effected only by a duly executed and registered conveyance.

Source: *It is well-settled that mutation entries are primarily fiscal in nature and do not, by themselves, confer or divest title, which can only be transferred through a duly executed and registered conveyance in accordance with the Registration Act, 1908.*

Authority: *Transfer of Property Act 1882; Registration Act 1908*

A statutory provision declared ultra vires is ordinarily treated as void ab initio; the doctrine of prospective overruling tempers consequences but past/pending transactions remain open to scrutiny where rights have not attained finality.

Source: *once a statutory provision is declared ultra vires, it is ordinarily treated as void ab initio, as if it had never existed in law. However, the Court retains the discretion to temper the consequences of such a declaration by applying the doctrine of prospective overruling, thereby limiting its effect to future transactions. Notwithstanding such limitation, past and pending transactions may still be examined and subjected to scrutiny where rights have not attained finality.*

Authority: *Muhammad Umer Rathor v. Federation of Pakistan (PLD 2009 Lah 268); National Bank of Pakistan v. SAF Textile Mills Ltd. (PLD 2014 SC 283)*

Post-striking-down of Section 15 of the FIO 2001, the statutory foundation of the simplified recovery mechanism (sale certificate + mutation = title) ceased to exist; subordinate forums must give effect to the declared constitutional position.

Source: *upon striking down of Section 15 of the Ordinance, the statutory foundation of the recovery mechanism ceased to exist, and subordinate forums were bound to give effect to the declared Constitutional position.*

Authority: *Section 15, Financial Institutions (Recovery of Finances) Ordinance 2001 (struck down)*

A bonafide auction purchaser whose title becomes legally infirm through subsequent ultra-vires declaration is entitled, in equity, to restitution of the sale consideration deposited + mark-up at prevailing banking rate from date of deposit until actual payment.

Source: the auction purchaser is entitled to restitution of the amount deposited by him towards the auction purchase, together with mark-up at the prevailing banking rate from the date of deposit until actual payment, to place him, as far as possible, in the position he would have occupied had the transaction not been rendered legally ineffective.

Authority: Equitable principles; Section 65, Contract Act 1872 (analogously)

OPERATIVE ORDER

In view of the above discussion, the Civil Appeal No. 232-L of 2017, filed by the appellant-Bank, is dismissed, while Civil Appeal No. 1553 of 2017, filed by the auction purchaser, is partly allowed in the above terms.

■ View Full Judgment

FAMILY COURTS ACT 1964 — EXCLUSIVE JURISDICTION OVER BRIDE'S GOLD ORNAMENTS AS 'PERSONAL PROPERTY AND BELONGINGS OF A WIFE'

Ghulam Habib v. Mst. Shazia & others

PETITION DISMISSED; LEAVE DECLINED

C.P.L.A. No.5432 of 2025 · Bench: Chief Justice Yahya Afridi; Justice Naeem Akhter Afghan; Justice Shakeel Ahmad (author) · Decided: 04.05.2026 · Uploaded: 22-06-2026

FACTS

The respondent-wife instituted a family suit seeking recovery of dowry articles or, alternatively, their market value, along with recovery of maintenance allowance and ancillary reliefs. The trial Court (18.11.2024) partly decreed the suit: rest of the claim to articles in lists Exh.P18 to Exh.P20 (excluding certain enumerated items) was decreed; maintenance allowance was decreed at Rs.20,000/- per month from date of separation to filing of suit, and Rs.40,000/- per month thereafter till subsistence of marriage; the plaintiff was also held entitled to receive gold ornaments (claimed at 87 tolas) from the defendant as prayed. The petitioner-husband appealed; the Appellate Court (17.09.2025) partly allowed the appeal, reducing the gold-ornaments decree from 87 to 44 tolas. The petitioner's Constitution Petition No.63433/2025 was dismissed by the Lahore High Court (27.10.2025). Petitioner approached the Supreme Court relying on Muhammad Sajid v. Shamsa Asghar (PLD 2025 SC 461).

LEGAL ISSUE

Whether gold ornaments gifted to a bride by her parents/relatives at the time of marriage, for her exclusive use and benefit, fall within the category of 'personal property and belongings of a wife' under the Schedule to the West Pakistan Family Courts Act 1964 and thus within the exclusive jurisdiction of the Family Court; and whether a suit for recovery of such ornaments against the husband and mother-in-law jointly is maintainable before the Family Court.

HOLDING

The Court held that any property given to a woman at the time of marriage by her parents, relatives, husband or in-laws for her personal use and benefit vests absolutely in her — ownership being determined not by nomenclature (jahez, dowry, bridal gifts or personal belongings) but by the intention underlying the transfer and the exclusive entitlement of the bride. Section 5 of the Family Courts Act 1964 read with the Schedule confers exclusive jurisdiction on Family Courts in matters including dissolution of marriage, Khula, dower, maintenance, custody/guardianship, dowry and 'personal property and belongings of a wife' — language necessarily broad enough to encompass jewellery, gold ornaments, bridal gifts and all such articles exclusively belonging to the wife. To hold otherwise would reduce women's proprietary entitlements to mere customary claims dependent upon the will of the husband or his family — contrary to both the statutory framework and the constitutional values of dignity, equality and protection of property. Even if the gold ornaments are described as bridal gifts, the determinative consideration is whether they were given

exclusively for the bride's use and benefit; once that intention is established, the property unmistakably falls within her personal belongings and the Family Court has exclusive jurisdiction. A suit for recovery against the husband and the mother-in-law jointly is fully maintainable. The reliance on *Muhammad Sajid v. Shamsa Asghar* (PLD 2025 SC 461) was misconceived — that case held that articles presented to the family of the groom are 'presents' under the Dowry and Bridal Gifts (Restriction) Act 1976; the factual matrix is materially distinguishable since here the ornaments were given personally to the bride for her exclusive use.

LEGAL SIGNIFICANCE

A significant gender-rights/property-law restatement confirming that 'personal property and belongings of a wife' in the Schedule to the Family Courts Act 1964 is broad enough to capture jewellery and gold ornaments gifted to a bride exclusively for her use, irrespective of whether labelled *jahez*, dowry or bridal gifts. Substance prevails over nomenclature; the determinative test is the intention of exclusive entitlement of the bride. The judgment distinguishes *Muhammad Sajid* (PLD 2025 SC 461) which concerned articles given to the family of the groom. A suit for recovery against both the husband and in-laws jointly is maintainable before the Family Court. The decision will be of routine application before Family Courts and will strengthen women's economic autonomy and proprietary rights within the marital institution.

LEGAL PROPOSITIONS (VERBATIM)

- *Any property given to a woman at the time of marriage by her parents, relatives, husband or in-laws, for her personal use and benefit, vests absolutely in her.*
- *Ownership is not determined by nomenclature but by the intention underlying the transfer and the exclusive entitlement of the bride thereto.*
- *The expression 'personal property and belongings of a wife' is necessarily broad enough to encompass jewellery, gold ornaments, bridal gifts, and all such articles exclusively belonging to the wife.*
- *Gold ornaments gifted to a bride by her parents or relatives at the time of marriage, for her exclusive use and benefit, constitute her absolute property and any unauthorized taking or retention thereof by the husband or his family amounts to illegal deprivation of her proprietary rights, remediable through proceedings before the Family Court.*
- *Family Courts, therefore, while exercising jurisdiction under the Act of 1964, are not merely adjudicating private domestic disputes but also are safeguarding protected economic rights and the financial security of women within the institution of marriage.*

LEGAL PRINCIPLES EXPOUNDED

Property given to a woman at the time of marriage by her parents, relatives, husband or in-laws for her personal use and benefit vests absolutely in her, regardless of label.

Source: *It is now a settled principle that any property given to a woman at the time of marriage by her parents, relatives, husband or in-laws, for her personal use and benefit, vests absolutely in her. Ownership is not determined by nomenclature but by the intention underlying the transfer and the exclusive entitlement of the bride thereto.*

Authority: *Section 5 and Schedule, West Pakistan Family Courts Act 1964*

The Schedule's entry 'personal property and belongings of a wife' is broad enough to encompass jewellery, gold ornaments and bridal gifts exclusively belonging to the wife; Family Courts have exclusive jurisdiction.

Source: *The expression 'personal property and belongings of a wife' is necessarily broad enough to encompass jewellery, gold ornaments, bridal gifts, and all such articles exclusively belonging to the wife.*

Authority: *Section 5 and Schedule, West Pakistan Family Courts Act 1964*

The determinative test is the intention of exclusive entitlement of the bride; nomenclature (*jahez*/dowry/bridal gifts/presents) is not decisive.

Source: *Even if the gold ornaments in question are described as bridal gifts, the determinative consideration remains whether they were given exclusively for the use and benefit of the bride. Once such an intention is established, the property unmistakably falls within the category of the wife's personal belongings.*

Authority: *Dowry and Bridal Gifts (Restriction) Act 1976 (distinguished)*

Muhammad Sajid v. Shamsa Asghar (PLD 2025 SC 461) is distinguishable — it concerned articles presented to the family of the groom under the Dowry and Bridal Gifts (Restriction) Act 1976, not

articles given personally to the bride.

Source: In the said case, this Court held that articles presented to the family of the groom fall within the category of 'presents' under the Dowry and Bridal Gifts (Restriction) Act, 1976, and do not constitute dowry articles or bridal gifts recoverable through Family Court jurisdiction. The factual matrix of the present case is materially distinguishable, since the gold ornaments claimed by the respondent-wife were given to her personally by her parents for her exclusive use and benefit.

Authority: *Muhammad Sajid v. Shamsa Asghar* (PLD 2025 SC 461) (distinguished)

OPERATIVE ORDER

For the foregoing reasons, we find no substance in the instant petition; the same is, therefore, dismissed and leave declined. No order as to costs.

■ View Full Judgment**Lahore High Court**

5 judgments

MANGLA DAM OUSTEES — PROPRIETARY RIGHTS; COMPLIANCE WITH TERMS OF REMAND**Muhammad Azam (deceased) through L.Rs. & others v. Board of Revenue Punjab & others****PETITION ALLOWED; IMPUGNED ORDER SET ASIDE; MATTER REMANDED TO BOARD OF REVENUE WITH DIRECTIONS**

2018 LHC 4414 — W.P. No.3115 of 2018 · Bench: Justice Muzamil Akhtar Shabir (Multan Bench) · Decided: 20.06.2018 · Uploaded: 23-06-2026

FACTS

Petitioners (heirs of Muhammad Azam) are Mangla Dam oustees. WAPDA had issued them certificates to purchase state land and the entire price had been paid to the State. They applied to the District Collector, Vehari, for execution of a formal conveyance deed in their favour; the application was refused. The matter had earlier come before the Lahore High Court in W.P. No.851 of 1991; by order dated 17.03.1999 the matter was remanded to the Board of Revenue with specific directions to consider two points: (i) that at least 59 similarly-situated cases of Mangla Dam oustees had been granted proprietary rights, and (ii) the directive of the Governor of West Pakistan relaxing the condition that land could not be allotted within the prohibitory zone. On remand the Board of Revenue, in ROR No.189/1988 by order dated 26.09.2017 (referenced in pleadings as 20.09.2017), dismissed the revision without discussing either of the two referred points. The respondents argued before the Court that the petitioners had been offered alternative land which they refused.

LEGAL ISSUE

Whether an order passed by the Board of Revenue after remand which fails to comply with the specific points/reference made by the High Court is sustainable in law.

HOLDING

The Court held that where a matter was remanded to the BOR with specific points to determine — viz the 59 similarly-situated cases of Mangla Dam oustees granted proprietary rights, and the Governor of West Pakistan's directive relaxing the prohibitory-zone condition — and the BOR's order on remand failed to discuss either point, the order is in contravention of the reference made and is not sustainable in the eye of law. The petition was allowed, the impugned BOR order set aside, and the matter remanded again to the Board of Revenue for re-hearing in accordance with the original reference, preferably within four months. Till the decision of the matter, which would be deemed pending before the Board of Revenue, the petitioners would not be ousted from the land in their possession.

LEGAL SIGNIFICANCE

Reiterates the principle that a remand court is bound to address all points specifically referred to it by the appellate/High Court; failure to address those points renders the order unsustainable in law. Also notable for

the interim protection that pending decision after re-remand, the petitioners would not be ousted from possession — a practical safeguard for vulnerable oustees whose pre-existing settlement could otherwise be disturbed during prolonged revenue proceedings.

LEGAL PROPOSITIONS (VERBATIM)

— *The matter was referred to the Board of Revenue, vide order dated 17.03.1999 in W.P. No.851 of 1991 by pointing out two distinct points to be determined which included categories where 59 persons having similar cases had been granted proprietary rights and the letter whereby the Governor of West Pakistan had approved for relaxation of the condition for allotment, which have not been considered by the Board of Revenue through the afore-referred order, therefore, the order being in contravention of the reference made to the Board of Revenue is not sustainable in the eye of law.*

LEGAL PRINCIPLES EXPOUNDED

A remand court must comply with the specific points or reference made by the appellate/High Court; failure to address those points renders the order unsustainable in law and liable to be set aside in constitutional jurisdiction.

Source: the order being in contravention of the reference made to the Board of Revenue is not sustainable in the eye of law.

Authority: Article 199, Constitution of Pakistan 1973

OPERATIVE ORDER

Consequently, this petition is allowed and the impugned order dated 26.09.2017 passed by respondent No.1 is set-aside and the matter is remanded to the Board of Revenue for re-hearing and deciding the matter in accordance with the reference made to the Board of Revenue vide order dated 17.03.1999 passed in W.P. No.851 of 1991, at the earliest preferably within a period of 4-months from the date of receipt of order of this Court. Till the decision of the matter, which shall be deemed to be pending before the Board of Revenue, the petitioners shall not be ousted from the land in their possession.

■ View Full Judgment

FAMILY-COURT MAINTENANCE DECREE — DISTINCTION BETWEEN PAST AND FUTURE MAINTENANCE; SCOPE OF EXECUTING COURT

Rana Tasneem Ejaz v. Sadia Abbas & another

PETITION ALLOWED; ORDERS DATED 19.07.2025 AND 22.10.2025 DECLARED ILLEGAL; ANNUAL ENHANCEMENT TO APPLY ONLY TO FUTURE MAINTENANCE

2026 LHC 3857 — W.P. No.12390 of 2026 · Bench: Justice Muhammad Sajid Mehmood Sethi · Decided: 11.06.2026 · Uploaded: 23-06-2026

FACTS

Respondent No.1 (wife) instituted a family suit for recovery of maintenance against the petitioner-husband; the suit was ex parte decreed by the Family Court on 12.08.2020 in the following terms: 'plaintiff is entitled to recover Rs.12,000/- per month as past maintenance allowance of 6-years and from the institution of suit, till subsistence of her marriage on the same rate i.e. Rs.12000/- per month with an annual increase of 10% from defendant.' In execution proceedings the Executing Court attached the petitioner's property and on 31.01.2025 issued a final auction schedule. The petitioner filed objections under Order XXI Rule 89 CPC challenging both the auction proceedings and the calculation of the decretal amount — arguing that the 10% annual enhancement had been erroneously applied to the past-maintenance arrears (six years preceding the institution of the suit on 28.02.2020), enlarging his liability by approximately Rs.400,000. The objections were dismissed on 19.07.2025; the appeal therefrom was dismissed on 22.10.2025. In the constitutional petition the petitioner confined his challenge to the calculation issue.

LEGAL ISSUE

Whether the 10% annual enhancement clause in a family-court maintenance decree attaches to past maintenance (already-quantified accrued arrears for the period preceding institution of suit) or only to the future-recurring maintenance from the date of institution till the subsistence of marriage; and whether the

Executing Court can interpret the decree so as to enlarge an already-adjudicated liability.

HOLDING

A plain reading of the decree dated 12.08.2020 reveals two distinct heads: (i) past maintenance for 6 years preceding the institution of the suit — a crystallised, fixed liability, and (ii) future maintenance from the institution of the suit till the subsistence of marriage, with 10% annual enhancement. The textual and contextual language of the decree attaches the enhancement clause to the future-recurring maintenance and NOT to the past-maintenance arrears. An Executing Court is bound to execute the decree as it stands and cannot travel beyond its terms; it has no authority to modify, vary, supplement or enlarge the obligations embodied therein — *Mushtaque Ahmed v. Shahzad Khan* (PLD 2024 SC 960); *Sardar Ahmed Yar Khan Jozezai v. Province of Balochistan* (2002 SCMR 122). Maintenance escalation clauses are forward-looking — designed to preserve real value against inflation — and cannot be retrospectively applied to liabilities that have already crystallised. Section 17-A of the Family Courts Act 1964 (as substituted by the Punjab Family Courts (Amendment) Act 2015) operates in the field of adjudication, not execution; Section 17-A(3) applies only where the decree is silent on annual increase or its mode of calculation. Applicability of an order/judgment/decreed is prospective unless made retrospective by clear and categorical direction — *Samia Zaman v. Asad Zaman* (W.P. 8786/2021, judgment dated 15.11.2023); *ZTBL v. Sarfraz Khan Jadoon* [2023 PLC (CS) 724]. The proper remedy for the decree-holder was clarification or correction of the decree, not unilateral interpretation by the Executing Court. The Courts below committed a jurisdictional error by extending the enhancement clause to past maintenance.

LEGAL SIGNIFICANCE

A precise and frequently-applicable restatement of (i) the distinction between past-maintenance (crystallised liability) and future-maintenance (continuing obligation) in family-court decrees; (ii) the rule that escalation/enhancement clauses are forward-looking and cannot retrospectively apply to past-maintenance arrears; (iii) the limited jurisdiction of the Executing Court — it must execute the decree as drawn and cannot modify, vary, supplement or enlarge the obligations therein; (iv) the prospective-applicability presumption applicable to orders/judgments/decrees; and (v) the proper distinction between Section 17-A of the Family Courts Act 1964 (which operates in adjudication, not execution) and the remedy of clarification/correction of the decree. The judgment will be of routine application in family-court execution proceedings.

LEGAL PROPOSITIONS (VERBATIM)

- *An Executing Court is bound to execute the decree as it stands and cannot travel beyond its terms.*
- *The decree represents the final adjudication of rights and liabilities between the parties, and the Executing Court has no authority to modify, vary, supplement, or enlarge the obligations embodied therein.*
- *The annual enhancement clause is textually and contextually linked with the latter category [future recurring maintenance].*
- *Maintenance escalation clauses are forward-looking ... It is for this reason that enhancement clauses are ordinarily attached to future maintenance so as to preserve its real value over time.*
- *The applicability of the order/judgment/decreed will be prospective unless through a clear and categorical direction, it is made applicable retrospectively.*
- *Such statutory mandate [of Section 17-A] operates in the field of adjudication and not execution.*

LEGAL PRINCIPLES EXPOUNDED

Past maintenance (preceding institution of suit) is a fixed/crystallised liability once quantified; future maintenance is a continuing obligation. Annual enhancement clauses ordinarily attach to future maintenance to preserve real value against inflation, not to past maintenance.

Source: *Past maintenance relates to a completed period during which the claimant was allegedly deprived of support and, once quantified through a judicial determination, assumes the character of a fixed liability. Future maintenance, on the other hand, remains dependent upon continuing needs and changing economic conditions.*

Authority: *Liaqat Khan v. Bakht Bibi* (2018 CLC 708); *Mohammad Naveed Asim v. Sumaira Majeed* (PLD 2020 AJ&K 1); *Muhammad Kashif v. ADJ* (2022 MLD 1995 Lahore); *Saba Gul v. ADJ Faisalabad* (2026 CLC 12)

An Executing Court is bound to execute the decree as drawn; it cannot modify, vary, supplement, enlarge or rectify the obligations embodied therein under the guise of interpretation.

Source: *An Executing Court is bound to execute the decree as it stands and cannot travel beyond its terms.*

Authority: *Mushtaque Ahmed v. Shahzad Khan (PLD 2024 SC 960); Sardar Ahmed Yar Khan Jomezai v. Province of Balochistan (2002 SCMR 122)*

Section 17-A of the Family Courts Act 1964 operates in adjudication, not execution; Section 17-A(3) applies only where the decree is silent on annual increase or computation mode.

Source: *such statutory mandate operates in the field of adjudication and not execution. Once the rights and liabilities of the parties stand finally determined through a decree, the Executing Court remains bound by the terms thereof and cannot invoke Section 17-A as a basis to enlarge an already adjudicated liability.*

Authority: *Section 17-A, Family Courts Act 1964; Kashif Mahmood v. ADJ (2022 MLD 1762); Muhammad Aslam v. Judge Family Court Ferozewala (PLD 2024 Lahore 300); Saba Gul (2026 CLC 12)*

Orders/judgments/decree apply prospectively unless made expressly retrospective by clear and categorical direction.

Source: *the applicability of the order/judgment/decree will be prospective unless through a clear and categorical direction, it is made applicable retrospectively.*

Authority: *ZTBL v. Sarfraz Khan Jadoon [2023 PLC (CS) 724]; Muhammad Farooq v. Muhammad Hussain (2013 SCMR 225); Muhammad Younis v. Essa Jan (2009 SCMR 1169); Mst. Attiyya Bibi Khan v. Federation (2001 SCMR 1161)*

OPERATIVE ORDER

In view of the above, this petition is allowed. The orders dated 19.07.2025 and 22.10.2025 are declared to be illegal and without lawful authority to the extent of computation of decretal amount. It is declared that the annual enhancement of 10% under the decree dated 12.08.2020 shall not apply to past maintenance. The Executing Court shall recalculate the decretal amount strictly in accordance with this interpretation and proceed further in accordance with law. No order as to costs.

■ View Full Judgment

POST-ARREST BAIL — SODOMY ON MINOR STUDENT; INSTITUTIONAL ACCOUNTABILITY OF EDUCATIONAL INSTITUTIONS

Shan Ali alias Zeeshan v. The State and another

POST-ARREST BAIL DISMISSED; PROVINCE-WIDE SYSTEMIC DIRECTIONS ISSUED

2025 LHC 8662 — CrI. Misc. No.4453/B/2025 · Bench: Justice Tariq Saleem Sheikh (Bahawalpur Bench) · Decided: 24.11.2025 · Uploaded: 22-06-2026

FACTS

The petitioner sought post-arrest bail in case FIR No.861/2025 dated 18.06.2025 registered at Police Station Saddar Khanpur, District Rahimyar Khan, for offences under Sections 376(3) and 292 PPC. The complainant's son, A.S. (full name withheld), a 12/13-year-old Grade-8 student at The Leader School System in Nawankot, Khanpur, reported in the presence of Muhammad Shoaib and Abdul Rahim that about 5-6 months ago the petitioner — a teacher at the said school — had committed sodomy with him while co-accused Irfan filmed the act. The complainant submitted a USB flash drive containing the video to the Investigating Officer. The victim and PWs Muhammad Shoaib and Abdul Rahim recorded statements under Section 161 Cr.P.C. supporting the prosecution. Forensic analysis confirmed the video's authenticity (no editing features detected). Crucially, an earlier FIR No.630/2025 dated 06.05.2025 had been registered against the same petitioner; during that investigation, the petitioner surrendered his mobile phone, which was found to contain 769 pornographic video clips. Petitioner's counsel argued delayed FIR (5-6 months) and false implication; the DDPP (assisted by complainant's counsel) opposed.

LEGAL ISSUE

Whether post-arrest bail can be granted to a teacher accused of sexually abusing a minor student where the evidence includes a forensically-authenticated video, a corroborating Section 161 Cr.P.C. statement from the victim and PWs, and a prior FIR yielding recovery of substantial pornographic content from the accused's

mobile; and the appropriate institutional safeguards and policy directions for educational institutions and the Anti-Rape (Sex Offenders Register) regime.

HOLDING

On a tentative assessment the Court held that sufficient incriminating material was prima facie available to connect the petitioner with the commission of the offence, which fell within the prohibitory clause of Section 497 Cr.P.C. — Section 161 Cr.P.C. statements of the victim and PWs corroborated by forensically-authenticated video, and the prior FIR with recovery of 769 pornographic clips suggesting a pattern of predatory conduct. Given the nature of the accusation, the evidentiary support and the likelihood of the petitioner posing a risk to other children if released, the Court was not inclined to exercise discretion. Bail was dismissed. The Court issued province-wide systemic directions to the Government of Punjab, through the School Education Department, to undertake a province-wide review of compliance with existing safety protocols and prescribe uniform minimum standards for all schools — at a minimum including (a) vetting/background checks of all teaching and non-teaching staff through police and NADRA databases with a compulsory Police Character Certificate at recruitment and consideration by the Ministry of Law & Justice and the Special Committee under Section 15 of the Anti-Rape (Investigation and Trial) Act 2021 of amending the Anti-Rape (Sex Offenders Register) Rules 2023 (notified vide SRO 1326(I)/2023 dated 13.09.2023) to allow educational institutions defined-channel access to the Register (e.g. through the District Police Officer), with appropriate procedural and data-protection safeguards; (b) compulsory child-protection and abuse-identification training; (c) installation of CCTV cameras integrated with the Punjab Safe Cities Authority system; (d) confidential and accessible complaint mechanisms for students and parents; and (e) periodic compliance audits by independent teams. The Court also directed retrospective screening of currently-serving staff, a mandatory Code of Conduct for educators, and legal accountability of school owners/principals for failure to report or safeguard. Copies of the order were directed to be sent to the Secretary, Ministry of Law & Justice, Government of Pakistan; the Chief Secretary, Punjab; the Secretary, School Education Department; and the IG Police, Punjab.

LEGAL SIGNIFICANCE

A significant bail jurisprudence and policy-shaping decision combining a tentative-assessment bail dismissal with detailed systemic directions for institutional accountability in schools. The judgment leverages the Anti-Rape (Investigation and Trial) Act 2021 and the Anti-Rape (Sex Offenders Register) Rules 2023 (notified vide SRO 1326(I)/2023 dated 13.09.2023) and proposes amendments to the 2023 Rules to allow vulnerable-sector employer access to information through defined channels (e.g. DPO) with appropriate procedural and data-protection safeguards aligned with Articles 4, 14 and 25 of the Constitution. The judgment will inform school-safety policy across Punjab and beyond and will be invoked in subsequent bail jurisprudence involving institutional fiduciary breach.

LEGAL PROPOSITIONS (VERBATIM)

- *On a tentative assessment, sufficient incriminating material is available to connect the Petitioner with the commission of the offence, which falls within the prohibitory clause of section 497 Cr.P.C.*
- *While the issue of the Petitioner's guilt or innocence will be determined at trial, it is necessary that the broader context in which the alleged incident occurred be examined.*
- *That serious accusations of sexual abuse could arise on school premises against a teacher entrusted with the moral and intellectual development of children underscores the need to monitor educational institutions and hold them accountable for student safety.*
- *Institutions that fail to screen existing staff for past criminal conduct, including offences involving sexual abuse, risk perpetuating unsafe conditions for children.*
- *There is a need to protect vulnerable individuals across all sectors of the society, not just educational institutions.*

LEGAL PRINCIPLES EXPOUNDED

A tentative-assessment standard of 'sufficient incriminating material' — including forensically-authenticated video evidence, corroborating Section 161 Cr.P.C. statements and a prior FIR yielding pattern-of-predatory-conduct material — places the case within the prohibitory clause of Section 497 Cr.P.C. and justifies refusal of post-arrest bail.

Source: Based on the evidence collected, the police have determined that the Petitioner is prima facie involved in the commission of the offence. ... In view of the nature of the accusation, the evidentiary support presently available, and the likelihood of the Petitioner posing a risk to other children if released, this Court is not inclined to exercise discretion in his favour.

Authority: Sections 376(3) and 292 PPC; Section 497 Cr.P.C.

Educational institutions owe a fiduciary duty of student safety; the Government of Punjab, through the School Education Department, must prescribe uniform minimum standards across all schools — vetting, training, CCTV integration with Safe Cities, complaint mechanisms and periodic compliance audits.

Source: The Government of Punjab, through the School Education Department, must undertake a province-wide review of compliance with existing safety protocols and, where necessary, prescribe uniform minimum standards applicable to all schools, irrespective of their affiliation or ownership.

Authority: Anti-Rape (Investigation and Trial) Act 2021; Anti-Rape (Sex Offenders Register) Rules 2023 (SRO 1326(I)/2023)

The Ministry of Law & Justice and the Special Committee under Section 15 of the 2021 Act should consider amending the 2023 Sex Offenders Register Rules to allow defined-channel access (e.g. through DPOs) to vulnerable-sector employers, subject to procedural and data-protection safeguards aligned with Articles 4, 14 and 25 of the Constitution.

Source: It is, therefore, recommended that the Ministry of Law and Justice, in consultation with the National Police Bureau and other relevant stakeholders, consider appropriate amendments to the 2023 Rules. Any proposed amendments must, of course, align with constitutional principles, including Articles 4, 14 and 25 of the Constitution.

Authority: Articles 4, 14 and 25, Constitution of Pakistan 1973

OPERATIVE ORDER

On a tentative assessment, sufficient incriminating material is available to connect the Petitioner with the commission of the offence, which falls within the prohibitory clause of section 497 Cr.P.C. In view of the nature of the accusation, the evidentiary support presently available, and the likelihood of the Petitioner posing a risk to other children if released, this Court is not inclined to exercise discretion in his favour. The petition is, therefore, dismissed.

■ View Full Judgment

SPECIFIC PERFORMANCE — PROOF OF ATTESTED DOCUMENT; NEMO DAT QUOD NON HABET; CONCURRENT FINDINGS OF FACT

Malik Muhammad Noor Khan v. Riaz Bhatti etc.

CIVIL REVISION DISMISSED

2026 LHC 3850 — C.R. No.21 of 2021 · Bench: Justice Syed Ahsan Raza Kazmi (Rawalpindi Bench) · Decided: 02.06.2026 · Uploaded: 22-06-2026

FACTS

Civil Revision challenges concurrent dismissal of petitioner's suit for specific performance by the Trial Court (24.11.2015) and Appellate Court (11.11.2020). Respondent No.2 Noor Ahmad (since deceased) was admittedly owner of land measuring 268 kanals 4 marlas. The petitioner's case: respondent No.2 entered into an agreement to sell dated 24.04.2014 (Ex.P-5) with respondent No.1 for Rs.60,00,000/-, received full consideration and delivered possession; respondent No.2 authorised respondent No.1 to further transfer the property to any third person. On the strength of Ex.P-5, respondent No.1 executed a further agreement to sell dated 29.04.2014 (Ex.P-1) with the petitioner for Rs.60,50,000/-, received full consideration and delivered possession. Petitioner served legal notice 19.07.2014; respondent No.1 failed to execute the sale deed. Petitioner sued for specific performance. Respondent No.2 in his written statement denied execution of Ex.P-5 (later proceeded ex parte); respondent No.1 admitted the petitioner's claim in his WS but failed to appear in the witness box (also proceeded ex parte). To prove Ex.P-5 the petitioner produced only one

alleged marginal witness, Muhammad Yaqoob (PW-2), who never deposed that the document was executed in his presence and failed to disclose the date, time and place of execution, the identity of the scribe, the stamp vendor or other relevant particulars; the other attesting witness was not produced. The reverse side of Ex.P-5 bore neither the signatures/thumb impression nor the CNIC particulars of the alleged executant Noor Ahmad. Respondent No.1, despite alleged full payment and delivery of possession under Ex.P-5, never sought specific performance of Ex.P-5. The petitioner also argued that the Appellate Court committed legal error by deciding his application (to produce additional witnesses at the appellate stage due to claimed illness) and the main appeal on the same day, relying on *Mst. Ghulam Fatima v. Pahar Khan* (2024 CLC 1538).

LEGAL ISSUE

(i) Whether a derivative claim for specific performance founded on a downstream agreement to sell (Ex.P-1) survives where the foundational upstream agreement to sell (Ex.P-5) — being an attested document — has not been proved in accordance with Articles 17 and 79 of the Qanun-e-Shahadat Order 1984; (ii) whether mere agreements to sell, unaccompanied by registered sale deed or mutation, create any proprietary interest in immovable property; and (iii) whether an appellate court's contemporaneous decision of an interlocutory application and the main appeal on the same day vitiates the proceedings.

HOLDING

The Court held that the maxim *nemo dat quod non habet* — no one can transfer a better title than he himself has — squarely governs the case. Respondent No.1 never acquired any legal title in the suit property as no registered sale deed/mutation was ever executed by respondent No.2 in his favour; a mere agreement to sell does not, by itself, create any title, ownership or proprietary interest in immovable property. Consequently, respondent No.1 was not competent to convey any better right than he himself possessed. Ex.P-5, being an attested document, required proof under Articles 17 and 79 of the Qanun-e-Shahadat Order 1984. Producing only one marginal witness whose testimony failed to establish presence at execution, identity of scribe/stamp vendor and date/time/place — coupled with the non-production of the other attesting witness and the absence of executant signatures/thumb impressions/CNIC on the reverse side — fell wholly short. Respondent No.1's own failure ever to sue for specific performance of Ex.P-5 despite alleged full payment and possession cast further doubt on the document's genuineness. Once Ex.P-5 failed, the entire superstructure built on Ex.P-1 collapsed. Specific performance being equitable and discretionary can only be granted where a valid enforceable contract is established through confidence-inspiring evidence. On the procedural objection, the appellate court had first adjudicated the application by a separate order and only thereafter decided the appeal on merits — factually distinguishable from *Mst. Ghulam Fatima v. Pahar Khan* (2024 CLC 1538). The general principle is that material-bearing applications should be decided before the main *lis*, but it is not an inflexible rule — where the application is frivolous, misconceived, superfluous or incapable of affecting merits, its dismissal and contemporaneous decision of the main matter do not vitiate proceedings unless prejudice is occasioned — *Peer Bakhsh v. Nabi Bakhsh* (2002 YLR 1630); *Mst. Meraj Bibi v. Muhammad Shafique* (PLD 2020 Lahore 888); *Iftikhar Ali Abbasi v. Ghulam Qadir* (PLD 2025 SC 685). The petitioner's application sought to produce witnesses at the appellate stage to cure deficiencies in evidence already led before the trial court, citing illness, with no sufficient cause established — rightly declined. Concurrent findings of fact cannot be interfered with in revisional jurisdiction unless tainted with material irregularity or illegality — *Nasir Ali v. Muhammad Asghar* (2022 SCMR 1054); *Aamir Afzal v. S. Akmal* (2024 SCMR 1649); *Hadayat Khan v. Mst. Nasreen* (PLD 2025 SC 502); *Rana Muhammad Yamin v. Muhammad Jamil* (2025 SCMR 860).

LEGAL SIGNIFICANCE

A precise restatement of (i) *nemo dat quod non habet* in the context of immovable-property transfer chains — a mere agreement to sell creates no proprietary interest, so a downstream agreement to sell from a transferee under such a foundational agreement is derivative and falls with the foundational document; (ii) the strict proof requirements for an attested document under Articles 17 and 79 of the Qanun-e-Shahadat Order 1984 — marginal witnesses must establish presence at execution and identity of scribe/stamp vendor with date, time and place; (iii) the conduct-driven evidentiary inference where the holder of a prior agreement,

despite alleged full payment and possession, never sues for specific performance — casts doubt on genuineness; (iv) the rule on contemporaneous decision of applications and appeals — material-bearing applications should be decided before the main lis, but not as an inflexible rule, and frivolous/superfluous applications dismissed contemporaneously do not vitiate proceedings absent prejudice; and (v) the bar on revisional interference with concurrent findings of fact absent material irregularity or illegality.

LEGAL PROPOSITIONS (VERBATIM)

— [A] mere agreement to sell does not, by itself, create any title, ownership, or proprietary interest in immovable property.

— [T]he maxim *nemo dat quod non habet* — no one can transfer a better title than he himself has — squarely governs the present case.

— [A]ny subsequent transaction purportedly entered into by respondent No.1 on the basis of a mere agreement to sell, without having acquired ownership of the property, could not confer any valid or enforceable proprietary right upon the petitioner.

— [P]leadings by themselves do not constitute proof and must be supported by legally admissible evidence.

— [A]ll pending applications having a material bearing on the merits of the case ought to be decided before adjudication of the main lis. ... However, this principle is not an inflexible rule of universal application.

— [C]oncurrent findings of fact cannot be interfered with in revisional jurisdiction unless shown to be tainted with material irregularity or illegality and against the law.

LEGAL PRINCIPLES EXPOUNDED

Nemo dat quod non habet — a mere agreement to sell creates no title; the transferee under such an agreement cannot confer better rights than he himself possesses on a downstream transferee. Foundational document failure causes collapse of derivative claims.

Source: Once Ex.P-5 fails, the entire superstructure raised by the petitioner on the basis of Ex.P-1 collapses. The petitioner was neither a party to Ex.P-5 nor a witness thereto. His claim is purely derivative and dependent upon the validity of the earlier agreement.

Authority: *Maxim nemo dat quod non habet*; Specific Relief Act 1877

Proof of an attested document under Articles 17 & 79 of the Qanun-e-Shahadat Order 1984 requires marginal witnesses to establish presence at execution, identity of scribe/stamp vendor and date/time/place; mere statement of being a witness is insufficient. Absence of executant's signatures/thumb impressions/CNIC on the reverse further impairs evidentiary worth.

Source: he merely stated that respondent No.1 purchased the property from respondent No.2 and that he signed the agreement as a witness. Significantly, he never deposed that the document was executed in his presence. He also failed to disclose the date, time and place of execution, the identity of the scribe, the stamp vendor or other relevant particulars relating to the transaction.

Authority: Articles 17 and 79, Qanun-e-Shahadat Order 1984; *Wali Muhammad v. Ahmed Saeed* (2005 YLR 3163)

Conduct-based inference — where the holder of a prior agreement claiming full payment and possession never sues for specific performance, the genuineness of the agreement is impaired.

Source: Another circumstance which cannot be overlooked is that respondent No.1, despite allegedly paying the entire sale consideration under Ex.P-5 and obtaining possession of the property, never sought specific performance thereof through any legal proceedings. This conduct casts serious doubt upon the genuineness of the alleged transaction.

Authority: Specific Relief Act 1877

Material-bearing applications should be decided before the main lis, but the rule is not inflexible; frivolous/superfluous applications dismissed contemporaneously with the main matter do not vitiate proceedings absent prejudice or failure of justice.

Source: all pending applications having a material bearing on the merits of the case ought to be decided before adjudication of the main lis. ... However, this principle is not an inflexible rule of universal application. ... Where an application is found to be frivolous, misconceived, superfluous, or incapable of affecting the merits of the controversy, its dismissal and the contemporaneous decision of the main matter do not, by themselves, render the proceedings illegal or vitiate the judgment.

Authority: *Peer Bakhsh v. Nabi Bakhsh* (2002 YLR 1630); *Mst. Meraj Bibi v. Muhammad Shafique* (PLD 2020 Lahore 888); *Iftikhar Ali Abbasi v. Ghulam Qadir* (PLD 2025 SC 685)

Concurrent findings of fact cannot be interfered with in revisional jurisdiction unless tainted with material irregularity or illegality.

Source: *concurrent findings of fact cannot be interfered with in revisional jurisdiction unless shown to be tainted with material irregularity or illegality and against the law.*

Authority: *Nasir Ali v. Muhammad Asghar (2022 SCMR 1054); Aamir Afzal v. S. Akmal (2024 SCMR 1649); Hadayat Khan v. Mst. Nasreen (PLD 2025 SC 502); Rana Muhammad Yamin v. Muhammad Jamil (2025 SCMR 860)*

OPERATIVE ORDER

Consequently, instant Civil Revision being devoid of merit, is dismissed.

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FAMILY COURTS ACT 1964, SECTION 14(2) — BAR ON APPEAL AGAINST DISSOLUTION; WIFE'S RIGHT TO CHALLENGE BASIS

Farhana Bibi v. Judge Family Court etc.

CONSTITUTION PETITION DISPOSED OF AS PREMATURE; PETITIONER ADVISED TO SEEK REMEDY BEFORE APPELLATE COURT

2023 LHC 7798 — W.P. No.9741 of 2023/BWP · Bench: Justice Muzamil Akhtar Shabir (Bahawalpur Bench) · Decided: 12.12.2023 · Uploaded: 23-06-2026

FACTS

Petitioner was married to respondent No.2 on 03.07.2017; two daughters were born of the wedlock. Petitioner pleaded that respondent No.2's initially cordial behaviour subsequently changed to cruelty — repeated beating and torture causing her to become unconscious — and that demands for maintenance were met with violence. On 30.01.2022 he turned her out of the matrimonial house with the minors and orally pronounced talaq-e-salasa in the presence of residents of the locality. Her separate suit for recovery of maintenance and dower was decreed; respondent No.2's restitution-of-conjugal-rights suit was dismissed in non-prosecution. She then demanded a written talaq, which was refused. She filed a suit for dissolution of marriage on 02.11.2022; the trial court (Family Court, Ahmadpur East, Bahawalpur) ex-parte decreed the suit on 23.02.2023 on the basis of Khula (subject to return/surrender of whole dower) — recording that 'plaintiff has developed severe hatred towards the defendant' and that it is 'impossible to live within the boundary prescribed by Al-Mighty Allah.' Petitioner approached the Lahore High Court directly through Constitution Petition seeking modification of the decree to dissolution on the basis of cruelty — arguing that Section 14(2) of the Family Courts Act 1964 bars an appeal against a dissolution decree.

LEGAL ISSUE

Whether the bar under Section 14(2) of the West Pakistan Family Courts Act 1964 — 'no appeal lies' against a decree for dissolution of marriage — applies absolutely or only to the husband; and whether the wife may appeal against the conditions/basis of the dissolution decree (e.g. Khula vs cruelty).

HOLDING

The Court held that the bar under Section 14(2) of the Family Courts Act 1964 is not absolute. It bars the husband from appealing against a decree of dissolution of marriage but does NOT bar the wife from appealing against the conditions in the decree. The bar was designed to protect women — 'an underprivileged and generally oppressed section of society' — from prolonged and costly litigation, not to disable the wife from challenging conditions within the decree. The wife's prayer to convert the basis from Khula to cruelty is therefore appealable. An appeal is continuity of the original proceedings, and the appellate court has all powers, including fact-finding, vested in the trial court. Accordingly the constitutional petition was disposed of as premature with observation that the petitioner may approach the appellate court — which should consider the limitation question in light of the misconception under which the constitutional petition was filed. Reliance: *Abid Hussain v. ADJ Alipur, District Muzaffargarh (2006 SCMR 100); Tayyaba Yunus v. Muhammad Ehsan (2010 SCMR 1403).*

LEGAL SIGNIFICANCE

A clarificatory decision on Section 14(2) of the Family Courts Act 1964 that practically expands the appellate forum for wife-petitioners challenging the basis or conditions of a dissolution decree. By drawing the line between dissolution simpliciter (no appeal) and the conditions/basis embedded in the dissolution decree (appealable at the wife's instance), the judgment protects the wife's substantive grievance — particularly where Khula-on-return-of-dower is sought to be reclassified as cruelty-divorce (with the dower-related consequences that follow). The judgment also reaffirms the constitutional-petition discipline that where an alternate appellate remedy exists, the Constitutional Petition is premature.

LEGAL PROPOSITIONS (VERBATIM)

— *Section 14(2) of the Family Courts Act, 1964 ... clearly bars appeal by the husband against decree for dissolution of marriage; however, said bar is not an absolute rule of law if appeal is filed by the wife challenging conditions mentioned in decree for dissolution of marriage.*

— *[T]he object behind non-provision of appeal in case of dissolution of marriage was to protect women, an underprivileged and generally oppressed section of society, from prolong and costly litigation.*

— *Appeal is continuity of original proceedings of suit and the Appellate Court has jurisdiction to record finding of facts and decide question of law arising from the proceedings with all powers vested in it that could be exercised by the Trial Court.*

LEGAL PRINCIPLES EXPOUNDED

Section 14(2) of the Family Courts Act 1964 bars an appeal by the husband against a decree for dissolution of marriage, but does NOT bar an appeal by the wife challenging the conditions/basis of the dissolution decree.

Source: *said bar is not an absolute rule of law if appeal is filed by the wife challenging conditions mentioned in decree for dissolution of marriage.*

Authority: *Section 14(2), West Pakistan Family Courts Act 1964; Abid Hussain v. ADJ Alipur (2006 SCMR 100); Tayyaba Yunus v. Muhammad Ehsan (2010 SCMR 1403)*

The protective object of the no-appeal rule in dissolution matters is to shield women from prolonged litigation, not to deprive them of access to challenge conditions/basis.

Source: *the object behind non-provision of appeal in case of dissolution of marriage was to protect women, an underprivileged and generally oppressed section of society, from prolong and costly litigation.*

Authority: *Section 14(2), Family Courts Act 1964*

An appeal is continuity of the original proceedings; the appellate court has full powers of the trial court including fact-finding to decide questions of law and fact.

Source: *Appeal is continuity of original proceedings of suit and the Appellate Court has jurisdiction to record finding of facts and decide question of law arising from the proceedings with all powers vested in it that could be exercised by the Trial Court.*

Authority: *Section 14, Family Courts Act 1964*

OPERATIVE ORDER

Consequently, this constitution petition, at this stage, is pre-mature and is disposed of with observation that the petitioner, if advised, may in the first instance seek remedy before the learned Appellate Court which court while dealing with the question of limitation is expected to also take into consideration the fact that the petitioner approached this Court by filing this constitution petition under misconception that under Section 14(2) of the Family Courts Act, 1964 appeal against the decree for dissolution of marriage was not maintainable.

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