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ADVOCATES

CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Tuesday, 25 August 2026

Upload Window: 22, 24 & 25 August 2026 — with 20-21 August stragglers

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Exclusions and coverage notes: fourteen candidates were identified across the upload window (one Supreme Court, two Federal Constitutional Court, two Lahore High Court and nine Sindh High Court); ten were curated for reporting. (a) Const. P. 875/2025 (National Bank of Pakistan v. Mirza Hamayun, 2026 SHC KHI 1583) was excluded because the file served by the Sindh High Court portal under that listing's own hash is the order sheet in Const. P. No. S-262 of 2025 — a one-page interim direction to the Deputy Commissioner (South), Karachi to furnish a report on the Bantva Dispensary — and not the judgment in the National Bank matter, so the text could not be verified against the listing. (b) Const. P. 881/2002 (Abdur Rahim & others v. Jamaluddin & others, 2026 SHC KHI 1578), Const. P. 933/2020 (D.B.) (Abdul Jabbar v. Federation of Pakistan, Bench at Sukkur, 2026 SHC SUK 1559) and R.A. (Civil Revision) 150/2024 (Province of Sindh v. Muhammad Imran, Circuit Court Mirpur Khas, 2026 SHC MPK 1564) are 19-20 August straggler uploads which have been deprioritised in this issue to hold it at ten reported entries and are carried forward for the next brief. (c) The Islamabad High Court search returned no judgments for the window. (d) Both Lahore High Court items were retained notwithstanding their bail/criminal-miscellaneous character because each articulates a substantive proposition — the relevance of an out-of-Court settlement in a non-compoundable offence, and the application of the Article 12 bar on retrospective punishment at the bail stage.

Federal Constitutional Court of Pakistan

2 judgments

HIGHER EDUCATION COMMISSION ORDINANCE 2002; CONSTITUTION OF PAKISTAN 1973 ARTS. 37(C), 143 — AN HEC EQUIVALENCE CERTIFICATE ESTABLISHES THE COMPARABILITY OF A QUALIFICATION BUT DOES NOT DISPLACE A UNIVERSITY'S INDEPENDENT POWER TO PRESCRIBE PROGRAMME-SPECIFIC ADMISSION CRITERIA

Altaf Hussain v. The University of the Punjab through its Vice Chancellor and others

PETITION DISMISSED; LEAVE TO APPEAL DECLINED; APPROVED FOR REPORTING

C.P.L.A. No. 1836-L of 2019 (on appeal from the judgment of the Lahore High Court, Lahore dated 25.02.2019 passed in ICA No. 467 of 2016) · Bench: Justice Aamer Farooq; Justice Muhammad Karim Khan Agha; Justice Syed Arshad Hussain Shah (author) · Decided: Heard and decided 19.08.2026; judgment dated 19th August, 2026 at Islamabad · Uploaded: 21.08.2026

FACTS

Pursuant to an advertisement inviting applications for admission to the M.Phil programme of the University of the Punjab, the petitioner applied on the strength of an MBA degree conferred by Allama Iqbal Open University. He sat and passed the GAT-General examination, participated in the admission process and was declared successful in the admission test. The Higher Education Commission thereafter issued an equivalence certificate in respect of his qualification. The University nevertheless declined admission on the ground that his MBA comprised 20 courses carrying a total of 60 credit hours, whereas the University's own MBA programme comprised 25 courses carrying 75 credit hours. A learned Single Judge of the Lahore High Court allowed his Writ Petition No. 2166 of 2012 by judgment dated 04.03.2016, but that judgment was set aside on 25.02.2019 when the University's ICA No. 467 of 2016 was allowed. Before this Court the petitioner contended that the High Court had erred in recognising a concurrent jurisdiction in the University to determine equivalence, that Article 37(c) obliged the State to make higher education equally accessible on merit, and that by force of Article 143 the federal equivalence determination must prevail over any provincial one. The University replied that equivalence and programme-specific eligibility operate in distinct fields and that its credit-hour requirement was an academic criterion of general application.

LEGAL ISSUE

Whether, notwithstanding an equivalence certificate issued by the Higher Education Commission, a university is legally competent to decline admission to its M.Phil programme on the ground that the qualifying degree does not satisfy the minimum credit-hour requirement prescribed under its own admission criteria.

HOLDING

The Court answered in the affirmative and dismissed the petition. The Commission is empowered to determine the equivalence of degrees for the purpose of ascertaining their corresponding academic level, but that determination cannot be read in isolation from the statutory and academic autonomy of the university to frame its own admission rules, regulations and eligibility criteria. Nothing in the Commission's Ordinance authorises it to curtail or override that independent power. Equivalence and eligibility are conceptually and legally distinguishable: the first concerns recognition and comparability, the second the fulfilment of the particular prerequisites for entry into a specific programme. A minimum credit-hour requirement is an academic criterion of general application which cannot be displaced by an equivalence certificate absent a finding that it is arbitrary, discriminatory, mala fide, unreasonable or contrary to law. Institutional autonomy in matters of academic standards and admission policy attracts judicial restraint, and no material established that the requirement was devised to exclude the petitioner. On the Article 143 point the Court observed shortly that no conflict between federal and provincial statutes arose in the case.

LEGAL SIGNIFICANCE

This is the Federal Constitutional Court's first substantial statement, in its appellate jurisdiction, on the boundary between the Higher Education Commission's equivalence function and university admission autonomy. It affirms the line of authority in *Muhammad Mumtaz Khan v. Siraj Bibi* (2024 SCMR 956) and *Khyber Medical University v. Ajmal Khan* (PLD 2022 SC 92) that courts should keep their hands off

academic, administrative and disciplinary policy unless fundamental rights or law are violated, and it supplies practitioners with a clean two-stage analysis — recognition of the qualification, then satisfaction of programme-specific prerequisites — for admission disputes.

LEGAL PROPOSITIONS (VERBATIM)

- *Moreover, nothing in the Commission's Ordinance confers upon the Commission any authority to curtail, supersede, or otherwise override the University's independent power to prescribe such academic prerequisites.*
- *Equivalence and eligibility are, therefore, conceptually and legally distinguishable*
- *An equivalent qualification may establish the candidate's eligibility for consideration, but it does not, by itself, create an absolute or vested right to admission*
- *In the absence of such a showing, interference by this Court would amount to an impermissible substitution of judicial opinion for that of the competent academic authority.*

LEGAL PRINCIPLES EXPOUNDED

The Higher Education Commission's power to certify equivalence does not carry with it any power to curtail or override a university's independent authority to prescribe academic prerequisites for a particular programme.

Source: *Moreover, nothing in the Commission's Ordinance confers upon the Commission any authority to curtail, supersede, or otherwise override the University's independent power to prescribe such academic prerequisites.*

Authority: *Higher Education Commission Ordinance, 2002; statutory framework of the University of the Punjab*

Equivalence and eligibility occupy distinct legal fields: the former goes to recognition and comparability of a qualification, the latter to satisfaction of the prerequisites for entry into a specific programme.

Source: *Equivalence and eligibility are, therefore, conceptually and legally distinguishable*

Authority: *Muhammad Mumtaz Khan v. Siraj Bibi (2024 SCMR 956); Khyber Medical University v. Ajmal Khan (PLD 2022 S.C. 92)*

An equivalent qualification entitles a candidate only to consideration; it creates no vested right to admission where a uniformly applicable academic requirement of the programme is not met.

Source: *An equivalent qualification may establish the candidate's eligibility for consideration, but it does not, by itself, create an absolute or vested right to admission*

Authority: *Constitution of Pakistan 1973, Article 37(c); university admission criteria*

Absent arbitrariness, mala fides, discrimination, jurisdictional transgression or illegality, a court will not substitute its own opinion for that of the competent academic authority.

Source: *In the absence of such a showing, interference by this Court would amount to an impermissible substitution of judicial opinion for that of the competent academic authority.*

Authority: *Principle of institutional autonomy of universities; Khyber Medical University v. Ajmal Khan (PLD 2022 S.C. 92)*

OPERATIVE ORDER

The grievance was held to disclose no jurisdictional error or legal infirmity warranting interference with the judgment of the Lahore High Court, which was found to be well-reasoned, comprehensive and legally sustainable. The petition, being devoid of merit, was dismissed and leave to appeal was declined. The judgment is approved for reporting.

■ [View Full Judgment](#)

LAND ACQUISITION ACT 1894 SS. 12, 18, 20, 21, 23, 24, 26, 31; CPC SS. 2(2), 2(3), O. XXI R. 10, O. XLI R. 33; CONSTITUTION OF PAKISTAN 1973 ARTS. 23, 24, 25, 175, 187, 189, 199 — A LANDOWNER WHO ACCEPTED THE COLLECTOR'S AWARD WITHOUT PROTEST OR ALLOWED THE S. 18 LIMITATION TO LAPSE CANNOT CLAIM THE ENHANCED COMPENSATION OBTAINED BY ANOTHER, AND SADDAQAT ALI KHAN TO THAT EXTENT DOES NOT LAY DOWN THE CORRECT LAW

Fazale Haq College, Mardan v. Sanobar Khan and others; and connected appeals, petitions for leave to appeal and review petitions, including Chairman National Highway Authority, Islamabad and others v. Amir Khan Afridi and others and Collector Land Acquisition and another v. Mst. Shamshad Begum and others

CIVIL APPEALS ALLOWED; PETITIONS FOR LEAVE CONVERTED INTO APPEALS AND ALLOWED; REVIEW PETITIONS ALLOWED AND THE MAJORITY JUDGMENT IN PLD 2010 SC 878 REVIEWED TO THE STATED EXTENT; THE DISSENTING VIEW OF JUSTICE REHMAT HUSSAIN JAFFERY APPROVED; APPROVED FOR REPORTING

C.A. 192-P/2010, C.A. 193-P/2010, C.A. 124-P/2013, C.A. 409/2014, C.A. 499/2014, C.P.L.A. 1565/2019, C.A. 1296/2016, C.R.P. 95/2010 in C.A. 268/2009, C.R.P. 96/2010 in C.A. 942/2009, C.P.L.A. 261-P/2014, C.P.L.A. 2316/2016, C.P.L.A. 2317/2016, C.P.L.A. 2318/2016 and C.P.L.A. 1541/2018 · Bench: Justice Amin-ud-Din Khan, Chief Justice (author); Justice Ali Baqar Najafi; Justice Syed Arshad Hussain Shah · Decided: Heard 29.07.2026; announced in open Court at Islamabad on 20.08.2026 · Uploaded: 20.08.2026

FACTS

This batch of matters, originally instituted before the Supreme Court under Article 185(3) and transmitted to the Federal Constitutional Court following the Constitution (Twenty-seventh Amendment) Act, 2025, arose out of acquisitions of land under the Land Acquisition Act, 1894 for public purposes including educational institutions, motorways, defence projects and a grid station. In each case certain landowners had challenged the Collector's Award by references under section 18 and had ultimately obtained enhanced compensation, while the respondents had either accepted the Award without protest or had failed to invoke the statutory remedy within the prescribed period. Relying on the enhancement granted to similarly placed landowners, the respondents sought the same benefit through applications to the Land Acquisition Collector, writ petitions, or execution proceedings. The Peshawar and Lahore High Courts, by the impugned judgments, extended the benefit of the enhanced compensation, remanded matters to the Reference Courts for determination of ownership and classification, or treated the respondents as decree-holders entitled to execute the enhanced awards. The connected review petitions were directed against the majority judgment dated 04.05.2010 in Saddaqat Ali Khan v. Collector Land Acquisition (PLD 2010 SC 878), by which Civil Appeals Nos. 942 of 2009 and 268 of 2009 had been dismissed.

LEGAL ISSUE

Whether a landowner who accepted the Collector's Award without protest, or who failed to seek a reference under section 18 of the Land Acquisition Act, 1894 within the prescribed period, or who did not pursue the remedies available against the determination of the Reference Court or the High Court, may subsequently claim the benefit of enhanced compensation awarded to another landowner in independent proceedings, whether through constitutional jurisdiction, execution proceedings or any other collateral proceedings.

HOLDING

The question was answered in the negative. The Act is a complete and self-contained code: section 12 makes the Award final and conclusive save as displaced by a reference; section 18 is the sole and conditional statutory gateway to judicial reassessment; section 21 confines the inquiry to the objections of the objecting landowner; section 26(2) makes the Reference Court's award a decree; and the second proviso to section 31(2) absolutely bars a person who has received compensation otherwise than under protest from applying under section 18. A landowner who accepted the Award or let limitation expire has waived, acquiesced in and elected against the statutory remedy. An award under section 26 is a judgment in personam and not in rem; what binds under Articles 189 and 201 is the ratio, not the operative decree, so enhancement does not enure to strangers. Article 24 requires compensation to be determined 'in accordance with law', which means in accordance with the Act; Article 25 does not sanction equality in disregard of law, since those who invoked the remedy and those who did not are not similarly situated; Article 187 and Order XLI Rule 33 CPC are supplementary and procedural and cannot create substantive rights in favour of non-parties. Constitutional jurisdiction under Article 199 cannot be used to bypass the statutory machinery,

particularly where compensation depends on disputed questions of market value, title, classification and apportionment. Recognising a third category of claimant would require the Court to supply a casus omissus and legislate. Accordingly the majority judgment in Saddaqt Ali Khan, to the extent it extended enhanced compensation to non-objecting, non-litigating landowners, was held not to lay down the correct law.

LEGAL SIGNIFICANCE

This is a landmark restatement of Pakistani land acquisition law and the most consequential decision of the Federal Constitutional Court to date in the civil sphere. By reviewing PLD 2010 SC 878 and approving the dissent of Justice Rehmat Hussain Jaffery, it closes the route by which non-objecting landowners obtained parity with successful litigants, and restores the statutory distinction between those who invoke section 18 and those who do not. Acquiring authorities — the Federation, the Provinces, the MEO, NHA and WAPDA among them — are relieved of a very large contingent liability, and practitioners must now advise landowners that acceptance of compensation without protest is an irrevocable election. The judgment is also a significant general authority on the judgment in rem / in personam distinction, on the limits of Articles 187 and 199 and Order XLI Rule 33 CPC, and on the doctrines of per incuriam and casus omissus.

LEGAL PROPOSITIONS (VERBATIM)

- *The right to seek enhancement of compensation is purely statutory and must, therefore, be exercised strictly in the manner provided by the statute.*
- *The jurisdiction of the Reference Court is not inherent but is wholly dependent upon a valid reference made under Section 18.*
- *Litigation under the Land Acquisition Act is not collective in nature; rather, each landowner must independently assert his statutory entitlement.*
- *A judgment in rem determines the legal status of a person or property and binds the whole world.*
- *The Constitution guarantees lawful compensation; it does not guarantee compensation determined through a procedure unknown to law.*
- *Equity follows the law; it does not supplant it.*

LEGAL PRINCIPLES EXPOUNDED

The right to enhanced compensation is a creature of statute and must be pursued strictly in the manner the statute prescribes; once the section 18 period expires or the Award is accepted without protest, the Award attains finality.

Source: *The right to seek enhancement of compensation is purely statutory and must, therefore, be exercised strictly in the manner provided by the statute.*

Authority: Sections 12 and 18, Land Acquisition Act, 1894; Ghulam Muhammad v. Government of Pakistan (PLD 1967 SC 191)

The Reference Court has no inherent jurisdiction; its authority springs into existence only upon a valid reference under section 18, so in the absence of a reference no forum can re-determine compensation.

Source: *The jurisdiction of the Reference Court is not inherent but is wholly dependent upon a valid reference made under Section 18.*

Authority: Sections 18 and 21, Land Acquisition Act, 1894; *expressio unius est exclusio alterius*

Acquisition litigation is individual and not representative; each landowner must assert his own entitlement, and those who are diligent cannot be placed on the same footing as those who consciously abstain.

Source: *Litigation under the Land Acquisition Act is not collective in nature; rather, each landowner must independently assert his statutory entitlement.*

Authority: Sections 21 and 26(2), Land Acquisition Act, 1894; Syed Ali Nawaz Gardezi v. Lt. Col. Muhammad Yousaf (PLD 1963 SC 51); *Vigilantibus non dormientibus jura subveniunt*

An award of the Reference Court is a decree operating in personam between the litigating parties; it is not a judgment in rem and does not enure to strangers, only the ratio being binding under Articles 189 and 201.

Source: *A judgment in rem determines the legal status of a person or property and binds the whole world.*

Authority: Section 26(2), Land Acquisition Act, 1894 read with sections 2(2), 2(3) and Order XXI Rule 10, CPC; *Pir Bakhsh v. Chairman, Allotment Committee* (PLD 1987 SC 145)

The constitutional guarantee in Article 24 is inseparable from the statutory procedure through which compensation is determined; 'in accordance with law' means in accordance with the Land Acquisition Act, 1894.

Source: The Constitution guarantees lawful compensation; it does not guarantee compensation determined through a procedure unknown to law.

Authority: Articles 23, 24 and 25, Constitution of the Islamic Republic of Pakistan, 1973

Equitable considerations, including parity and sympathy, cannot override an express legislative scheme; a court may not supply a casus omissus or legislate under the guise of interpretation.

Source: Equity follows the law; it does not supplant it.

Authority: Article 175, Constitution of Pakistan 1973; *Messrs Chittagong Jute Manufacturing Company v. Province of East Pakistan* (PLD 1966 Dacca 117); *Zahid Iqbal v. Hafiz Muhammad Adnan* (2016 SCMR 430)

OPERATIVE ORDER

All connected civil appeals were allowed and the civil petitions for leave to appeal were converted into appeals and allowed. The impugned judgments of the Peshawar and Lahore High Courts, whereby enhanced compensation was extended to persons who had accepted the Collector's Award without protest or failed to seek a reference under section 18, or who were permitted to claim enhanced compensation through constitutional, execution or other collateral proceedings, were set aside as unsustainable in law, and the orders of the Land Acquisition Collectors and other competent authorities were restored. The review petitions were allowed and the majority judgment in *Saddaqt Ali Khan v. Collector Land Acquisition* (PLD 2010 SC 878) was reviewed to the extent indicated, the dissenting view being approved. All pending miscellaneous applications were disposed of. The Court added that if a broader statutory remedy extending enhanced compensation to all similarly situated landowners is thought desirable as a matter of public policy, it is for Parliament to provide it.

■ View Full Judgment

Supreme Court of Pakistan

1 judgment

NWFP (KHYBER PAKHTUNKHWA) MEDICAL AND HEALTH INSTITUTIONS AND REGULATION OF HEALTH-CARE SERVICES ORDINANCE 2002 S. 11; AMENDMENT ACT 2006 S. 5; CONSTITUTION OF PAKISTAN 1973 ARTS. 3, 4, 38 — A STATUTORY DEEMING CLAUSE REGULARISING CONTRACT EMPLOYEES OPERATES AUTOMATICALLY BY FORCE OF LAW, AND THE DEPARTMENT CANNOT DEFEAT IT BY ADMINISTRATIVE DELAY

Dean, Pakistan Institute of Community of Ophthalmology (PICO), Peshawar v. Nasira Begum and others

DELAY CONDONED; CIVIL PETITION DISMISSED AND LEAVE TO APPEAL DECLINED; APPROVED FOR REPORTING

Civil Petition No. 578-P of 2024 (against the judgment dated 08.12.2022 passed by the Khyber Pakhtunkhwa Medical Teaching Institutions Appellate Tribunal in *M.T.I. Appeal No. 215/2021*) · Bench: Justice Muhammad Ali Mazhar (author); Justice Musarrat Hilali · Decided: Heard and decided 13.05.2026; judgment dated 13th May, 2026 at Islamabad · Uploaded: 22.08.2026

FACTS

Respondents Nos. 1 and 2 were appointed on 26.12.2001 and served in the Hayatabad Medical Complex (HMC), Peshawar, continuously and without break. By notification of 3rd June 2010 the Khyber Pakhtunkhwa Health Department applied the Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002 to the Pakistan Institute of Community Ophthalmology (PICO), HMC, Peshawar with immediate effect, whereupon PICO came under the administrative and management control of HMC and became part of it. Meanwhile the proviso to section 11(1) of the Ordinance, 2002 — which had provided that employees shall be appointed on contract basis and shall not be considered civil servants or Government servants — had been substituted by section 5 of the Amendment Act, 2006, the new proviso providing that a person selected in the prescribed manner but appointed on contract basis shall, with effect from the commencement of the Ordinance or from the date of his continuous appointment, whichever is later, be

deemed to have been appointed on regular basis in the institution concerned. The respondents approached the Medical Teaching Institutions Appellate Tribunal for regularisation. The Tribunal allowed their appeal and directed that they be treated as regular employees of PICO, HMC, Peshawar by operation of the law promulgated by the Amendment Act, 2006. The Dean of PICO petitioned this Court; the petition was barred by time but delay was condoned on CMA No. 785-P/2024. Before the Court the petitioner argued that the respondents were contractual employees in a master-and-servant relationship who ought to have sued in the civil court, while not denying that the law itself had been amended to provide the benefit of regularisation.

LEGAL ISSUE

Whether contractual employees of a medical teaching institution to which the Ordinance, 2002 was applied stand regularised by operation of the deeming proviso substituted into section 11(1) by the Amendment Act, 2006, and whether the employer may resist that consequence on the footing that the relationship is one of master and servant enforceable only in the civil court.

HOLDING

The Court held that the amended proviso creates a legal fiction whose plain effect is that a contractual employee is deemed to have been appointed on a regular basis, and that the change of status is automatic upon the conditions of the deeming clause being satisfied. The department is therefore duty-bound to complete the paperwork and discharge its legal obligations without administrative delay; a refusal to convert contractual into permanent employment in the face of the statutory command amounts to a violation of law. A deeming clause must be given effect having regard to the object of the fiction and the intention of the legislature, though it cannot be elongated beyond the language which created it. Because the amended provision conferring regular status is both beneficial and remedial, it is to be construed liberally so as to advance the remedy and suppress the mischief, and where implementation is delayed the deprived person is forced to litigate for no reason other than the department's own contravention of the law. No perversity, infirmity or legal flaw was found in the Tribunal's judgment.

LEGAL SIGNIFICANCE

The judgment restates and applies the Court's deeming-clause jurisprudence (Dr. Abdul Nabi v. Executive Officer, Cantonment Board, Quetta, 2023 SCMR 1267; All Pakistan Newspapers Society v. Federation of Pakistan, PLD 2012 SC 1; Mubeen-us-Salam v. Federation of Pakistan, PLD 2006 SC 602) to the regularisation of contract employees of autonomous medical institutions in Khyber Pakhtunkhwa, and confirms that the statutory route to regular status displaces any argument that the dispute is a pure master-and-servant matter for the civil court. Its wider utility lies in the express linkage of beneficial and remedial construction with Articles 3, 4 and 38 of the Constitution, and in the direction that beneficial legislation must be implemented across the board without discrimination.

LEGAL PROPOSITIONS (VERBATIM)

- *A fiction of law is a supposition made by a court or lawmakers that a fact is true, even though it may be false or unproven. In fact, legal fiction is a tool of convenience and justice.*
- *In order to interpret the statute, the Court is obligated to give effect to the deeming provisions*
- *Legal fictions give rise to explicit objectives restricted to the purposes which should be construed contextually but should not be elongated further than the legislative wisdom for which it has been created.*
- *It is a well - settled exposition of law that the purpose of ratifying a beneficial provision is to grant rights, privileges or financial advantages to a specific individual or the public which ought to be interpreted profusely*
- *The primary goal must be to suppress the mischief and advance the remedy.*

LEGAL PRINCIPLES EXPOUNDED

A statutory deeming clause is a legal fiction which the Court is bound to give effect to, and which operates as a tool of convenience and justice rather than as a form of words to be explained away.

Source: *A fiction of law is a supposition made by a court or lawmakers that a fact is true, even though it may be false or unproven. In fact, legal fiction is a tool of convenience and justice.*

Authority: Section 11(1) proviso, NWFP Medical and Health Institutions and Regulation of Health-Care Services Ordinance, 2002 as substituted by section 5 of the Amendment Act, 2006; *Dr. Abdul Nabi v. Executive Officer, Cantonment Board, Quetta* (2023 SCMR 1267)

A legal fiction is confined to the purposes for which the legislature created it and cannot be stretched beyond the legislative wisdom which brought it into being.

Source: Legal fictions give rise to explicit objectives restricted to the purposes which should be construed contextually but should not be elongated further than the legislative wisdom for which it has been created.

Authority: *All Pakistan Newspapers Society v. Federation of Pakistan* (PLD 2012 SC 1); *Mubeen-us-Salam v. Federation of Pakistan* (PLD 2006 SC 602)

A beneficial provision conferring rights or financial advantages must be construed liberally so as to realise its intended framework, the object being to suppress the mischief and advance the remedy.

Source: The primary goal must be to suppress the mischief and advance the remedy.

Authority: Rule of construction of beneficial and remedial provisions; *ut res magis valeat quam pereat*

OPERATIVE ORDER

In the wake of the above discussion, the Court found no perversity, infirmity or legal flaw in the impugned judgment of the Khyber Pakhtunkhwa Medical Teaching Institutions Appellate Tribunal. The civil petition was dismissed and leave to appeal was declined. The judgment is approved for reporting.

■ View Full Judgment

Lahore High Court

2 judgments

CR.P.C. SS. 345, 498; PPC S. 406 — AN AMICABLE OUT-OF-COURT SETTLEMENT, THOUGH IT CANNOT COMPOUND A NON-COMPOUNDABLE OFFENCE, IS A RELEVANT CIRCUMSTANCE IN THE EXERCISE OF JUDICIAL DISCRETION ON BAIL

Muhammad Ishfaq alias Ishtiaq versus The State and another

PETITION ALLOWED; AD-INTERIM PRE-ARREST BAIL CONFIRMED ON FRESH BONDS; APPROVED FOR REPORTING

Crl. Misc. No. 3115-B of 2026 (petition under section 498 Cr.P.C. in FIR No. 130/2026 dated 02.03.2026, offence under section 406 PPC, Police Station City Haroonabad, District Bahawalnagar); 2026 LHC 5308 · Bench: Muhammad Usman Ghani Rashid Cheema, J. (Lahore High Court, Bahawalpur Bench) · Decided: 19.08.2026 · Uploaded: 24.08.2026

FACTS

The petitioner sought pre-arrest bail under section 498 Cr.P.C. in FIR No. 130 of 2026 registered at Police Station City Haroonabad, District Bahawalnagar for an offence under section 406 PPC. The allegation, summarily, was that the petitioner along with a co-accused took the complainant's motor car for temporary use but did not return it, selling it instead to someone else, thereby committing wilful breach of trust. At the outset counsel for the complainant, together with the complainant Muneeb Alam in person, stated that the matter had been sorted out of Court and that the complainant had no objection to confirmation of the ad-interim pre-arrest bail. The Assistant District Public Prosecutor vehemently opposed the settlement as a basis for bail, contending that an offence under section 406 PPC is not compoundable and that such a statement by the complainant does not amount to compounding under section 345 Cr.P.C., and requested that the petition be decided on merits and dismissed.

LEGAL ISSUE

Whether an amicable out-of-Court settlement between the parties may be taken into account in deciding a bail petition where the offence charged is not compoundable under section 345 Cr.P.C.

HOLDING

The Court held that it may. Although an offence under section 406 PPC is non-compoundable, the factum of an amicable out-of-Court settlement has consistently been regarded as a relevant circumstance in considering bail, since such settlement tends to restore harmony between the parties and end their hostility. Reviewing *Mukhtar Ahmad v. The State* (1999 P.Cr.L.J. 1107), *Sohail Aslam v. The State* (2017 MLD 4),

Muhammad Akram v. The State (1995 MLD 1826), Mst. Mussarat Elahi alias Bibi v. The State (1997 P.Cr.L.J. 1193), Shahid v. The State (2017 YLR Note 81) and Ghulam Ali v. The State (1997 SCMR 1411), the Court deduced the principle that notwithstanding the non-compoundable nature of an offence an amicable settlement does not become altogether inconsequential on the question of bail; though it cannot amount to compounding within section 345 Cr.P.C., it may be taken into consideration as a relevant circumstance in the exercise of judicial discretion, particularly where the complainant has voluntarily forgiven the accused, does not wish to pursue the matter and raises no objection. On the facts, the complainant appeared in person and confirmed the settlement and his no-objection, and the Court, keeping the non-compoundable character of the offence intact and without expressing any opinion on the merits, held that the settlement and the unequivocal no-objection were relevant circumstances legitimately to be taken into account.

LEGAL SIGNIFICANCE

The order collects and synthesises the Lahore High Court authorities on compromise in non-compoundable offences and states the principle in a form directly usable at the bail stage. It is a helpful authority for defence practitioners where the complainant has settled but the prosecutor resists on the technical ground that section 345 Cr.P.C. does not permit compounding, and it is carefully framed so as to preserve the non-compoundable character of the offence and to avoid any expression of opinion on the merits of the trial.

LEGAL PROPOSITIONS (VERBATIM)

— *Although an offence under section 406, PPC is non-compoundable in nature, yet the factum of an amicable out-of-Court settlement between the parties has consistently been regarded as a relevant circumstance while considering the question of bail, as such settlement tends to restore harmony between the parties and put an end to their hostility.*

— *notwithstanding the non-compoundable nature of an offence, an amicable settlement between the parties does not become altogether inconsequential while considering the question of bail.*

LEGAL PRINCIPLES EXPOUNDED

The non-compoundable character of an offence does not render an amicable out-of-Court settlement irrelevant to bail; such settlement is a recognised circumstance because it restores harmony and ends hostility between the parties.

Source: *Although an offence under section 406, PPC is non-compoundable in nature, yet the factum of an amicable out-of-Court settlement between the parties has consistently been regarded as a relevant circumstance while considering the question of bail, as such settlement tends to restore harmony between the parties and put an end to their hostility.*

Authority: Sections 345 and 498, Cr.P.C.; section 406, PPC; Mukhtar Ahmad and 3 others v. The State (1999 P.Cr.L.J. 1107)

A settlement which cannot compound the offence may nevertheless be weighed in the exercise of judicial discretion on bail, particularly where the complainant has voluntarily forgiven the accused and raises no objection.

Source: *notwithstanding the non-compoundable nature of an offence, an amicable settlement between the parties does not become altogether inconsequential while considering the question of bail.*

Authority: Sohail Aslam v. The State and another (2017 MLD 4); Shahid v. The State and another (2017 YLR Note 81); Ghulam Ali v. The State and another (1997 SCMR 1411)

OPERATIVE ORDER

In view of the circumstances and without touching the merits of the case, the petition was allowed and the ad-interim pre-arrest bail already granted to the petitioner was confirmed, subject to his furnishing fresh bail bonds in the sum of Rs. 1,00,000/- with one surety in the like amount to the satisfaction of the trial Court. The order is approved for reporting.

■ [View Full Judgment](#)

EMIGRATION ORDINANCE 1979 SS. 17, 18, 22; EMIGRATION (AMENDMENT) ACT 2025 (ACT NO. VIII OF 2025); CR.P.C. S. 497; CONSTITUTION OF PAKISTAN 1973 ART. 12 — THE ARTICLE 12 BAR ON RETROSPECTIVE PUNISHMENT APPLIES AT THE BAIL STAGE, SO A PENALTY ENHANCED AFTER THE OCCURRENCE CANNOT BE USED TO BRING THE CASE WITHIN THE PROHIBITORY CLAUSE

Muhammad Abbas vs. The State and another

PETITION ALLOWED; POST-ARREST BAIL GRANTED UNDER S. 497(2) CR.P.C. ON BONDS OF RS. 2,00,000/-; APPROVED FOR REPORTING

Crl. Misc. No. 33563-B of 2026 (petition under section 497 Cr.P.C. in FIR No. 1047 dated 31.12.2025, offences under sections 17 and 22 of the Emigration Ordinance, 1979, Police Station FIA/AHTC, Lahore); 2026 LHC 5300 · Bench: Muhammad Amjad Pervaiz, J. · Decided: 20.08.2026 · Uploaded: 24.08.2026

FACTS

The petitioner sought post-arrest bail under section 497 Cr.P.C. in FIR No. 1047 dated 31.12.2025 registered at Police Station FIA/AHTC, Lahore for offences under sections 17 and 22 of the Emigration Ordinance, 1979. The prosecution case was that in 2024 the petitioner and a co-accused fleeced Rs. 9,00,000/- from the complainant, partly in cash and partly by bank transfer, on the pretext of sending her to Muscat, Oman for employment; she was neither sent abroad nor was the money returned. Counsel for the petitioner argued that alternative punishments are prescribed for sections 17 and 22, so that at the bail stage the lesser sentence must be considered and the prohibitory clause is not attracted. The Law Officer relied on Jabran's case (2025 SCMR 199) and on the amendments made by the Emigration (Amendment) Act, 2025, which substituted the expression 'or with fine, or with both' in sections 17, 18 and 22 with the words 'and with fine' up to specified amounts, contending that the principle of alternative punishment was no longer available. The FIR was lodged with a delay of about one year, no time, date or place of payment was mentioned, there was no documentary proof of payment to the petitioner, and the affidavit of prosecution witness Nasir Iqbal stated that the amount was paid to co-accused Iftikhar, since a proclaimed offender. The petitioner was arrested on 03.03.2026 and nothing incriminating was recovered from him.

LEGAL ISSUE

Whether the enhanced punishments introduced into sections 17 and 22 of the Emigration Ordinance, 1979 by the Emigration (Amendment) Act, 2025 apply to an occurrence which took place before the amendment came into force, and whether the constitutional protection against retrospective punishment under Article 12 is available at the bail stage.

HOLDING

The Court held that the Amendment Act does not apply and that Article 12 protection is available at the bail stage. On a bare perusal of sections 2, 3 and 4 of the Amendment Act, the punishment now prescribed is not alternative, the expression 'or with fine' having been substituted with 'and', so that the amended provisions authorise punishment by a penalty greater than or of a different kind from that prescribed earlier. That substitution attracts the protection against retrospective punishment guaranteed as a fundamental right by Article 12. Relying on Anwar Saif Ullah Khan's case (2026 SCP 129) — where Article 12 was held to be a substantive, non-derogable fundamental right embodying nullum crimen, nulla poena sine lege praevia and operating as an absolute bar on both the legislature and the courts — and on Sajjad Haider's case (2026 SCP 54), which held that the benefit of that interpretation must be extended to an accused not only at trial but also at the stage of bail, the Court concluded that the constitutional protection was available to the petitioner and that the Amendment Act did not apply to a 2024 occurrence. Turning to the merits tentatively, the delay of about a year in lodging the FIR, the absence of particulars of payment, the absence of documentary proof or recovery, and the evidence that the money was paid to the absconding co-accused made the question of guilt one calling for further probe within section 497(2) Cr.P.C.; investigation being complete and further incarceration serving no useful purpose, bail was granted, the Court recalling that bail is not to be withheld as punishment.

LEGAL SIGNIFICANCE

The order applies the newly reported Federal-era Supreme Court jurisprudence on Article 12 to the human-smuggling and illegal-emigration prosecutions now being brought by the FIA under the Emigration Ordinance as amended in 2025. Its practical importance is considerable: for all occurrences predating the Emigration (Amendment) Act, 2025, the pre-amendment alternative-punishment structure governs, with direct consequences for the applicability of the prohibitory clause under section 497 Cr.P.C. The learned Judge expressly declined to venture an opinion on whether alternative punishments attract the mischief of the prohibitory clause, bail having been granted under section 497(2), so that question remains open.

LEGAL PROPOSITIONS (VERBATIM)

— *the amended provisions have authorized punishment for an offence by a penalty greater than or of different kind from, the penalty prescribed by law earlier.*

— *In view of the above enunciation of principle of law, there is no manner of doubt that the constitutional protection against retrospective punishment at the anvil of Article 12 of the Constitution is available to the petitioner.*

— *Hence, the provisions of Amendment Act are not applicable in this case as the occurrence took place in the year 2024.*

LEGAL PRINCIPLES EXPOUNDED

Where an amendment substitutes an alternative punishment ('or with fine') with a cumulative one ('and with fine'), it authorises a penalty greater than or different in kind from that previously prescribed and therefore attracts Article 12.

Source: *the amended provisions have authorized punishment for an offence by a penalty greater than or of different kind from, the penalty prescribed by law earlier.*

Authority: Sections 2, 3 and 4, Emigration (Amendment) Act, 2025 (Act No. VIII of 2025); Article 12, Constitution of Pakistan 1973

The constitutional protection against retrospective punishment is a substantive fundamental right which enures to an accused at the stage of bail and not merely at trial.

Source: *In view of the above enunciation of principle of law, there is no manner of doubt that the constitutional protection against retrospective punishment at the anvil of Article 12 of the Constitution is available to the petitioner.*

Authority: Anwar Saif Ullah Khan's case (2026 SCP 129); Sajjad Haider's case (2026 SCP 54)

An amendment expressed to come into force at once and without retrospective effect does not govern an occurrence predating its promulgation.

Source: *Hence, the provisions of Amendment Act are not applicable in this case as the occurrence took place in the year 2024.*

Authority: Section 1(2), Emigration (Amendment) Act, 2025; Article 12, Constitution of Pakistan 1973

OPERATIVE ORDER

The petition was allowed and the petitioner was admitted to post-arrest bail subject to furnishing bail bonds in the sum of Rs. 2,00,000/- with one surety in the like amount to the satisfaction of the trial court. It was clarified that if the petitioner or anyone acting on his behalf in any way delays the conclusion of the trial, the State or the complainant shall be at liberty to file a petition for cancellation of bail under section 497(5) Cr.P.C. before the trial court. The order is approved for reporting.

■ [View Full Judgment](#)

Sindh High Court

5 judgments

SINDH SALES TAX ON SERVICES ACT 2011 SS. 8, 9, 17, 18, 43, 44, 45, 61, 63, 65, 83A; SINDH SALES TAX ON SERVICES RULES 2011 RR. 14, 35; SALES TAX ACT 1990 S. 34; SINDH COVID-19 EMERGENCY RELIEF ACT 2020 SS. 3, 5, 6 — DEFAULT SURCHARGE UNDER S. 44 IS A STRICT, COMPENSATORY LIABILITY ATTRACTED ON THE MERE FACT OF DEFAULT, AND NO ADJUDICATING OR APPELLATE FORUM MAY WAIVE IT FOR WANT OF MENS REA

Sindh Revenue Board, Karachi v. M/s. Itecknologi Tracking Services (Private) Limited, and eleven connected reference applications

QUESTION OF LAW ANSWERED IN FAVOUR OF THE SINDH REVENUE BOARD; APPELLATE TRIBUNAL'S ORDERS MODIFIED UNDER S. 63(5); REFERENCE APPLICATIONS DISPOSED OF WITH NO ORDER AS TO COSTS

Spl. Sales Tax Ref: A. 86/2025 (D.B.) with Spl. Sales Tax Ref: A. Nos. 489/2022, 1285/2023, 1302/2023, 1571/2023, 2059/2023, 126/2024, 210/2024, 3/2024, 52/2024, 153/2025 and 197/2025; 2026 SHC KHI 1573 · Bench: Mr. Justice Agha Faisal; Dr. Justice Shah Nawaz Memon (author) · Decided: Heard 18.08.2026; decided 21.08.2026 at Karachi · Uploaded: 21.08.2026

FACTS

Twelve connected reference applications were preferred by the Sindh Revenue Board under section 63 of the Sindh Sales Tax on Services Act, 2011. In each, the respondent taxpayer had paid the tax but paid it late; default surcharge was demanded under section 44; and the Appellate Tribunal, Sindh Revenue Board deleted the demand on the reasoning that the default had not been shown to be wilful and that, absent mens rea, no surcharge could be visited on the taxpayer. Taking Reference No. 86 of 2025 as illustrative, the respondent — registered from 23.11.2018 in the service category of 'Tracking Services' under tariff heading 9812.9610 — was obliged by section 17 read with rules 14 and 35 to deposit tax for each tax period by the 21st of the following month. Scrutiny of its e-returns for January 2019 to February 2024 disclosed late deposits in a large number of periods, delays ranging from a few days to several weeks. An advisory notice of 22.11.2023 having elicited no payment, a show-cause notice dated 30.03.2024 sought default surcharge of Rs. 15,550,305/-. The taxpayer pleaded a financial crunch, COVID-19 disruption and unrealised receivables. The demand was confirmed in Order-in-Original No. 877 of 2024 and the appeal dismissed by Order-in-Appeal No. 416 of 2024, but the Tribunal took a different view and deleted the surcharge. Before the Court the Board relied on the plain words of section 44 and on Commissioner Inland Revenue v. M/s. Byco Petroleum Pakistan Limited; the respondents accepted the words of the section but urged exceptions founded on COVID-19 impossibility, arithmetical error, reverse charge and withholding, restraint by an interim order, and the Sindh COVID-19 Emergency Relief Act, 2020, and pressed Directorate of Intelligence and Investigation-FBR v. Taj International (Pvt.) Ltd. (2025 PTD 1270) as later in time than Byco.

LEGAL ISSUE

Whether the liability to pay default surcharge under section 44 of the Sindh Sales Tax on Services Act, 2011 is a strict liability attracted upon the occurrence of default in payment of the tax due by the due date, or whether such liability is attracted only where the default is shown to be wilful and attended by mens rea.

HOLDING

The Court held the liability to be strict and compensatory. Five features of section 44 placed its character beyond argument: the words 'whether wilfully or otherwise', which cannot be read ejusdem generis and which would be rendered redundant by a wilfulness requirement; the imperative 'shall'; the measure of the liability, tied to the cost of money and the duration of the delay rather than to culpability; the structure of Chapter VIII, which keeps penalty under section 43 distinct from surcharge under section 44; and the existence of express relieving provisions in sections 45 and 65(1)(b), which by expressio unius exclude any dispensing power in the adjudicating officer, the Commissioner (Appeals) or the Tribunal. Section 44 is in pari materia with section 34 of the Sales Tax Act, 1990 as amended in 2005, which the Supreme Court in Byco Petroleum declared a strict liability clause; Attock Refinery (2021 PTD 1680) is directly in point. Taj International does not displace Byco: its subject matter was criminal process under sections 37A and 37B, the passage relied on is obiter in the present context, it rests on D. G. Khan Cement (2004 SCMR 456) decided on the pre-amendment text, and Byco was neither cited to nor considered by their Lordships. Each pleaded exception failed: COVID-19 because lex non cogit ad impossibilia is attracted by impossibility and not difficulty, because relief lay with the Board under sections 17(3) and 45, and on the facts because the principal tax was in fact paid during the very

period said to be impossible and the defaults spanned periods before and after the pandemic; arithmetical error because 'or any part thereof' is directed at precisely that case; reverse charge and withholding because a statutory liability cannot be transferred by private arrangement; an interim order because it operates in personam and section 44(2) admits of no exclusion; and the Sindh COVID-19 Emergency Relief Act, 2020 because section 3(2)(e) deals specifically with provincial taxes and leaves relief to be notified, because section 5 makes no mention of tax, because most defaults fall outside the prescribed period, because at highest it would only postpone the due date, and because section 83A gives the Act, 2011 overriding effect.

LEGAL SIGNIFICANCE

This is the leading Sindh authority on default surcharge under the provincial sales tax on services regime and should settle a recurring controversy that has generated a substantial body of Tribunal orders. It aligns section 44 of the Sindh Act with section 34 of the Sales Tax Act, 1990 as construed in *Byco Petroleum*, neutralises the widespread reliance on *Taj International* as a mens rea authority in surcharge matters, and confines relief to the Board under section 45 and to an ADR committee under section 65. It also closes the COVID-19 defence for provincial sales tax defaults by holding that the Sindh COVID-19 Emergency Relief Act, 2020 is not an exempting provision in a fiscal statute. The Court expressly left open the position under section 43 (penalty), and the position where a competent court restrains the registered person himself from paying or restrains the Board from recovering.

LEGAL PROPOSITIONS (VERBATIM)

- *A fiscal statute is to be construed strictly and literally. There is no equity about a tax.*
- *To read into the section a requirement that the default be wilful is to read the words "or otherwise" clean out of the statute.*
- *It is, upon its face, the price of the use of the exchequer's money for the period during which the registered person retained it. A provision so constructed is compensatory in character.*
- *Money so collected is not the taxpayer's working capital.*
- *a statutory liability cannot be transferred by private arrangement*
- *An interim order operates in personam .*
- *Proof of wilfulness, or of mens rea , is not a condition of its imposition.*

LEGAL PRINCIPLES EXPOUNDED

A taxing statute is construed strictly and literally; there is no dispensing power in a court administering it, and relief or exemption from a fiscal burden must be found in express words.

Source: *A fiscal statute is to be construed strictly and literally. There is no equity about a tax.*

Authority: *Section 44, Sindh Sales Tax on Services Act, 2011*

The words 'whether wilfully or otherwise' exclude the mental element altogether; to require wilfulness is to read 'or otherwise' out of the statute, and the phrase cannot be confined ejusdem generis.

Source: *To read into the section a requirement that the default be wilful is to read the words "or otherwise" clean out of the statute.*

Authority: *Section 44(1), Sindh Sales Tax on Services Act, 2011; Commissioner Inland Revenue v. M/s. Byco Petroleum Pakistan Limited (order dated 05.07.2024)*

Default surcharge is compensatory and not penal: its rate is referable to the cost of money and its period to the duration of the delay, so nothing in the formula varies with culpability.

Source: *It is, upon its face, the price of the use of the exchequer's money for the period during which the registered person retained it. A provision so constructed is compensatory in character.*

Authority: *Sections 43 and 44, Sindh Sales Tax on Services Act, 2011; Commissioner of Income Tax v. National Refinery Limited (2010 PTD 737); Commissioner Inland Revenue v. Saritow Spinning Mills Ltd. (2016 PTD 786)*

Sales tax on services is an indirect tax collected and held for the exchequer; delayed remittance is the retention and use of public money, for which the surcharge charges the registered person at a rate tied to the cost of borrowing.

Source: *Money so collected is not the taxpayer's working capital.*

Authority: Sections 8, 9 and 17, Sindh Sales Tax on Services Act, 2011

Section 9 fixes the statutory incidence of the tax; the withholding regime is machinery for collection at source and a private arrangement with the recipient cannot be set up against the Board.

Source: a statutory liability cannot be transferred by private arrangement

Authority: Sections 9 and 18, Sindh Sales Tax on Services Act, 2011 read with the Sindh Sales Tax on Services Rules, 2011

An interim order restraining a recipient of services in proceedings to which the registered person was not a party does not excuse the registered person's own obligation under section 17, and section 44(2) admits of no exclusion of the period so covered.

Source: An interim order operates in personam .

Authority: Sections 17(2) and 44(2), Sindh Sales Tax on Services Act, 2011

The power to waive, reduce or defer default surcharge resides only in the Board under section 45 and in an ADR committee under section 65, and not in the adjudicating officer, the Commissioner (Appeals) or the Appellate Tribunal.

Source: Proof of wilfulness, or of mens rea , is not a condition of its imposition.

Authority: Sections 45 and 65(1)(b), Sindh Sales Tax on Services Act, 2011; *expressio unius est exclusio alterius*

OPERATIVE ORDER

The framed question was answered in favour of the applicant Board and against the respondents: liability to default surcharge under section 44 is a strict statutory liability of a compensatory character, attracted upon non-payment or short payment of the tax due by the due date, whether the default be deliberate, unintentional or inadvertent. The Appellate Tribunal was held to have erred in requiring proof of wilfulness, and its impugned orders stand modified accordingly in terms of section 63(5). A copy of the judgment was directed to be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal, Sindh Revenue Board. The reference applications were disposed of with no order as to costs. The Court expressly left open the construction of section 43 and the position where a competent court restrains the registered person himself from paying or the Board from recovering.

■ View Full Judgment

SINDH PAYMENT OF WAGES ACT 2015 S. 15; CONSTITUTION OF PAKISTAN 1973 ART. 199 — PENSION, GRATUITY AND RETIREMENT DUES ARE A LAWFUL ENTITLEMENT WHICH AN EMPLOYER CANNOT WITHHOLD, AND AN EMPLOYER WHO IGNORES DULY SERVED NOTICES CANNOT BE HEARD TO COMPLAIN OF AN EX PARTE ORDER

Utility Store Corporation Pakistan (Pvt.) Ltd. v. Authority under the Payment of Wages Act (Commissioner for Workmen's Compensation), East, Karachi and another

PETITION DISMISSED ALONG WITH ALL PENDING APPLICATIONS; COMPLIANCE DIRECTED WITH LIBERTY TO THE AUTHORITY TO ENFORCE BY COERCIVE MEASURES

Const. Petition No. 142 of 2026 (S.B.); 2026 SHC KHI 1579, 1580 and 1581 · Bench: Nisar Ahmed Bhanbhro, J. · Decided: 19.08.2026 · Uploaded: 20.08.2026

FACTS

Respondent No. 2 served the petitioner entity for more than 34 years and retired on attaining the age of superannuation in March 2023. His gratuity and other retirement dues were withheld, and he invoked the jurisdiction of the Authority under the Payment of Wages Act (Commissioner for Workmen's Compensation), East, Karachi under section 15. Notice dated 27.10.2025 was issued and duly served on the petitioner entity, and the matter was adjourned to 30.10.2025, 13.11.2025, 24.12.2025 and 26.12.2025 for its appearance; despite service, no one appeared. The Authority accordingly passed the order dated 26.01.2026 directing payment of gratuity and other dues accrued on retirement within thirty days of receipt of the order. The petitioner entity assailed that order under Article 199, contending that it had been passed ex parte without notice or opportunity of hearing and that the outstanding dues were yet to be determined. When confronted as to why the dues had not been released despite retirement, counsel for the petitioner could furnish no satisfactory explanation.

LEGAL ISSUE

Whether an employer which failed to appear before the Authority under the Sindh Payment of Wages Act, 2015 despite due service can have the resulting order set aside on the ground of want of hearing, and whether pension, gratuity and other retirement benefits may be withheld pending determination.

HOLDING

The petition was dismissed. The record showed that notice was issued and duly served and that the matter was repeatedly adjourned for the petitioner's appearance, so the ex parte order was the consequence of its own default. On the substance, it was the responsibility of the employer to release all amounts due on retirement without delay, and such benefits constitute a lawful entitlement of a person who has given more than three decades of his life to the institution. Retirement benefits cannot be withheld merely on account of absence, and where there is delay a plausible and justifiable explanation must be brought on record; none was offered. The Court further observed that it is Respondent No. 2, and not the petitioner, who holds rights and entitlements against the entity, and that the dues ought to have been released within a reasonable period, preferably within one month of retirement, whereas the retiree had been knocking at the employer's door for more than three years.

LEGAL SIGNIFICANCE

A short but usable authority for employees pursuing terminal benefits against public-sector corporations in Sindh. It confirms that section 15 of the Sindh Payment of Wages Act, 2015 is an effective forum for recovery of gratuity and retirement dues, that a defaulting employer cannot convert its own non-appearance into a natural-justice grievance under Article 199, and that the Authority's order may be enforced by coercive measures including recovery as arrears of land revenue and, against the responsible person, civil imprisonment subject to due process.

LEGAL PROPOSITIONS (VERBATIM)

- *Pension, gratuity and other retirement benefits cannot be withheld merely on account of absence.*
- *In the event of any delay, a plausible and justifiable explanation must be brought on record.*
- *It is Respondent No. 2 who has certain rights and entitlements against the petitioner entity, and not the petitioner.*
- *It was the obligation of the petitioner entity to discharge its duties in accordance with law and to release the retirement benefits of Respondent No. 2 within a reasonable period, preferably within one month of his retirement.*

LEGAL PRINCIPLES EXPOUNDED

Retirement benefits are a lawful entitlement earned by service and cannot be withheld on the ground that the employee, or the employer, was absent from proceedings.

Source: *Pension, gratuity and other retirement benefits cannot be withheld merely on account of absence.*

Authority: *Section 15, Sindh Payment of Wages Act, 2015*

Where release of retirement dues is delayed, the burden lies on the employer to place a plausible and justifiable explanation on the record.

Source: *In the event of any delay, a plausible and justifiable explanation must be brought on record.*

Authority: *Section 15, Sindh Payment of Wages Act, 2015; Article 199, Constitution of Pakistan 1973*

The employer's obligation is to release retirement benefits within a reasonable period, preferably within one month of retirement.

Source: *It was the obligation of the petitioner entity to discharge its duties in accordance with law and to release the retirement benefits of Respondent No. 2 within a reasonable period, preferably within one month of his retirement.*

Authority: *Sindh Payment of Wages Act, 2015*

OPERATIVE ORDER

The petition, being devoid of merit, was dismissed along with all pending applications. The petitioner entity was directed to ensure compliance with the order dated 26.01.2026 of the Authority; on failure, the Authority was given liberty to enforce its order through coercive measures including recovery of the amount due as arrears of land

revenue in accordance with law, and the person responsible was made liable to face the consequences prescribed by law, including civil imprisonment, subject to due process.

■ [View Full Judgment](#)

SINDH RENTED PREMISES ORDINANCE 1979 S. 19; CONSTITUTION OF PAKISTAN 1973 ART. 199 — A RENT CONTROLLER MUST STATE THE ISSUES ARISING BETWEEN THE PARTIES AND RECORD SEPARATE FINDINGS ON EACH, AND AN EVICTION ORDER WHICH DOES NOT DO SO CANNOT STAND EVEN WHERE THE TENANT DEFAULTED

Niaz Ahmed and another v. Farouq Inayat through Attorney Zubair Farouq and others

PETITION ALLOWED; CONCURRENT ORDERS SET ASIDE; MATTER REMANDED FOR FRESH DECISION WITHIN TWO MONTHS

Const. Petition No. S-453 of 2021 (S.B.); 2026 SHC KHI 1582 · Bench: Nisar Ahmed Bhanbhro, J. · Decided: 21.08.2026 · Uploaded: 21.08.2026

FACTS

The VIIth Rent Controller (South), Karachi allowed Rent Case No. 727/2019 (Farouq Inayat v. Niaz Ahmed and another) by order dated 09.03.2021, and First Rent Appeal No. 64 of 2021 preferred by the tenant was dismissed by order dated 07.05.2021. The impugned order was passed ex parte. The tenant had appeared before the trial Court but failed to file a written statement, and his right to do so was closed after several opportunities; his attempts to have that right restored were unsuccessful. The landlord filed an affidavit in evidence and the tenant was afforded an opportunity to cross-examine the deponent, whereafter the rent case was allowed. Paragraph 7 of the impugned order showed that the only ground which persuaded the trial Court was that the tenant could not produce convincing or inspiring evidence in rebuttal, the Court holding that there was no reason to disbelieve the contents of the eviction application, the affidavit in ex parte proof and the documents produced on oath, as there was no inconsistency between pleadings and evidence.

LEGAL ISSUE

Whether an eviction order under the Sindh Rented Premises Ordinance, 1979 can be sustained where the Rent Controller has not identified or discussed the issues arising between the parties and has recorded no separate findings on them as required by section 19(5).

HOLDING

The Court held that it cannot. Section 19 lays down the procedure to be followed by the Rent Controller, and sub-section (5) requires the Controller, instead of formally framing issues, to state them briefly in the judgment and to record findings on each such issue separately. Perusal of the impugned order showed that no issues were identified or discussed and no findings were recorded on the disputes between the parties; the rent case was allowed merely on the footing that there was no reason to disbelieve the eviction application, the ex parte affidavit and the documents produced on oath. When confronted with this legal position, all counsel failed to controvert it. Where the trial Court failed to adopt the procedure prescribed by section 19, a case for interference in constitutional jurisdiction under Article 199 was made out notwithstanding the concurrence of the two forums below.

LEGAL SIGNIFICANCE

A practical authority for tenants and landlords alike on the mandatory character of the procedure in section 19 of the SRPO, 1979. It establishes that section 19(5) is not a formality dispensed with by an ex parte hearing, and that a failure to state issues and record separate findings is a jurisdictional defect which will attract interference under Article 199 even against concurrent findings. Notably, the remand was directed to be decided on the evidence already on record, so the defect is curable without a fresh trial.

LEGAL PROPOSITIONS (VERBATIM)

— under sub- section (5) of Section 19 of the SRPO, 1979, the Rent Controller is required to briefly state in the judgment the issues arising between the parties and record findings on each issue separately

— In the circumstances, where the learned Trial Court failed to adopt the procedure prescribed under Section 19 of the SRPO, 1979, a case for interference by this Court is made out, warranting the exercise of its constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

LEGAL PRINCIPLES EXPOUNDED

Section 19(5) of the SRPO, 1979 obliges the Rent Controller to state the issues arising between the parties briefly in the judgment and to record findings on each of them separately; it is not displaced by the ex parte character of the proceedings.

Source: under sub- section (5) of Section 19 of the SRPO, 1979, the Rent Controller is required to briefly state in the judgment the issues arising between the parties and record findings on each issue separately

Authority: Section 19(5), Sindh Rented Premises Ordinance, 1979

Failure by the Rent Controller to adopt the procedure prescribed by section 19 makes out a case for interference in constitutional jurisdiction, notwithstanding concurrent findings below.

Source: In the circumstances, where the learned Trial Court failed to adopt the procedure prescribed under Section 19 of the SRPO, 1979, a case for interference by this Court is made out, warranting the exercise of its constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

Authority: Article 199, Constitution of the Islamic Republic of Pakistan, 1973 read with section 19, Sindh Rented Premises Ordinance, 1979

OPERATIVE ORDER

The petition was allowed and the orders dated 07.05.2021 and 09.03.2021 of the courts below were set aside. The matter was remanded to the trial Court for a fresh decision after affording the parties an opportunity of rehearing, on the basis of the evidence already available on record, strictly in accordance with law and the procedure prescribed under section 19 of the SRPO, 1979. The Office was directed to send a copy of the order to the trial Court, which was expected to decide the case within two months of receipt, with MIT to ensure compliance.

■ View Full Judgment

SINDH RENTED PREMISES ORDINANCE 1979 SS. 16(1), 16(2); CONSTITUTION OF PAKISTAN 1973 ART. 199 — THE MERE FILING OF A DECLARATORY SUIT AS TO TITLE DOES NOT AFFECT PROCEEDINGS BEFORE THE RENT CONTROLLER, AND NON-COMPLIANCE WITH A S. 16(1) ORDER ATTRACTS THE PENAL CONSEQUENCES OF S. 16(2)

Muhammad Hussain Hingoro son of Adam v. Mst. Asma and another

PETITION DISMISSED WITH NO ORDER AS TO COSTS; APPROVED FOR REPORTING

Const. Petition No. S-605/2024 (S.B.); 2026 SHC KHI 1558 · Bench: Nisar Ahmed Bhanbhro, J. · Decided: 20.08.2026 · Uploaded: 20.08.2026

FACTS

The landlord filed Rent Case No. 1043/2022 (Mst. Asma v. Muhammad Hussain) before the Rent Controller-XV, Karachi South on the ground of default in payment of rent. During the proceedings an application under section 16(1) of the S.R.P.O., 1979 was filed and allowed by order dated 11.09.2023. The trial Court granted ample opportunity to the tenant to comply, but on his failure his defence was struck off and the rent case was allowed in terms of section 16(2) by order dated 04.12.2023. First Rent Appeal No. 382 of 2023 was dismissed by the Vth Additional District Judge, Karachi (South) by judgment dated 19.04.2024. Before this Court the petitioner contended that he was the owner of the property, that no relationship of landlord and tenant existed, that he had filed Suit No. 74 of 2023 which was pending adjudication and in which the landlord had filed a written statement, and that it was for this reason that he had not complied with the order under section 16(1). The respondent replied that the relationship had been substantiated by documentary evidence and that non-compliance entailed the penal consequences of section 16(2).

LEGAL ISSUE

Whether a tenant against whom an order under section 16(1) of the S.R.P.O., 1979 has been passed may decline to comply on the ground that he claims ownership and has filed a declaratory suit as to title which is pending adjudication.

HOLDING

The Court held that he may not. Section 16 requires the Rent Controller to determine the arrears of rent and direct the tenant to deposit them within a stipulated period, besides directing regular deposit of monthly rent; failure to comply entails the penal consequences of striking off the defence and putting the landlord into possession. Non-compliance with an order under section 16(1) therefore attracts the consequences prescribed by section 16(2), and the courts below had rightly so concluded. The mere filing of a suit seeking a declaration as to title of the property does not in any manner affect the proceedings before the Rent Controller; once an order under section 16(1) has been passed, an obligation is cast upon the tenant to deposit rent within the stipulated time, and failure to comply entails the penal consequences of section 16(2), reliance being placed on Ibrahim Trust, Karachi v. Shaheen Freight Services (PLD 2011 SC 331). No infirmity or illegality was pointed out in the concurrent findings of fact and law.

LEGAL SIGNIFICANCE

A clear reaffirmation, approved for reporting, of the rule in Ibrahim Trust that a collateral title suit is no answer to a tender order under section 16(1) of the S.R.P.O., 1979. It is directly useful to landlords resisting the common tactic of filing a declaratory suit to stall rent-tender obligations, and to tenants who must be advised that a claim of ownership does not suspend the duty to deposit pending determination.

LEGAL PROPOSITIONS (VERBATIM)

- *The mere filing of a Suit seeking a declaration with regard to title of the property would not, in any manner, affect the proceedings before the Rent Controller.*
- *Once an Order under Section 16(1) of the S.R.P.O., 1979 has been passed, an obligation is cast upon the tenant to deposit the rent within the stipulated time, and failure to comply with such Order entails the penal consequences prescribed under Section 16(2) thereof.*
- *From a perusal of the above provisions, it is clear that non-compliance with an Order passed under Section 16(1) of the S.R.P.O., 1979 entails the penal consequences prescribed under Section 16(2) thereof.*

LEGAL PRINCIPLES EXPOUNDED

The pendency of a declaratory suit as to title does not affect or suspend proceedings before the Rent Controller.

Source: *The mere filing of a Suit seeking a declaration with regard to title of the property would not, in any manner, affect the proceedings before the Rent Controller.*

Authority: Ibrahim Trust, Karachi v. Shaheen Freight Services (PLD 2011 SC 331)

An order under section 16(1) casts an obligation on the tenant to deposit rent within the stipulated time, and non-compliance attracts the penal consequences of section 16(2), namely striking off the defence and delivery of possession to the landlord.

Source: *Once an Order under Section 16(1) of the S.R.P.O., 1979 has been passed, an obligation is cast upon the tenant to deposit the rent within the stipulated time, and failure to comply with such Order entails the penal consequences prescribed under Section 16(2) thereof.*

Authority: Sections 16(1) and 16(2), Sindh Rented Premises Ordinance, 1979

OPERATIVE ORDER

No infirmity or illegality having been pointed out in the concurrent findings of fact and law recorded by the courts below, the petition was held to be devoid of merit and was dismissed with no order as to costs. The judgment is approved for reporting.

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CPC O. XL R. 1, O. VI R. 17, S. 151 AND REVISIONAL JURISDICTION — THE SCOPE OF A CIVIL REVISION IS NOT ENLARGED AUTOMATICALLY TO TAKE ACCOUNT OF SUBSEQUENT EVENTS UNLESS A CASE FOR SUCH INTERVENTION IS MADE OUT ON THE FACTS AND CIRCUMSTANCES

Mst. Zainab Brohi v. Ghulam Rasool and others

REVISION APPLICATION DISMISSED IN LIMINE ALONG WITH ALL PENDING APPLICATIONS; OBSERVATIONS EXPRESSLY TENTATIVE

R.A. No. S-31 of 2026 (S.B.); 2026 SHC HYD 1575 · Bench: Jawad Akbar Sarwana, J. (High Court of Sindh, Circuit Court, Hyderabad) · Decided: 21.08.2026 · Uploaded: 21.08.2026

FACTS

The applicant, widow of Abdul Rahim, was aggrieved by the order dated 22.12.2025 of the Civil Appellate Court/Additional District Judge-IX, Hyderabad in Civil Misc. Appeal No. 11 of 2025, by which the Appellate Court upheld the dismissal order dated 02.05.2025 of the 7th Senior Civil Judge, Hyderabad in F.C. Suit No. 1428 of 2021 rejecting her application under Order 40 Rule 1 CPC for appointment of a receiver over agricultural land in S. Nos. 19/A (0-02), 19/B (4-16) and 405 (4-29), admeasuring 09-17 acres of Deh and Tappo Khathar, Taluka District Hyderabad. Both forums had rejected the application on the ground, inter alia, that receivership would affect parties in the suit property who had not been impleaded as defendants. Counsel relied on a first application under Order 6 Rule 17 read with section 151 CPC dated 18.11.2022 by which, he said, all interested parties had been impleaded. Comparing the amended title of the plaint with the Mukhtiarkar's report dated 18.04.2024 listing the occupants and alleged co-sharers, counsel candidly conceded that except for Hyder Bux, impleaded as one of the legal heirs, none of the other occupants or co-sharers shown in the Mukhtiarkar's list was a party to the suit. A second Order 6 Rule 17 application for amendment of the plaint and prayer clause had been filed only on 03.02.2026, after both impugned orders.

LEGAL ISSUE

Whether a High Court exercising revisional jurisdiction may enlarge the scope of a civil revision to take account of a subsequent application for amendment of the plaint filed after the orders under challenge, and whether a receiver should be appointed where necessary parties have not been impleaded.

HOLDING

The Court declined both. The second Order 6 Rule 17 application, filed in 2026 after the trial Court's order of 02.05.2025 and the Appellate Court's order of 22.12.2025, cannot come into play in the civil revision and broaden its scope automatically unless a case is made out on the facts and circumstances for such intervention; the applicant had made out no such case. The Court found no ground to exercise revisional powers to enlarge the scope of the revision, to consider subsequent events, or to reconsider the legality and maintainability of appointing a receiver in the context of the 2026 application. On the merits, the Court was at idem with the two forums below in declining receivership because not all parties had been impleaded as defendants. It further noted the trial Court's order of 30.10.2021 directing all parties to maintain status quo to the extent of the plaintiff's share and not to adopt any course without due course of law, which, together with the doctrine of lis pendens, meant that the interests of the applicant in the suit property and the corpus remained well secured, so that no receiver was needed at that stage.

LEGAL SIGNIFICANCE

A useful short statement on the outer limits of revisional jurisdiction: subsequent procedural steps taken after the impugned orders do not travel into the revision as of right, and a revisional court will not reconstruct the record around them. The judgment also illustrates the practical bar to receivership where necessary parties are absent, and the weight given to an existing status quo order coupled with lis pendens as an adequate alternative safeguard for the corpus.

LEGAL PROPOSITIONS (VERBATIM)

— 2026 2nd O6 R17 CPC application for amending the plaint and prayer clause can not come into play in this civil revision and broaden its scope automatically unless a case is made out in the facts and circumstances of the case for such intervention.

— I find no ground to exercise my powers under the revisionary powers of this (High) Court to enlarge the scope of the civil revision , to consider subsequent events,

— this bench does not have sight of the entire pleadings/R&P file, the observation made herein remains tentative and assumed to be true only for the purpose of deciding this civil revision

LEGAL PRINCIPLES EXPOUNDED

A step taken in the trial court after the orders under challenge does not automatically enlarge the scope of a civil revision; the applicant must make out a case on the facts and circumstances for such intervention.

Source: 2026 2nd O6 R17 CPC application for amending the plaint and prayer clause can not come into play in this civil revision and broaden its scope automatically unless a case is made out in the facts and circumstances of the case for such intervention.

Authority: Order 6 Rule 17 read with section 151, Code of Civil Procedure, 1908; revisional jurisdiction of the High Court

Revisional powers will not be exercised to consider subsequent events or to reconsider the maintainability of interlocutory relief in the light of material generated after the impugned orders.

Source: I find no ground to exercise my powers under the revisionary powers of this (High) Court to enlarge the scope of the civil revision , to consider subsequent events,

Authority: Revisional jurisdiction of the High Court; Order 40 Rule 1, Code of Civil Procedure, 1908

Where the revisional court does not have the entire pleadings and record before it, its observations remain tentative and cannot be relied upon by the parties or the trial court at trial.

Source: this bench does not have sight of the entire pleadings/R&P file, the observation made herein remains tentative and assumed to be true only for the purpose of deciding this civil revision

Authority: Practice of the High Court in revision; F.C. Suit No. 1428/2021

OPERATIVE ORDER

Finding no lacuna or irregularity in the impugned orders of the two forums below, the revision application for appointment of a receiver was dismissed in limine along with all pending applications. The Court recorded that its observations remain tentative, are assumed to be true only for the purpose of deciding the revision, and may not be relied upon by either party or by the trial Court, remaining subject to the evidence brought on record, the ongoing trial and the final judgment and decree in F.C. Suit No. 1428/2021.

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