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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Monday, 26 October 2026

Upload Window: Uploads of 20, 21, 22, 23, 24 and 26 October 2026 (Sunday 25 October excluded)

FCC: 2 judgments | SC: 4 judgments | LHC: 3 judgments | IHC: 3 judgments | SHC: 3 judgments

2

FCC

4

SC

3

LHC

3

IHC

3

SHC

15

TOTAL

TABLE OF CONTENTS

Federal Constitutional Court of Pakistan

Muhammad Yameen v. Government of Sindh through Chief Secretary Sindh and others — Service and statutory interpretation

Chairman, Khyber Pakhtunkhwa Text Book Board, Peshawar and another v. Musadiq Ali Bangash and others — Service

Supreme Court of Pakistan

Universal Service Fund, Islamabad v. Federation of Pakistan through Secretary, Revenue Division, Ministry of Finance, Islamabad and others — Income tax

M/s Seven-Star Tyre and others v. The Director General Customs Valuation and others — Customs

M/s A.J Textile Mills Ltd. v. Commissioner, Regional Tax Office, Sales Tax (Wing), Peshawar and another — Sales tax

Shaman (decd) through his L.Rs. and others v. Syed Kamran Haider Gillani and others — Civil

Lahore High Court

Mehar Farhan v. The State and others — Criminal

Muhammad Farooq Malik v. Member, Punjab Defamation Tribunal and others — Defamation

Muhammad Umar Hassan v. Deputy Commissioner, Lahore and others (with Abu Huraira v. Deputy Commissioner, Lahore and others) — Healthcare regulation

Islamabad High Court

Muhammad Uzair Anwar and others v. Federation of Pakistan and others — Cyber crime

Muhammad Usman v. Federation of Pakistan and others — Banking and constitutional law

Petrosin CNG (Private) Limited v. Mari Energies Limited — Arbitration

Sindh High Court

Sindh Revenue Board, Karachi v. M/s. Media 5ive Holdings (Karachideals.com), Karachi — Sindh sales tax on services

M/s. ABM Investment v. Civil Aviation Club and another — Civil procedure

Muhammad Nazar Gondal v. Government of Sindh and others (with M/s. Habibullah Stones (Pvt.) Ltd v. Government of Sindh and others) — Mines and minerals

Window and method. This issue covers judgments approved for reporting and uploaded by the Supreme Court, the Federal Constitutional Court, the Lahore High Court, the Islamabad High Court and the Sindh High Court on the working days 20, 21, 22, 23, 24 and 26 October 2026. Sunday 25 October is excluded. Stragglers that appeared after the 19 October scan closed have been swept in, including C.A. 348/2018 of the Supreme Court and four Lahore High Court items bearing 19 October signatures. Fifteen of sixty-one in-window candidates are digested here; the remainder were set aside as turning wholly on their own facts. Federal Constitutional Court website redesigned. The Court's judgment portal changed its download scheme during this window. Anchors on the listing now carry class btn-download and resolve to addresses of the form /api/public/site/files/ in place of the former /download/. The listing has also gained an express Approved for Reporting column, which is a welcome improvement for practitioners tracking reportable judgments. Islamabad High Court returns after seven months. The Islamabad High Court had uploaded nothing approved for reporting since 18 March 2026. Its listing grew from five entries to eight during this window and all three additions are approved for reporting. Two of them, I.C.A. 362/2025 and W.P. 1553/2026, are digested together below because the second applies the first; practitioners should read them as a pair. Note that in all three Islamabad judgments the day of announcement has been left blank in the signed text ("Announced in the open Court on .10.2025", ".06.2026" and ".01.2026" respectively); the dates of hearing are recorded and are given in each entry. Supreme Court scanned uploads. A further image-only scan appeared on 20 October, c.p._788_2018.pdf, concerning damages for malicious prosecution. It carries no text layer and no discernible reporting endorsement, and is retained in the carry-forward queue. C.P.L.A. 1157/2021 remains image-only

and unchanged from the position recorded in the 19 October issue. Approved for reporting: No. F.C.P.L.A. 388/2025, C.P.L.A. 1901/2022 and F.C.P.L.A. 464/2026 appear in the Federal Constitutional Court listing for this window marked "Approved for Reporting: No" and are accordingly omitted. A constitutional petition of 1961 decided in 2026. Const. P. 202/1961, Squadron Leader J.M Zaidi v. The Chief Settlement Commissioner, was decided by the Sindh High Court and uploaded on 20 October 2026, sixty-five years after institution. No citation has been assigned to it and it is noted here for the record rather than digested. Sindh High Court portal defects persisting. The portal entry for Const. P. 875/2025 (2026 SHC KHI 1583) continues to resolve to the wrong document, and the Coca-Cola listing mismatch recorded in earlier issues is likewise unresolved. Both were re-checked during this window.

Federal Constitutional Court of Pakistan

2 judgments

SERVICE AND STATUTORY INTERPRETATION — WHETHER AN UPPER AGE LIMIT INTRODUCED BY AMENDMENT APPLIES TO FIXED-TENURE APPOINTMENTS OF ANTI-TERRORISM COURT JUDGES ALREADY MADE — PRESUMPTION AGAINST RETROSPECTIVE OPERATION AFFECTING VESTED RIGHTS

Muhammad Yameen v. Government of Sindh through Chief Secretary Sindh and others

APPROVED FOR REPORTING

F.C.P.L.A. No. 581/2026 · Bench: Syed Hasan Azhar Rizvi and Muhammad Karim Khan Agha, JJ (judgment by Muhammad Karim Khan Agha, J) · Decided: 9 October 2026 · Uploaded: 22 October 2026

FACTS

The petitioner, a retired District and Sessions Judge then aged about seventy, was appointed Judge/Presiding Officer of Anti-Terrorism Court-IV, Karachi under section 14(2) of the Anti-Terrorism Act, 1997 by notification of 19 September 2024 for the statutory term of two and a half years under section 14(3), due to expire in March 2027. Section 14 as it then stood prescribed no upper age limit. The Anti-Terrorism (Sindh Amendment) Act, 2025, gazetted on 2 September 2025, prescribed an upper age limit of sixty-five years for appointment and provided that Judges/Presiding Officers shall cease to hold office on attaining that age. By notification of 22 October 2025 the Government of Sindh directed that the petitioner and two other serving judges cease to hold office with immediate effect, although their terms had not expired. One of them, respondent No. 4, filed C.P. No. D-1917/2025 before the Circuit Court at Hyderabad; the petitioner and another sought impleadment. By order of 22 December 2025 the High Court dismissed the petition and the impleadment application, holding that the amended age limit governed serving officers as well and that requiring them to relinquish office neither curtailed tenure unlawfully nor operated retrospectively. The petitioner, not having been a party below, also moved for permission to maintain the petition, relying on *H.M. Saya & Co. (PLD 1969 SC 65)*.

LEGAL ISSUE

Whether the upper age limit introduced by the Anti-Terrorism (Sindh Amendment) Act, 2025 applies to appointments already made for a fixed tenure under section 14 of the Anti-Terrorism Act, 1997 so as to curtail the subsisting tenure of serving Judges or Presiding Officers.

HOLDING

It does not. The Amending Act contains no deeming provision giving the amendment retrospective effect, and the non obstante clause in the substituted section 14(2) carries no stipulation extending the new age limit to appointments already made, unlike the materially different provision considered in *Jamshaid Gulzar*. The case resembles *Badshah Gul Wazir*, where the absence of clear legislative intention preserved tenure already conferred. Of the two interpretations reasonably open, the one preserving vested rights must be preferred, as *Mekotex* requires. The petitioner had acquired a vested right to hold office for the stipulated period. The High Court erred by treating the amended age limit as necessarily applicable to existing appointments without first deciding whether the provision applied to them at all. The question of statutory interpretation having been resolved in the petitioner's favour, the remaining contentions were left open.

LEGAL SIGNIFICANCE

The Court's fullest statement to date on the presumption against retrospective operation where vested rights in public office are at stake, and an important corrective to a line of reasoning that treats statutory office as always governed by the law as it stands from time to time. Two points are of general application. First, the analysis is sequenced: whether cessation of office occurs automatically by operation of law is a question distinct from, and subsequent to, whether the amended provision reaches appointments already made. Second, a non obstante clause does not by itself carry an amendment back over completed appointments; express words or necessary implication are required. The judgment also places legal certainty at the centre of

the inquiry, and reaffirms judicial economy in declining to decide more than the case requires.

LEGAL PROPOSITIONS (VERBATIM)

- where two interpretations of a statutory provision are reasonably possible, the one which preserves existing vested rights is to be preferred over the one which takes them away.
- Such a consequence cannot be presumed where the language of the amendment does not necessarily require it.
- Another important aspect of this petition is the requirement that there must be certainty in the law so that citizens can know what the law is at any particular time, without such certainty adherence to law becomes somewhat problematic and to a certain extent, in its application, might be unfair.
- Hence, when the legislature enacts retrospective legislation, it is generally the exception rather than the rule and is expressly stated to be the case in the relevant law.
- Whether cessation of office under the amended provision occurs automatically by operation of law is a question distinct from, and subsequent to, the question whether that provision applies to appointments already made under the previous law. The former cannot be assumed without first determining the latter.
- The foregoing discussion establishes that the Amending Act contains neither an express provision nor any necessary implication making the newly prescribed age limit applicable to appointments made for a fixed tenure before its commencement
- Since the Amending Act neither expressly provides for the curtailment of existing fixed-tenure appointments nor does its language necessarily require such a consequence, the principles laid down in *Mekotex* (supra) support, rather than undermine, the interpretation advanced on behalf of the petitioner.
- since a Court should not decide more than is necessary for the disposal of the case before it.

LEGAL PRINCIPLES EXPOUNDED

Statutes touching substantive rights are presumed prospective unless retrospectivity is expressed or necessarily implied.

Source: Every statute that relates to substantive rights and obligations should be deemed prospective unless, by express provision or necessary implication, it has been given retrospective effect.

Authority: *Mekotex (Pvt.) Ltd.; Badshah Gul Wazir; Jamshaid Gulzar*, as cited in the judgment

An appointment for a specified tenure under the law then in force gives rise to a vested right to hold office for that period.

Source: the petitioner, having been appointed for a specified tenure under the law then in force, had acquired a vested right to hold office for that period, subject to the conditions governing its lawful continuation or premature termination

Authority: Section 14(2) and 14(3), Anti-Terrorism Act, 1997; Anti-Terrorism (Sindh Amendment) Act, 2025

A non obstante clause unaccompanied by words extending the new condition to existing appointments does not make an amendment retrospective.

Source: The non obstante provision in the present case, on the other hand, contains no comparable stipulation expressly extending the newly prescribed age limit to appointments already made under the previous law.

Authority: Section 14(2), Anti-Terrorism Act, 1997 as substituted; *Jamshaid Gulzar*, as cited in the judgment

OPERATIVE ORDER

For the foregoing reasons, this petition is converted into an appeal and allowed. The impugned order dated 22.12.2025 passed by the High Court is set aside. M.A. No. 8088 of 2025, filed by the present petitioner seeking impleadment in Constitutional Petition No. D-1917 of 2025, is allowed. The notification dated 22.10.2025 is declared to be without lawful authority and of no legal effect. The petitioner shall be deemed to have continued in office notwithstanding the issuance of the said notification and shall be entitled to continue as Judge/Presiding Officer of Anti-Terrorism Court-IV, Karachi, until completion of his stipulated tenure of two and a half years, subject to the conditions governing his appointment under the law. Consequently, Constitutional Petition No. D-1917 of 2025 is also allowed in the above terms.

■ [View Full Judgment](#)

SERVICE — UPGRADATION DISTINGUISHED FROM CADRE STATUS AND SENIORITY — SCOPE AND FINALITY OF AN EARLIER JUDGMENT — NON-IMPLEADMENT OF AFFECTED EMPLOYEES AND AUDI ALTERAM PARTEM — CONSTRUCTIVE RES JUDICATA — LACHES

Chairman, Khyber Pakhtunkhwa Text Book Board, Peshawar and another v. Musadiq Ali Bangash and others

APPROVED FOR REPORTING

C.A. Nos. 537 and 538/2021, C.M.A. 108-P/2021 and C.P.L.A. 6615/2021 · Bench: Syed Hasan Azhar Rizvi and Aamer Farooq, JJ (judgment by Syed Hasan Azhar Rizvi, J) · Decided: 9 July 2026 (reasons for short order of even date) · Uploaded: 22 October 2026

FACTS

The private respondent was appointed Assistant/Storekeeper (BS-11) with the Khyber Pakhtunkhwa Textbook Board on 7 September 2006 on contract, and regularised on 7 May 2009. The Provincial Government upgraded the post of Assistant from BS-11 to BS-14 by notification of 28 July 2007. Claiming that benefit, he filed W.P. No. 2481-P/2013, which was disposed of by judgment of 19 February 2014 extending the benefit of upgradation while expressly leaving seniority to be determined by the Board in accordance with law. A departmental committee concluded that Assistant and Storekeeper were separate cadres and recommended separate seniority lists; the Board so ordered on 19 May 2015 and communicated the final seniority list of Storekeepers on 9 June 2015. His contempt petition alleging non-compliance was dismissed, a Division Bench recording that the earlier judgment had been implemented in its letter and spirit. In 2019 he filed W.P. No. 7461-P/2019, which the Peshawar High Court allowed on 4 December 2020, setting aside the orders of 19 May and 9 June 2015. The nineteen affected employees had not been impleaded and were never heard. The appeals, originally under Article 185(3), stood transferred to this Court under Article 175F(2) following the Constitution (Twenty-Seventh Amendment) Act, 2025.

LEGAL ISSUE

Whether the earlier judgment of 19 February 2014 conclusively determined the private respondent's cadre and seniority, and whether relief affecting the inter se seniority and promotional prospects of other employees of the Board could be granted without impleading and hearing them.

HOLDING

The High Court misconstrued its own earlier judgment, which extended the benefit of upgradation but expressly left seniority to the Board; by converting that limited relief into a final adjudication of cadre status it attributed to the judgment an effect wider than its terms. The order dismissing the contempt petition, though not a final adjudication of substantive rights, was relevant to ascertaining the scope of the earlier judgment and could not be ignored. The finality of the earlier judgment operated both ways, protecting the benefit granted while precluding a later claim arising from the same cause that could and ought to have been made earlier, which attracts constructive res judicata. The nineteen affected employees were necessary parties; the participation of the Board could not substitute for their individual and potentially competing interests, and determining their rights without hearing them offended audi alteram partem. Laches was relevant but the decision did not rest on it.

LEGAL SIGNIFICANCE

A disciplined treatment of three recurring service-law errors. First, upgradation of a post is not the same thing as placement in a cadre or a determination of seniority, and a judgment extending the first does not decide the second where it expressly leaves seniority open. Second, a judgment is to be read by reference to the issue actually determined and the relief actually granted; an administrative act taken in implementation cannot enlarge its operative command, nor can a provisional administrative act create a vested right. Third, where relief would prejudice the inter se seniority or promotional prospects of other employees, they are necessary parties and must be heard, and the employer's presence does not cure their absence. The invocation of constructive res judicata against a second round of service litigation on the same cause is a useful discipline for a notoriously repetitive class of case.

LEGAL PROPOSITIONS (VERBATIM)

— A judgment must be understood in the context of the issue actually determined and the relief actually granted; an incidental or consequential administrative act taken in its implementation cannot enlarge its operative command.

— Moreover, the finality of the earlier judgment operated both ways: while protecting the benefit actually granted, it equally precluded the private respondent from subsequently seeking a relief arising from the same cause which could and ought to have been claimed in the earlier proceedings.

— The participation of the Board could not substitute for the representation of their individual and potentially competing interests.

— It is well settled that an order adversely affecting the rights or interests of an employee, passed without notice or an opportunity of hearing, cannot be sustained in law.

— Service arrangements involving inter se seniority should not be unsettled without examining the explanation for delay and its effect upon others.

— Undoubtedly, an order passed in contempt proceedings does not constitute a final adjudication of substantive service rights. It was, nevertheless, relevant for ascertaining the scope of the earlier judgment and the manner in which its directions had been understood and implemented.

LEGAL PRINCIPLES EXPOUNDED

Relief affecting the service rights of employees not before the court offends audi alteram partem, and the defect of non-joinder must be cured before the matter is decided.

Source: Although the defect of non-joinder could have been cured by impleading the affected employees, the High Court proceeded to determine the matter without affording them such opportunity, thereby offending the principle of audi alteram partem.

Authority: Arshad Jamal v. N.-W.F.P. Forest Development Corporation (2004 SCMR 468); PIAC v. Nadeem Murtaza Khan (2007 PLC (C.S.) 334)

A relief arising from the same cause which could and ought to have been claimed earlier is barred.

Source: Such a claim would attract the principle of constructive res judicata.

Authority: Section 11, Code of Civil Procedure, 1908; SME Bank Limited v. Izhar Ul Haq (2019 SCMR 939)

Upgradation, cadre status and seniority are distinct questions and must not be conflated.

Source: The High Court, while passing the impugned judgment, thus conflated upgradation with cadre status and seniority, misconstrued the scope of its earlier judgment, and treated a provisional administrative act as creating a vested right.

Authority: Notification dated 28.07.2007 (upgradation); Article 199 of the Constitution; judgment dated 19.02.2014 in W.P. No. 2481-P/2013

OPERATIVE ORDER

Above are the reasons of our short order dated 09.07.2026, which is as follow: ... For reasons to be recorded separately, Civil Appeal No.537/2021 is allowed and the impugned judgment dated 04.12.2020, passed by the Peshawar High Court in Writ Petition No.7461-P/2019 is set-aside. ... Since Civil Appeal No.537/2021 has been allowed, Civil Appeal No.538/2021 and CPLA No.6615/2021 being infructuous are accordingly disposed of.

■ [View Full Judgment](#)

Supreme Court of Pakistan

4 judgments

INCOME TAX — ALTERNATIVE DISPUTE RESOLUTION UNDER SECTION 134A OF THE INCOME TAX ORDINANCE, 2001 — MEANING OF "WHOLLY OWNED" FOR A COMPANY LIMITED BY GUARANTEE — WITHHOLDING OBLIGATION UNDER SECTION 153(1)(B) WHERE THE BENEFIT OF THE CONTRACT ACCRUES TO THIRD PARTIES

Universal Service Fund, Islamabad v. Federation of Pakistan through Secretary, Revenue Division, Ministry of Finance, Islamabad and others

APPROVED FOR REPORTING

C.A. 430/2026 · Bench: Munib Akhtar, Jamal Khan Mandokhail and Irfan Saadat Khan, JJ (judgment by Munib Akhtar, J) · Decided: Announced 20 October 2026 (heard 19 June 2026) · Uploaded: 20 October 2026

FACTS

The Universal Service Fund is a company limited by guarantee and without share capital, incorporated in 2006 pursuant to Chapter IIIA of the Pakistan Telecommunication (Re-organization) Act, 1996 and governed by the Universal Service Fund Rules, 2006. It is statutorily obliged to prepare and award contracts for "special projects" supplying telecommunication services to unserved and underserved areas, funding those projects out of the Fund. For tax year 2023 the Deputy Commissioner Inland Revenue amended the deemed assessment, holding that the subsidy payments made by the Fund to licensees under the 1996 Act were payments for the rendering of services within section 153(1)(b) of the Income Tax Ordinance, 2001, that the Fund had failed to withhold tax, and that section 21(c) accordingly disallowed the expenditure. The appeal to the Commissioner (Appeals) was disposed of without decision when the Tax Laws (Amendment) Act, 2024 made alternative dispute resolution mandatory for State-Owned Enterprises, and the appellate authority directed the Fund to the ADR Committee. By order of 21 March 2025 the ADR Committee held the withholding obligation to have existed but limited the consequence to a liability of Rs. 1,533,018,333 payable by 28 March 2025, which would annul the application of section 21(c). The Fund filed W.P. 1181/2025 in the High Court. When the sixth iteration of section 134A came into force that petition abated, and the Fund brought this appeal under the proviso to subsection (13), the petition having been formally withdrawn on 26 March 2026. The Department took the preliminary objection that the Fund is a State-Owned Enterprise wholly owned, directly or indirectly, by the Federal Government, so that subsection (12) and not (13) applied and no appeal lay.

LEGAL ISSUE

First, whether the appeal was maintainable, which turned on whether a company limited by guarantee is "wholly owned, directly or indirectly, by the Federal Government" within the proviso to section 134A(13). Second, whether a payer is obliged to deduct advance tax under section 153(1)(b) on payments made under a contract whose benefit accrues wholly or substantially to third parties unrelated to the payer.

HOLDING

On maintainability, the phrase "wholly owned" must be given a strict and literal meaning in this narrow statutory context, and for a guarantee-company it requires that all the members be, directly or indirectly, nominees of the Federal Government. The directors specified in clauses (e) to (h) of Rule 11(1) of the USF Rules must in law be deemed to be members of the company, and being nominees of the licensees and of consumer groups they are not nominees of the Federal Government; the SOE Act, which requires a majority of independent directors who by definition are not Federal Government nominees, reinforces that conclusion. The Fund is therefore not wholly owned by the Federal Government, the proviso applies and the appeal is competent. On the merits, section 153(1)(b) is capable of two reasonable constructions of the word "for". In the "second sense" the obligation to deduct arises only where the payer is the recipient of the services. Where third party beneficiaries are introduced, and here the beneficiaries were the public at large resident in unserved and underserved areas, the second sense prevails and no withholding obligation arises.

LEGAL SIGNIFICANCE

The first authoritative construction of the appeal created by the proviso to section 134A(13) of the Income Tax Ordinance, 2001 after the 2024 amendments made ADR mandatory for State-Owned Enterprises, including a careful account of the six iterations of section 134A. It supplies a workable ownership test for companies

limited by guarantee, a form used extensively for statutory and public-purpose vehicles, and it establishes that withholding under section 153(1)(b) is not triggered merely by identifying payer, payee and a payment made "for" services: the payer must be the recipient of those services. The decision is of direct practical importance to subsidy-disbursing and grant-making public bodies, and to any payer under a contract performed for the benefit of the public at large. The Court was careful to confine the meaning given to "wholly owned" to the statutory context before it.

LEGAL PROPOSITIONS (VERBATIM)

- *In our view, in the context in which the issue arises here, the phrase "wholly owned" has to be given a strict and literal meaning.*
- *It is well settled that whenever and wherever possible the better interpretation is to allow for the preservation of recourse to Courts and for judicial remedies to continue.*
- *In our view, it must be shown that all the members of the guarantee-company are (directly or indirectly) the nominees of the Federal Government.*
- *In other statutory or factual contexts, catering to other purposes and effects that may be entirely distinct and separate (and indeed far removed) from subsections (12) and (13), the question may well be answered differently.*
- *It is therefore triggered only when the payer is the recipient of the services being rendered or provided.*
- *However, once third party beneficiaries are introduced into the matrix (and such contracts would only be a small minority of cases), there can be disconnect between the one paying for the rendering or providing of services and the one to whom they are being rendered or provided.*
- *The appellant is not the recipient of the services rendered or provided by the licensee. The second sense prevails.*

LEGAL PRINCIPLES EXPOUNDED

Where ownership determines whether a judicial remedy survives a change in the law, the governing phrase is read strictly and literally; de minimis has no application.

Source: *In our view, in the context in which the issue arises here, the phrase "wholly owned" has to be given a strict and literal meaning.*

Authority: *Proviso to section 134A(13), Income Tax Ordinance, 2001*

A company limited by guarantee has no share capital towards which an ownership inquiry can be directed, so ownership is tested through the membership.

Source: *In our view, it must be shown that all the members of the guarantee-company are (directly or indirectly) the nominees of the Federal Government.*

Authority: *Section 134A(12)-(13), Income Tax Ordinance, 2001; Companies Act, 2017 (company limited by guarantee)*

Where a statute and subordinate legislation each impose requirements as to directorship and membership, the construction that secures compliance with both is to be preferred, if necessary by deeming membership as a matter of law.

Source: *Accordingly, we conclude and hold that the persons who are directors of the appellant in terms of clauses (e) to (h) of Rule 11(1) must at all times (though only as long as they are directors) be deemed also to be its members as a matter of law.*

Authority: *Section 129, 130 and 153(i), Companies Act, 2017; Rule 11(1)(e)-(h), Universal Service Fund Rules, 2006*

Under the State-Owned Enterprises (Governance and Operations) Act an independent director stands in contradistinction to an ex-officio or nominee director and cannot be a nominee of the Federal Government.

Source: *Thus, an independent director is one who is not an ex-officio or nominee director, i.e., is not a nominee of the Federal Government.*

Authority: *Sections 2(h), 2(i), 11 and 12, State-Owned Enterprises (Governance and Operations) Act, 2023*

Section 153(1)(b) operates against the backdrop of the law of contract; read in the second sense, the word "for" links the recipients of the payment and of the services, not merely the obligations on either side.

Source: In the second sense the section is attracted, and the obligation to deduct triggered, for payments made by the payer to the payee "for" providing or rendering services to the payer.

Authority: Section 153(1)(b), Income Tax Ordinance, 2001; Commissioner Inland Revenue Lahore v. Coca-Cola Pakistan Ltd. (2026 SCMR 130)

OPERATIVE ORDER

In view of the foregoing discussion and analysis the question posed in para 41 is answered in the negative. The appellant was not under an obligation to deduct tax under s. 153(2)(b). Accordingly, the appeal is allowed. The impugned decision of the ADR Committee is set aside as is the amending order, to the extent here relevant. It is declared that s. 21(c) had no application to the facts and circumstances of the case.

■ View Full Judgment

CUSTOMS — SEQUENTIAL VALUATION UNDER SECTION 25 OF THE CUSTOMS ACT, 1969 — RESORT TO THE FALL-BACK METHOD UNDER SECTION 25(9) — LIMITS OF THE HIGH COURT'S REFERENCE JURISDICTION UNDER SECTION 196

M/s Seven-Star Tyre and others v. The Director General Customs Valuation and others

APPROVED FOR REPORTING

C.P.L.A. Nos. 306-K to 329-K/2024 · Bench: Yahya Afridi, CJ, Irfan Saadat Khan and Aqeel Ahmed Abbasi, JJ (judgment by Aqeel Ahmed Abbasi, J) · Decided: 15 July 2026 · Uploaded: 21 October 2026

FACTS

Twenty-four importers of tyres and tubes declared transactional values for their consignments, supporting them with commercial invoices, bank letters of credit and the C&F price lists of the foreign exporters. The Director, Customs Valuation determined higher values by Valuation Rulings issued under section 25A, going directly to the fall-back method under section 25(9) without working through the preceding methods in section 25. The Director General declined to interfere on review under section 25D. The Customs Appellate Tribunal, by common judgment of 26 July 2022, found as a fact that the importers' documents had never been declared forged or fake and that the importers had never been confronted with any contrary material, and held that the sequential order of valuation had been bypassed. The Department preferred twenty-four references under section 196 and proposed six questions of law, all directed to the powers of the Director and the Director General under sections 25A and 25D. The Division Bench of the High Court of Sindh reformulated two questions, answered them against the importers and set aside the Tribunal's judgment. The importers came to this Court.

LEGAL ISSUE

Whether the Customs authorities may resort directly to the fall-back method of valuation under section 25(9) of the Customs Act, 1969 without first applying the methods prescribed by subsections (1), (5), (6), (7) and (8), and whether the High Court in its reference jurisdiction under section 196 may disturb findings of fact recorded by the Customs Appellate Tribunal where no question challenging those findings as perverse was competently raised.

HOLDING

The scheme of section 25 requires the valuation methods to be applied in sequential order, and direct resort to the fall-back method under section 25(9) while bypassing the preceding subsections is not supported by law. Three elements govern recourse to section 25(9): a determination that the earlier methods cannot be applied, the application of the Customs Rules, 2001, and determination on a basis derived from the earlier methods applied flexibly, those methods not being capable of being pushed aside. The importers had discharged their primary onus by producing their import documents, which were never impugned as forged, and the Department never confronted them with adverse material. The Tribunal's findings were neither perverse nor contrary to the record, and the High Court could not disturb them in a summary manner in reference jurisdiction, particularly where the Department had formulated no question challenging them.

LEGAL SIGNIFICANCE

A consolidated restatement of two propositions of daily importance in customs and tax litigation. First, the sequential discipline of section 25 is mandatory, and a Valuation Ruling founded on direct resort to section 25(9) without reasoned exclusion of the earlier methods is vulnerable. Second, the Customs Appellate Tribunal is the final fact-finding forum, and the reference jurisdiction of the High Court is confined to questions of law competently raised; a Department that wishes to attack a finding of fact must frame a question doing so. The Court also records that the sequential-order issue attained finality when the appeal against Sadia Jabbar was dismissed on 9 January 2024.

LEGAL PROPOSITIONS (VERBATIM)

— Plain language of law suggest a sequential order to be adopted for custom valuation, in case there is insufficient material or evidence produced by the importer to support transactional value, and Custom Authorities are in possession of some concrete material or evidence to dispute and discard transactional value, after confronting the importer with such material or evidence in a manner as provided under Section 25 of the Customs Act, 1969.

— The plain reading of the afore-mentioned provisions of law shows that the methods of customs valuation are required to be applied in sequential order in order to reach to just conclusion for determination of true/ correct customs valuation of the subject consignments/goods.

— The customs value in terms of Section 25 (9) of the Customs Act, 1969 has to be determined on a basis that is derived from among the valuation methods specified in sub-sections (1), (5), (6), (7), and (8) of Section 25 of Customs Act, 1969 which have to be applied in a flexible manner, whereas, the above-mentioned sub-sections cannot be pushed aside or ignored during such exercise.

— It is a well-settled principle of law that the Customs Appellate Tribunal is the final forum for the determination of facts in tax and customs matters, and its findings of fact cannot be disturbed by the High Court under its reference jurisdiction unless it is shown that such findings are perverse, based on surmises and conjectures, or entirely unsupported by evidence on record.

— The High Court while exercising reference jurisdiction under Section 196 of the Customs Act, 1969, could not dispute such finding of facts in a summary manner, particularly when no such specific question was formulated by the respondent department in this regard.

— It is pertinent to mention that in order to determine the true/correct transactional value of the imported consignment Section 25 of the Customs Act, 1969 is the main provision for such determination wherein, complete mechanism has been provided to ensure correct determination of value in sequential order as contained in sub-sections (1), (5), (6), (7), and (8) of Section 25 of Customs Act, 1969

LEGAL PRINCIPLES EXPOUNDED**Three elements must be satisfied before the fall-back method may be adopted.**

Source: secondly, its application is subject to "Rules" i.e. Customs Rules 2001; and thirdly, the basic framework of how value is to be determined in terms of relevant sub-section has been specified.

Authority: Section 25(9), Customs Act, 1969; Customs Rules, 2001

An importer discharges the primary onus as to transactional value by producing its import documents; the burden then lies on the Department to confront it with contrary material.

Source: the petitioners by submitting all the relevant import documents including commercial invoices, letter of credit and C&F Price list of goods of foreign exporters, discharged their primary onus to establish the transactional value of the subject-consignments.

Authority: Section 25(1), Customs Act, 1969; Sadia Jabbar v. Federation of Pakistan (2012 SCMR 617)

The reference jurisdiction is confined to questions of law and cannot be used to substitute findings of fact.

Source: the domain of the High Court while exercising reference jurisdiction under relevant tax laws, including Customs Act, 1969 is strictly limited to deciding questions of law, and it cannot go behind or substitute findings of fact recorded by the Tribunal unless a proper question of law challenging the same as perverse or contrary to the record is competently raised.

Authority: Section 196, Customs Act, 1969; Commissioner of Inland Revenue v. Sargodha Spinning Mills (2022 SCMR 1082); Middle East Construction Co. v. Collector of Customs (2023 SCMR 838); National Logistics Cell v. Collector of Customs (2023 SCMR 1325)

OPERATIVE ORDER

Accordingly, these civil petitions are converted into appeals and allowed. The impugned judgment dated 29.02.2024 passed by the High Court of Sindh, Karachi is hereby set aside, and the judgment dated 26.07.2022 passed by the Customs Appellate Tribunal is restored in respect of all the appellants.

■ View Full Judgment

SALES TAX — INPUT TAX ADJUSTMENT UNDER SECTION 7 OF THE SALES TAX ACT, 1990 — WHETHER SECTION 8(1)(A) DISALLOWS INPUT TAX ON RAW MATERIAL DESTROYED BY FIRE

M/s A.J Textile Mills Ltd. v. Commissioner, Regional Tax Office, Sales Tax (Wing), Peshawar and another**APPROVED FOR REPORTING**

C.A. 1137/2018 · Bench: Muhammad Ali Mazhar, Irfan Saadat Khan and Aqeel Ahmed Abbasi, JJ (judgment by Aqeel Ahmed Abbasi, J) · Decided: 22 June 2026 (reasons for short order of even date) · Uploaded: 21 October 2026

FACTS

On audit it was found that the appellant, a textile manufacturer, had adjusted input tax of Rs. 3,181,649 against output tax in respect of raw material (cotton) worth Rs. 20,566,082 destroyed by fire, the loss having been reported to the police and an insurance claim of Rs. 20,675,000 received. A contravention case was framed and a show-cause notice issued on 11 October 2005, culminating in Order-in-Original No. 07 of 2005. The Appellate Tribunal Inland Revenue, Peshawar accepted the appellant's appeal on 11 May 2010, vacating the contravention report and the show-cause notice. On the Department's reference, the Peshawar High Court by judgment of 27 September 2017 set the Tribunal's order aside, holding that the appellant was not entitled to adjust input tax on goods not used in taxable supplies as required by section 8(1)(a). Leave was granted on 2 October 2018 to consider whether input tax paid on raw material destroyed by fire may be claimed in adjustment although the raw material was not available for making taxable supplies.

LEGAL ISSUE

Whether section 8(1)(a) of the Sales Tax Act, 1990 denies a registered person the adjustment of input tax paid on raw material which was purchased for making taxable supplies but was destroyed by fire before being consumed in manufacture.

HOLDING

No. Entitlement under section 7 depends on three conditions: that the input tax was paid on inputs intended for making taxable supplies, that it was paid for producing taxable supplies whether made or to be made, and that it is deducted from the output tax of the same tax period. The appellant met all three, and that was not disputed. Section 8 prohibits adjustment only where the goods were never intended for use in making taxable supplies or were in fact used for some other purpose. Loss by damage is not "use". The destruction of raw material by fire therefore falls outside section 8(1)(a), the question in the leave-granting order is answered in the affirmative, and the issue is no longer res integra following Mayfair Spinning Mills (2025 SCMR 1).

LEGAL SIGNIFICANCE

Settles, by applying Mayfair Spinning Mills, a recurring dispute between manufacturers and the revenue over input tax on inputs lost to fire, flood or other casualty. The reasoning rests on a distinction of general application: the disallowance in section 8(1)(a) is directed at the purpose for which goods were acquired or actually used, and an involuntary loss is neither. The judgment also confirms that no notification under section 8(1)(b) has ever been issued excluding goods lost to damage, and that nothing in section 7 requires the input to be consumed within the same tax period.

LEGAL PROPOSITIONS (VERBATIM)

- *Loss of goods due to damage does not equate to "use".*
- *Therefore, section 8(1)(a) does not apply to cases where input/raw materials have been lost through fire.*

— the destruction of raw material through fire as in the present case, does not fall within the scope of used or to be used for any purpose other than for taxable supplies made or to be made as stipulated in Section 8 of STA, 1990.

— Consequently, the loss of goods due to damage or where the raw material has been lost through fire is not covered under Section 8 (1) (a) of the STA, 1990.

— Reading into and imposing a time-based restriction as to the use of the input/raw material, which was not provided by the legislature at that time, by way of interpretation would be contrary to settled principles of statutory interpretation.

LEGAL PRINCIPLES EXPOUNDED

Three cumulative conditions govern the adjustment of input tax under section 7.

Source: Under the scheme of STA, 1990 in terms of Section 7, a registered person is required to establish firstly, that the input tax paid on purchases of inputs or raw materials must be intended for the purpose of making taxable supplies, Secondly, that the input tax paid must be for producing taxable supplies, irrespective of whether those taxable supplies have actually been made or are to be made in the future and thirdly, that the input tax paid in a tax period is to be deducted from the output tax due for the same tax period and not against any future tax period.

Authority: Section 7, Sales Tax Act, 1990

Section 8 is directed at purpose and actual use, not at the fate of the goods.

Source: section 8 only prohibits the claim, credit or deduction of input tax on input/raw materials that were either never intended for use in making taxable supplies or were actually used for purposes other than making taxable supplies by a registered person.

Authority: Section 8(1)(a) and 8(1)(b), Sales Tax Act, 1990; Commissioner Inland Revenue v. Mayfair Spinning Mills Ltd. (2025 SCMR 1)

The words "taxable supplies made, or to be made" extend to inputs intended for future use, so consumption need not precede adjustment.

Source: Denying such adjustment solely because the raw material has not been consumed during the same tax period contradicts the legislative intent.

Authority: Section 7, Sales Tax Act, 1990; Mayfair Spinning Mills Ltd. (2025 SCMR 1); M/s Mayfair Spinning v. Collector Sales Tax (PTCL 2002 CL 115)

OPERATIVE ORDER

In light of the dictum laid down in the aforementioned precedent, the ratio of which is fully applicable to the facts of the instant case, instant appeal was allowed vide our short order dated 22.06.2026 in the following terms: ... For reasons to be recorded later, this appeal is allowed; as a consequence, the impugned judgment is set aside and the judgment of the learned Appellate Tribunal Inland Revenue, Peshawar, is restored

■ View Full Judgment

CIVIL — CHALLENGE TO A REGISTERED SALE DEED ON THE GROUND OF FRAUD — BURDEN OF PLEADING, PRODUCING EVIDENCE AND PERSUASION — PRESUMPTION ATTACHING TO A REGISTERED INSTRUMENT — PARDANASHIN DOCTRINE — WHETHER A VENDEE MUST SIGN A SALE DEED — LIMITATION UNDER ARTICLE 91 AND SECTION 18 OF THE LIMITATION ACT, 1908

Shaman (decd) through his L.Rs. and others v. Syed Kamran Haider Gillani and others

APPROVED FOR REPORTING

C.A. Nos. 231-L and 232-L/2015 · Bench: Ayesha A. Malik and Shahid Waheed, JJ (judgment by Shahid Waheed, J) · Decided: 20 October 2026 · Uploaded: 20 October 2026

FACTS

Mst. Nasreen Zohra inherited a share in 64 kanals and 1 marla by mutation No. 2 of 10 July 1971. Registered sale deed No. 807 dated 10 May 1976 conveyed the land to the appellants, and mutation No. 17 was sanctioned in their favour on 9 October 1977 and carried into the revenue record, including the record of rights for 1995-96 and the khasra girdawari. On 8 May 1997, some twenty-one years after registration, she sued for a declaration that the sale deed was void for fraud, pleading only that she had never appeared before any competent officer and that she had learnt of the transfer a few days earlier from the Patwari Halqa. She did not deny her thumb impression or receipt of consideration. She deposed as PW-1 and conceded that the appellants were in possession. Her own brother, examined as DW-2, stated that she had executed the deed in his presence. The Trial Court dismissed the suit on 23 December 2005. The First Appellate Court reversed on 23 August 2006, treating her as a pardanashin lady and casting the burden of proving the transaction on the beneficiaries. The High Court dismissed the revision on 22 June 2015, holding that execution had not been proved under Articles 17 and 79 of the Qanun-e-Shahadat, 1984 and that the deed, bearing neither the signatures nor the thumb impressions of the vendees, could not be a valid contract of sale.

LEGAL ISSUE

What a plaintiff must plead and prove before a registered instrument may be attacked for fraud; what weight registration carries and what displaces the presumption; how far the executant's status as a pardanashin lady shifts the burden to the beneficiary; whether the absence of the vendees' signatures invalidates a registered sale deed; and whether the suit, filed twenty-one years after registration, was within time.

HOLDING

The plaint failed at the threshold. Order VI, Rule 4 CPC requires the particulars of fraud to be pleaded, and the plaint named the conclusion without pleading the facts, so the burden never shifted to the appellants. The registration certificate, supported by Article 129(e) of the Qanun-e-Shahadat, 1984, raised a presumption of regularity which a solitary and uncorroborated denial could not displace, the more so after two decades of mutation, revenue entries and possession. The pardanashin doctrine protects against want of understanding or free consent and operates only upon a properly pleaded case; it was never pleaded that the plaintiff was illiterate, that the deed was not explained to her, that she lacked independent advice or that she was dominated. A sale deed is a conveyance, not a contract, and is in form the instrument of the transferor; the precedents relied upon concerned agreements to sell and do not require the vendee's signature. On limitation, Article 91 runs from knowledge, section 18 from discovery of the fraud and Order VII, Rule 6 CPC requires the ground of exemption to be shown; a plea of late knowledge is a plea of fact requiring particulars and proof, and none was offered. The suit was barred by time and the courts below erred in not examining limitation as section 3 required.

LEGAL SIGNIFICANCE

A systematic restatement, drawing on Privy Council, House of Lords and Court of Appeal authority alongside Pakistani precedent, of the architecture of proof in suits attacking registered instruments. Three contributions have general application. First, the three burdens of pleading, production and persuasion are cumulative and sequential, and the order of enquiry matters: a court must ask whether the plaintiff discharged her own

burden before asking whether the beneficiary proved the transaction. Second, the pardanashin doctrine is a shield resting on a pleaded case of want of understanding or consent, not a rule invalidating every instrument a pardanashin woman executes. Third, the distinction between a conveyance and an executory agreement to sell is restored, and the proposition that a registered sale deed is invalid for want of the vendee's signature is disapproved. The limitation analysis, with its insistence that the dates of execution, knowledge and institution be kept distinct, is of immediate use in the very large class of belated declaratory suits.

LEGAL PROPOSITIONS (VERBATIM)

- *a registered instrument stands until the person who attacks it brings it down. The mere allegation of fraud does not do so.*
- *A plaintiff who fails at the first stage cannot be rescued at the third, for evidence cannot be led on a case that was never pleaded, and the Court cannot be persuaded of a fraud whose particulars were never disclosed.*
- *It operates on a properly pleaded case of want of understanding or consent. It does not dispense with pleading altogether.*
- *Relief cannot be granted on a case that was never pleaded.*
- *An agreement to sell looks to the future; a sale deed speaks in the present.*
- *the absence of the vendees' signatures, standing alone, is no ground for declaring a registered sale deed invalid.*
- *A plea of late knowledge is a plea of fact; it must be pleaded with particulars and proved with evidence.*
- *The common thread is that postponement is earned by proof of concealment and diligence, not claimed by assertion.*
- *An owner who is out of possession of her agricultural land for twenty years cannot, without more, be heard to say that she knew nothing of the transfer under which her opponents held it.*

LEGAL PRINCIPLES EXPOUNDED

The requirement of pleading the particulars of fraud is a rule of fairness, not a technicality.

Source: *Its object is fairness: the defendant must know the case he is to meet, and the Court must know the issue it is to try.*

Authority: Order VI, Rule 4, Code of Civil Procedure, 1908; *Derry v. Peck* (1889) 14 App Cas 337; *John Wallingford v. Mutual Society* (1880) 5 App Cas 685; *Davy v. Garrett* (1878) 7 Ch D 473

Registration is no clerical formality; the certificate attracts the presumption of regularity of official acts.

Source: *The rule gives statutory form to the ancient maxim omnia praesumuntur rite et solemniter esse acta: all things are presumed to have been done rightly and with due formality until the contrary is shown.*

Authority: Sections 34, 35, 58 and 60, Registration Act, 1908; Article 129(e), Qanun-e-Shahadat, 1984

The weight of the pardanashin burden varies with the complexity of the transaction and the closeness of the relationship of trust.

Source: *Second, the weight of the burden is variable. The simpler the transaction, and the plainer its terms, the lighter the burden on the beneficiary; the more complex the transaction, or the closer the relationship of trust, the heavier it becomes.*

Authority: *Kali Bakhsh Singh v. Ram Gopal Singh* (1913) 41 IA 23; *Farid-un-Nisa v. Munshi Mukhtar Ahmad* (1925) 52 IA 342; *Ghulam Ali v. Mst. Ghulam Sarwar Naqvi* (PLD 1990 SC 1); *Saunders v. Anglia Building Society* [1971] AC 1004

The order of enquiry matters: the burden does not shift to the beneficiary merely because he is the beneficiary.

Source: *The burden does not shift to the beneficiary merely because he is the beneficiary, and a suit cannot be decreed simply because the defendant's evidence is thought thin, without first deciding whether the plaintiff discharged her own burden.*

Authority: Articles 117 and 118, Qanun-e-Shahadat, 1984; *Muhammad Munir v. Nazira Umar Hayat* (2023 SCMR 1339)

In a belated suit to set aside an instrument, three dates must be separately established.

Source: *Three dates must be kept distinct: the date of execution, the date of knowledge and the date of institution.*

Authority: Article 91 and sections 3 and 18, Limitation Act, 1908; Order VII, Rule 6, CPC; *Rolfe v. Gregory* (1865) 4 De G J & S 576; *Bulli Coal Mining Co v. Osborne* [1899] AC 351; section 32, Limitation Act 1980 (UK)

OPERATIVE ORDER

These appeals are accordingly allowed. The judgment and decree of the High Court dated 22.06.2015, and the judgment and decree of the First Appellate Court dated 23.08.2006, are set aside. The judgment and decree of the Trial Court dated 23.12.2005, dismissing the suit, is restored. There shall be no order as to costs.

■ [View Full Judgment](#)

Lahore High Court

3 judgments

CRIMINAL — THE PUNJAB SENTENCING ACT, 2019 BROUGHT INTO OPERATION BY NOTIFICATION — SCOPE AND APPLICATION OF SECTION 3 — PROOF OF AGGRAVATING AND MITIGATING CIRCUMSTANCES UNDER SECTION 6 — MANDATORY MINIMUM SENTENCES — ALTERATION OF CONVICTION FROM SECTION 302(B) TO SECTION 302(C) PPC

Mehar Farhan v. The State and others

APPROVED FOR REPORTING

2026 LHC 7601 (Crl. Appeal No. 41471-J of 2024) · Bench: Muhammad Amjad Rafiq, J · Decided: Heard 15 October 2026; signed 20 October 2026 · Uploaded: 20 October 2026

FACTS

On the afternoon of 10 July 2020 Muhammad Yousaf and his nephew Abu Huraira were intercepted on a motorcycle near the railway crossing on G.T. Road. The deceased was dragged into an adjoining lawn and beaten; the appellant struck a single blow with a hockey stick to the head, causing a lacerated wound to the left parieto-occipital region, a skull fracture and fatal damage to the brain. The deceased died in hospital some thirty to thirty-two hours later. The FIR was registered on 11 July 2020 at 9.35 p.m., the delay being explained by the shifting of the injured to hospital by Rescue 1122; the appellant had already been named by the deceased himself in the medicolegal history. Four co-accused were acquitted by the Additional Sessions Judge, Gujrat, and the acquittal was not challenged. The appellant was convicted on 30 May 2024 under section 302(b) PPC and sentenced to imprisonment for life with compensation of Rs. 500,000 under section 544-A Cr.P.C. and the benefit of section 382-B. Confronted with the absence of enacted sentencing guidelines, the Court put the Advocate General and the Prosecutor General on notice for 15 October 2026 to ascertain the status of the Punjab Sentencing Act, 2019, and was informed that, following a letter from the Advocate General's office to the provincial government, the long-awaited notification bringing the Act into operation had finally been issued. The jail report of 15 October 2026 showed twelve years, eleven months and two days undergone including remissions.

LEGAL ISSUE

Whether the Punjab Sentencing Act, 2019, now in operation, applies to a case under section 302 PPC where the sentence ultimately warranted is less than death; and whether, on the evidence, the conviction should be altered from section 302(b) to section 302(c) PPC.

HOLDING

The notification has brought the Act into operation, and under section 6 every aggravating or mitigating circumstance must now be proved by admissible oral or documentary evidence rather than urged by argument or assumption. But section 3 employs the word "cases" rather than "offences", and applicability is determined by the legal character of the offence as defined by the penal statute, not by the sentence eventually awarded. Section 302 PPC is inherently a capital offence, so a case tried under it falls outside the Act notwithstanding the alternative punishments of imprisonment for life or up to twenty-five years. Imprisonment for life is a distinct category that cannot be subdivided into the zones in the Schedule. Where a penal provision prescribes a minimum sentence, that minimum is a mandatory floor; the Act regulates discretion within the legislative boundaries and does not dilute mandatory minima. On the facts,

premeditation was not established: the meeting was not pre-arranged, the lalkara reflected an intention to humiliate, a single blow was given with a weapon not lethal per se, the other injuries were simple and death followed after thirty to thirty-two hours. The conviction was altered to section 302(c) PPC and the sentence reduced to the period undergone.

LEGAL SIGNIFICANCE

The first judgment to record that the Punjab Sentencing Act, 2019 has been brought into operation, seven years after enactment, and to work out its scope. Three propositions of general application emerge. First, section 6 converts aggravating and mitigating circumstances from matters of advocacy into matters of proof. Second, the applicability test under section 3 is the statutory character of the offence, not the sentence imposed, so the whole of section 302 PPC lies outside the Act. Third, the Act is a procedural framework guiding discretion within limits set by substantive law and cannot displace a mandatory minimum, nor can it vary the quantum of Diyat, Arsh, Daman or fine. The Court recommends amendment of the Act to cover offences punishable with imprisonment for life, the framing of guidelines by the Sentencing Council, and a mandatory sentencing hearing, and directs the Government to deliberate on extending the provisions to qatl-i-amd.

LEGAL PROPOSITIONS (VERBATIM)

- *The aforesaid notification has brought the Punjab Sentencing Act 2019, into operation; the sentencing is no longer a matter of guesswork.*
- *Every aggravating or mitigating circumstance must be rigorously proven through legally admissible witness testimony or documentary evidence brought directly onto the record during trial.*
- *Significantly, Section 3 employs the term "cases" rather than "offences." The distinction is neither accidental nor inconsequential.*
- *Consequently, a single case may encompass multiple offences and penal provisions.*
- *It is, therefore, the nature of the offence itself, and not the sentence eventually imposed in a given case, that governs the question of jurisdictional applicability under the Punjab Sentencing Act 2019.*
- *However, imprisonment for life remains a distinct and separate category of punishment that cannot be subdivided into blocks of 10, 15, or 20 years, as no such legal breakdown exists.*
- *Consequently, where a penal provision prescribes a minimum sentence, that minimum constitutes a mandatory statutory floor below which the court cannot descend.*
- *Therefore, the Act regulates the exercise of sentencing discretion within the boundaries fixed by the legislature; it does not empower courts to disregard or dilute mandatory minimum sentences.*

LEGAL PRINCIPLES EXPOUNDED

Applicability of the Act turns on the legal character of the offence, not on the sentence awarded.

Source: Upon careful consideration, it emerges that the applicability of the Punjab Sentencing Act 2019 is determined by the legal character of the offence as defined by the relevant penal statute, rather than by the particular sentence ultimately awarded by the trial court.

Authority: Sections 3 and 6, Punjab Sentencing Act, 2019; section 302, Pakistan Penal Code, 1860

Structured sentencing legislation guides discretion within the limits of substantive law and does not amend the penal statute.

Source: In this regard, it is a settled principle that structured sentencing legislation serves as a procedural framework intended to guide judicial discretion within the limits established by the substantive law; it does not override or amend the penal statute creating the offence.

Authority: Shadiullah v. The State (2026 SCMR 1622); Nawaz Khan alias Murgha v. The State (2024 YLR 1986); Sentencing Act 2020 (UK), Schedule 21

Aggravating and mitigating circumstances cannot vary the quantum of Diyat or Arsh.

Source: The amount of Diyat or Arsh remains governed by the substantive provisions of law and cannot be enhanced or reduced on the basis of aggravating or mitigating circumstances.

Authority: Sections 308, 316, 319, 320 and 322, Pakistan Penal Code, 1860; Schedule to the Punjab Sentencing Act, 2019

A fatal blow struck in a sudden confrontation without prior design falls under section 302(c) PPC.

Source: *Thus, the fatal blow was given in the heat of a sudden confrontation between rival groups of boys rather than pursuant to any prior design or deliberation.*

Authority: Section 302(b) and 302(c), Pakistan Penal Code, 1860; *Muhammad Abbas v. The State* (2023 SCMR 487); *Muhammad Ajmal v. The State* (2022 SCMR 88); *Muhammad Nawaz v. The State* (PLD 2022 SC 523); *Zeesan @ Shani v. The State* (PLD 2017 SC 165)

OPERATIVE ORDER

the conviction of accused/appellant Mehar Farhan is altered from section 302(b) PPC to section 302(c) PPC. ... Accordingly, his sentence of imprisonment is reduced to the period already undergone by him. ... Consequently, the instant criminal appeal is partly allowed with above modification in conviction and sentence. It is, however, clarified that the findings recorded hereinabove shall not affect the case of the proclaimed offenders, if any, who have not been tried so far.

■ View Full Judgment

DEFAMATION — APPEAL UNDER SECTION 26 OF THE PUNJAB DEFAMATION ACT, 2024 — LIMITATION WHERE THE EXCLUSIVE STATUTORY FORUM UNDER SECTION 8 HAD NOT BEEN CONSTITUTED — ACCESS TO JUSTICE UNDER ARTICLES 4, 9 AND 10-A — SCOPE OF THE SAVING IN SECTION 10(5)

Muhammad Farooq Malik v. Member, Punjab Defamation Tribunal and others

APPROVED FOR REPORTING

2026 LHC 7349 (F.A.O. No. 16 of 2026, Rawalpindi Bench) · Bench: Anwaar Hussain and Mirza Viqas Rauf, JJ (judgment by Anwaar Hussain, J) · Decided: Heard 29 September 2026 · Uploaded: 20 October 2026

FACTS

The appellant acquired knowledge of the alleged defamation in April 2025. The Punjab Defamation Act, 2024 had come into force but the Tribunals contemplated by section 8 had not been constituted, so on 28 July 2025 he instituted a suit for damages before the Court of ordinary civil jurisdiction. The Government of Punjab constituted the Tribunals and specified their territorial jurisdictions by notification dated 22 September 2025. The plaint was returned on 6 November 2025 for presentation before the competent forum, and on 13 November 2025, having obtained a certified copy, the appellant presented his claim before the Tribunal. The respondents objected that the claim was beyond the sixty-day period under section 11(2). By order of 13 January 2026 the Member, Defamation Tribunal, Rawalpindi dismissed the claim as time-barred. Before the High Court the respondents relied on section 10(5), which saves proceedings pending under the repealed Defamation Ordinance, 2002.

LEGAL ISSUE

Whether a statutory right may be defeated by limitation where the law excludes the jurisdiction of the ordinary courts, prescribes a special forum and a limitation period, but the Government fails during the relevant period to constitute that forum; and whether a litigant who asserted his right before the Civil Court within the prescribed period may be non-suited because the designated forum was constituted later.

HOLDING

No. Until the notification under section 8(1) issued there was no legally constituted Tribunal with territorial jurisdiction before which a claim could be presented; this was not a case of an existing Tribunal being non-functional or inaccessible. The constitutional guarantee of access to justice under Articles 4, 9 and 10-A is not satisfied by abstract recognition of a right while the forum exclusively designated for its enforcement has yet to be brought into existence. The maxims *ubi jus ibi remedium* and *lex non cogit ad impossibilia* converge upon a narrow proposition that leaves the law of limitation intact: the State cannot create a right, prescribe an exclusive forum, fail to bring it into existence, and then rely on its own institutional default to defeat a litigant who meanwhile approached the courts of plenary jurisdiction within time. The saving in section 10(5) is confined to proceedings already pending under the Ordinance when the Act came into force and does not revive the Ordinance for fresh institution. The Tribunal wrongly treated the claim as first asserted on 13 November 2025.

LEGAL SIGNIFICANCE

The first appellate construction of the limitation provisions of the Punjab Defamation Act, 2024 against the background of the delay in constituting its Tribunals, and a decision of general application wherever a statute creates a right, ousts the ordinary courts and substitutes a forum that the executive has not yet brought into being. The Court is careful not to disturb the law of limitation: it distinguishes delay attributable to a litigant from inability produced by the statutory framework itself, and locates the question at an anterior stage, namely whether the law could at all have required performance of an impossible procedural act. The judgment also confines the section 10(5) saving to its text, rejecting a construction that would have forced claimants either to institute under a repealed enactment or to watch limitation run while awaiting a notification.

LEGAL PROPOSITIONS (VERBATIM)

- *The law does not reward indolence, but neither does it manufacture default out of diligence.*
- *Until issuance of the notification under Section 8(1), there was no legally constituted Tribunal having territorial jurisdiction before which the appellant could present a claim under the Act.*
- *The law had created the right, prescribed the remedy and identified the nature of the forum, but the Executive had yet to perform the statutory act necessary to bring that forum into legal existence.*
- *The guarantee is not satisfied by the abstract recognition of a right while the forum exclusively designated for its enforcement has yet to be brought into existence.*
- *A statutory right and the machinery provided for its enforcement cannot be treated as disconnected promises; meaningful access to the latter gives practical content to the former.*
- *There is a material distinction between delay attributable to a litigant and inability produced by the statutory framework itself.*
- *Law cannot demand compliance with a procedural requirement while withholding the institutional means necessary for its performance.*
- *Treating the intervening period as fatal would make preservation of the statutory remedy depend not upon the diligence of the claimant but upon the timing of an executive notification over which he had no control.*

LEGAL PRINCIPLES EXPOUNDED

ubi jus ibi remedium neither creates jurisdiction nor overrides an express limitation period; its relevance here is narrower.

Source: *The maxim does not create jurisdiction where the statute withholds it, nor does it authorize a Court to disregard an express period of limitation.*

Authority: Sections 8, 10, 11(2), 26 and 28, Punjab Defamation Act, 2024; Articles 4, 9 and 10-A of the Constitution

The law does not compel the impossible; a claim could not be instituted before a forum that did not exist.

Source: *Before 22.09.2025, the appellant could not have instituted his claim before a forum which had not been constituted.*

Authority: Section 8(1), Punjab Defamation Act, 2024; notification dated 22.09.2025; *maxim lex non cogit ad impossibilia*

The saving for pending proceedings does not revive a repealed enactment for fresh institution.

Source: *The saving is textually confined to the proceedings already pending under the Ordinance when the Act came into force.*

Authority: Section 10(5) and section 28, Punjab Defamation Act, 2024; Defamation Ordinance, 2002

OPERATIVE ORDER

Consequently, this appeal is allowed. The impugned order dated 13.01.2026 is set aside and the matter is remitted to the Tribunal for decision of the claim on merits, in accordance with law.

■ [View Full Judgment](#)

HEALTHCARE REGULATION — PUNJAB HEALTHCARE COMMISSION ACT, 2010 — COMPETENCE OF DISTRICT HEALTH AUTHORITY OFFICERS TO INSPECT AND SEAL REGISTERED HEALTHCARE ESTABLISHMENTS — SECTION 22 INSPECTION TEAMS, SECTION 36 DUTY TO ACT IN AID, AND REGULATION 5A OF THE ANTI-QUACKERY REGULATIONS, 2016

Muhammad Umar Hassan v. Deputy Commissioner, Lahore and others (with Abu Huraira v. Deputy Commissioner, Lahore and others)

APPROVED FOR REPORTING

2026 LHC 7512 (W.P. Nos. 49137 and 50377 of 2026) · Bench: Munawar Iqbal Duggal, J · Decided: Heard 1 October 2026; announced 20 October 2026 · Uploaded: 20 October 2026

FACTS

The petitioners operate laboratory sample collection centres in Lahore, registered with the Punjab Healthcare Commission under certificates issued between 30 January 2024 and 2 April 2026. Three premises were sealed on 27 and 29 August 2026 by Deputy District Health Officers of Shalimar and Ravi Town. The petitioners said their centres only collect samples, undertaking no diagnostic testing or independent clinical treatment, and that the sealing was done without disclosure of any complaint, without constitution of an inspection team under section 22 read with the definition in section 2(xviii), and without identifying any provision empowering the officers to seal. The respondents relied on section 36 of the Act, the Anti-Quackery Regulations, 2016 as amended in 2017, and Directive No. PHC/COO/491(a) dated 18 March 2017 authorising Deputy Commissioners to depute officers to visit healthcare premises and report violations. The Commission's reports alleged deficiencies in staff qualifications, sample handling, cold-chain arrangements, infection control and waste management, and in one case reuse of syringes. The respondents also objected that the Hearing Committee of the Commission afforded an alternative remedy, summons having been issued.

LEGAL ISSUE

Whether an individual officer of the District Health Authority, not constituted as an inspection team under section 22 of the Punjab Healthcare Commission Act, 2010, may inspect and seal a healthcare establishment already registered with the Commission for alleged non-compliance with minimum service delivery standards, in reliance on section 36, the Anti-Quackery Regulations, 2016 and the directive of 18 March 2017.

HOLDING

No. Section 36 imposes a duty to act in aid of the Commission and is materially different from an independent conferment of the Commission's powers; it must be read harmoniously with section 22, not as an exception overriding it. The directive of 18 March 2017 must be construed in light of its stated anti-quackery object and cannot operate as a standing authorisation for routine regulatory inspections of registered establishments. Regulation 5A confers no unrestricted power to seal: its operation is conditional upon the specified facts as to professional registration, Commission registration, licensing and unauthorised practice, and the authority must establish those facts. The respondents demonstrated neither an inspection team appointed under section 22 nor the jurisdictional facts attracting Regulation 5A. Sealing is a serious coercive measure and cannot rest on a general administrative direction where the statute prescribes a specific mechanism. The existence of a remedy before the Hearing Committee regulates but does not extinguish constitutional jurisdiction where the very competence of the authority is in question, and subsequent proceedings cannot retrospectively confer jurisdiction on an officer who lacked it.

LEGAL SIGNIFICANCE

Draws a line of considerable practical importance between two distinct enforcement powers under the Punjab Healthcare Commission Act, 2010: the statutory inspection of a registered healthcare establishment by an inspection team under section 22, and the anti-quackery mechanism directed at unauthorised practice. The judgment holds that one cannot be used as a substitute for the other, that a duty to act in aid is not a transfer of coercive power, and that an administrative directive cannot enlarge the class of persons on whom the legislature has conferred such power. It also contains a clear statement that Article 18 permits reasonable regulation of healthcare but requires restrictions on lawful business to be imposed by a competent authority

through the prescribed procedure, read with Articles 4 and 10-A. The Court records that Manzoor Elahi (PLD 2021 Lahore 843) was set aside by the Supreme Court on 18 November 2021 and cannot be treated as binding authority for invalidating the Anti-Quackery Regulations, while confining its own decision to the competence question and leaving the Commission's regulatory jurisdiction intact.

LEGAL PROPOSITIONS (VERBATIM)

- *The expression "act in aid" is materially different from an independent conferment of the Commission's powers.*
- *Where a statute prescribes the authority competent to perform a particular act and the manner in which such authority is to be exercised, both requirements must ordinarily be observed.*
- *An administrative arrangement may facilitate implementation of the statute but cannot enlarge the class of persons upon whom the statute has conferred substantive coercive powers.*
- *It is not enough merely to invoke Regulation 5A to seal a healthcare establishment. The authority must establish the factual condition attracting its operation.*
- *Sealing a healthcare establishment is a serious coercive measure.*
- *A power conferred for the prevention of quackery cannot, merely by reference to the broader regulatory purpose of the Act, be extended to the inspection or sealing of an otherwise registered healthcare establishment for alleged deficiencies in compliance with healthcare standards, unless the statutory conditions authorizing such action are independently satisfied.*
- *A subsequent hearing may satisfy procedural requirements where immediate sealing is otherwise authorized by law; it cannot, however, cure an inherent absence of statutory competence.*
- *What the law does not permit is the exercise of one category of enforcement power merely as a substitute for another, without compliance with the statutory conditions governing the former.*

LEGAL PRINCIPLES EXPOUNDED

A statutory duty to assist must be read harmoniously with the provision prescribing the inspection mechanism.

Source: Accordingly, Section 36 of the Act must be read harmoniously with Section 22 of the Act, rather than as an exception overriding its requirements.

Authority: Sections 22 and 36 and section 2(xviii), Punjab Healthcare Commission Act, 2010

An alternative statutory remedy regulates the exercise of Article 199 jurisdiction but does not oust it where competence is challenged.

Source: However, the availability of such remedy does not extinguish the constitutional jurisdiction of this Court, particularly where the very competence of the authority taking the impugned action is questioned.

Authority: Article 199 of the Constitution; Muhammad Safeer v. Muhammad Azam (PLD 2024 SC 838)

Later proceedings cannot retrospectively supply an authority that the officer lacked when he acted.

Source: Nor can subsequent proceedings before the Hearing Committee retrospectively confer jurisdiction upon an officer who lacked the requisite authority at the time of the impugned action.

Authority: Section 22, Punjab Healthcare Commission Act, 2010; Regulation 5A, Anti-Quackery Regulations, 2016 (as amended 2017)

Regulatory authority over a profession does not dispense with the requirement that restrictions be imposed by a competent authority through the prescribed procedure.

Source: Equally, the existence of regulatory authority does not dispense with the requirement that restrictions upon lawful business be imposed by an authority competent under law and through the procedure prescribed by law.

Authority: Articles 4, 10A and 18 of the Constitution

OPERATIVE ORDER

For the foregoing reasons, both constitutional petitions are allowed. The sealing actions dated 27.08.2026 and 29.08.2026, undertaken by the concerned officers of the District Health Authority in respect of the petitioners' collection centers, are declared to have been taken without lawful authority and to be of no legal effect. The respondents are directed to de-seal the premises forthwith, preferably within twenty-four hours of receipt of a certified

copy of this judgment, ... Both petitions stand allowed in the above terms. There shall be no order as to costs.

■ [View Full Judgment](#)

Islamabad High Court

3 judgments

CYBER CRIME — WHETHER THE NATIONAL CYBER CRIME INVESTIGATION AGENCY MAY DIRECT THE FREEZING OF BANK ACCOUNTS — PREVENTION OF ELECTRONIC CRIMES ACT, 2016 AS AMENDED — RULE 5 OF THE NCCIA (FUNCTIONS) RULES, 2025 — ANTI-MONEY LAUNDERING ACT, 2010

Muhammad Uzair Anwar and others v. Federation of Pakistan and others

APPROVED FOR REPORTING

I.C.A. No. 362/2025 (with I.C.A. Nos. 359, 360 and 361/2025) · Bench: Arbab Muhammad Tahir and Inaam Ameen Minhas, JJ (judgment by Arbab Muhammad Tahir, J) · Decided: Heard 15 October 2025; announced October 2025 (day left blank in the judgment) · Uploaded: 22 October 2026

FACTS

The NCCIA initiated an inquiry on its own source report alleging that the appellants were involved in online activities in breach of the Prevention of Electronic Crimes Act, 2016, specifically uploading anti-state content, selling sensitive information to foreign entities and spreading false and misleading information. During the inquiry the NCCIA requested various banks to freeze the appellants' accounts, and the banks acted on those requests. The appellants' writ petitions seeking a declaration that the directives were without lawful authority were dismissed by a learned Single Judge on 11 August 2025, on the reasoning that the NCCIA is empowered to order freezing under the Anti-Money Laundering Act, 2010 together with the powers conferred by the 2016 Act. The appellants came in intra-court appeal under section 3(2) of the Law Reforms Ordinance, 1972. The Court traced the legislative history: the NCCIA was formerly the National Response Centre for Cyber Crimes, a wing of the Federal Investigation Agency enjoying the powers of section 5 of the FIA Act, 1974; by section 6 of the Prevention of Electronic Crimes (Amendment) Act, 2025 section 29 of the 2016 Act was substituted and the NCCIA was established as a separate agency by S.R.O. 748(I)/2025 with effect from 4 April 2025.

LEGAL ISSUE

Whether the NCCIA has lawful authority to direct banks to freeze the bank accounts of citizens during an inquiry under the Prevention of Electronic Crimes Act, 2016, and whether Rule 5 of the National Cyber Crime Investigation Agency (Functions) Rules, 2025 could validly confer such power.

HOLDING

It has no such authority. The freezing power under section 5(5) of the FIA Act, 1974 is vested exclusively in officers of the Federal Investigation Agency, and the NCCIA, now an independent body established under section 29 of the 2016 Act, has been stripped of it. The NCCIA may exercise only those powers delegated to it by Parliament through the 2016 Act. The collection and preservation of data and evidence is distinct from the freezing of property, for which express legislative sanction in the parent statute is required. Rule 5 of the 2025 Rules was framed in excess of the powers delegated by sections 27, 28 and 51 of the 2016 Act. If the NCCIA considered the funds to be proceeds of crime or derived from predicate offences, the proper course was to obtain an order of the Court under section 8 of the Anti-Money Laundering Act, 2010. The inquiry rested on a source report that did not bifurcate the role of each appellant, and the action taken was disproportionate, harsh and unreasonable, particularly as regards family members.

LEGAL SIGNIFICANCE

The leading authority on the limits of the NCCIA's coercive powers following its separation from the Federal Investigation Agency, and a judgment the Court itself treats as reportable and has already applied in W.P. 1553/2026, digested next. Three propositions have general application. First, an agency created and empowered by a particular statute exercises only the powers that statute delegates; it does not inherit the

powers of the body from which it was carved out. Second, evidence-gathering powers do not carry with them a power to freeze property, which requires express sanction in the parent Act. Third, where a statutory route for freezing proceeds of crime exists, namely an order of the Court under section 8 of the Anti-Money Laundering Act, 2010, the agency must take it rather than approach banks directly. The judgment also holds the subordinate legislation, Rule 5 of the 2025 Rules, to have been framed in excess of the delegated power, and is a reminder that freezing the accounts of family members against whom no allegation is made is disproportionate.

LEGAL PROPOSITIONS (VERBATIM)

— *It is thus clear from the above, that the powers conferred by section 5 of the 1974-Act (freezing of the Bank accounts/property) are exclusively vested in the officers of the "Agency" i.e. the Federal Investigation Agency.*

— *This demonstrates that the NCCIA is now an independent body and no more a subordinate office of the Federal Investigation Agency and has thus stripped of the powers under the 1974-Act, particularly section 5(5) thereof.*

— *The NCCIA derives its existence and authority from the 2016-Act. This signifies that the NCCIA shall exercise only those powers, which are delegated to it by the Majlis-e-Shoora (Parliament) through the 2016-Act.*

— *It is highlighted here that the collection and preservation of data/evidence relating to the commission of offences under the 2016-Act is different from freezing of the properties i.e. Bank accounts of persons, for which express sanction of the Legislature in the parent statute i.e. 2016-Act is required.*

— *Rules 5 of the Rules thus appears to have been framed in excess of the powers delegated by sections 27, 28 and 51 of the 2016-Act.*

— *In case, the NCCIA was of the view that the amounts available in the Bank accounts of the appellants were the proceeds of crime (as defined section 2(xxvii) of 2010-Act) or derived out of the predicate offences (as provided in section XV of Schedule-I to section 2(xxvi) of the 2010-Act) then the proper course was to obtain an order of the Court in terms of section 8 of the 2010-Act.*

LEGAL PRINCIPLES EXPOUNDED

Subordinate legislation may neither conflict with nor travel beyond the parent statute, and the rule-making authority cannot assume undelegated powers.

Source: *nor travel beyond its permissible scope and that the rule making authority shall not act as Majlis-e-Shoora (Parliament) to assume powers not delegated by the parent law.*

Authority: *Mian Zaiuddin v. Punjab Local Government (1985 SCMR 365); Khawaja Ahmed Hassan v. Government of Punjab (2005 SCMR 186); Zarai Taraqiati Bank Ltd. v. Said Rehman (2013 SCMR 642); Farrukh Raza Sheikh v. ATIR (2022 SCMR 1787)*

An inquiry affecting property rights requires the persons concerned to be associated and the allegations against each to be disclosed.

Source: *In fact, a detailed inquiry was required to be conducted by associating the appellants in the process, disclosing the allegations on the basis whereof the NCCIA initiated criminal proceedings under the 2016-Act.*

Authority: *Sections 27, 28, 29 and 51, Prevention of Electronic Crimes Act, 2016; Rule 5, NCCIA (Functions) Rules, 2025; section 8, Anti-Money Laundering Act, 2010*

Where expression is in issue, the balance between Article 19 and the 2016 Act is for the trial court on a full probe.

Source: *Further, the nature of allegations required detailed probe and it is for the trial court, if a criminal case is subsequently filed, to strike a balance between the right of appellants protected Article 19 of the Constitution and the provisions of the 2016-Act.*

Authority: *Article 19 of the Constitution; Prevention of Electronic Crimes Act, 2016*

OPERATIVE ORDER

For what has been discussed above, the Intra Court Appeals are allowed. Consequently, the impugned judgment is hereby set-aside. The respondents are directed to unfreeze/unblock the Bank accounts of the appellants forthwith. The NCCIA is directed to proceed with the inquiry strictly in accordance with law.

■ [View Full Judgment](#)

BANKING AND CONSTITUTIONAL LAW — DEBIT BLOCK IMPOSED BY A BANK WITHOUT ANY DIRECTION FROM THE INVESTIGATING AGENCY — BANK DEPOSITS AS PROPERTY UNDER ARTICLES 23 AND 24 — DUTIES OF FINANCIAL INSTITUTIONS — COSTS UNDER THE COST OF LITIGATION ACT, 2017

Muhammad Usman v. Federation of Pakistan and others

APPROVED FOR REPORTING

W.P. No. 1553/2026 · Bench: Arbab Muhammad Tahir, J · Decided: Heard 21 May 2026; announced June 2026 (day left blank in the judgment) · Uploaded: 22 October 2026

FACTS

An inquiry registered at the NCCIA on a complaint of financial fraud related to one Mohammad Omar. The NCCIA sent email requests to Bank Islami Pakistan Limited for the record of that individual and his family members. The bank admitted that no request for blocking or freezing was ever made, yet imposed a debit block on the petitioner's account out of what the Court described as abandoned precaution, explaining in its written report that banks had in the past been held responsible for not attaching accounts when third parties withdrew funds during criminal investigations. The NCCIA likewise reported that no request had been forwarded to freeze the petitioner's account. During the proceedings the respondents placed on record email communications showing that the debit block had been removed. The petitioner filed an affidavit of costs under the Cost of Litigation Act, 2017 showing Rs. 300,000 incurred.

LEGAL ISSUE

Whether a bank may impose a debit block or other operational restraint on a customer's account as a precautionary measure where no lawful direction for freezing has been issued by any competent authority, and what relief follows where the restraint has been withdrawn during the proceedings.

HOLDING

It may not. Amounts deposited in a bank account are property within Articles 23 and 24 of the Constitution, and no person may be deprived of access to his property except strictly in accordance with law. A bank holding customers' deposits is burdened with obligations of fidelity, due care and lawful dealing. Following the Division Bench in I.C.A. No. 362/2025, the NCCIA possesses no lawful authority to direct freezing, cautioning or attachment of accounts absent express sanction in the parent statute; the present case travels further, because no request was made at all and the bank acted on self-created assumptions. The withdrawal of the restraint did not render the controversy inconsequential. Any deprivation touching proprietary rights must trace its source to express legal authority, and banks and investigating agencies alike must ensure lawful authority, procedural fairness and reasonable justification before restraining an account. The State Bank of Pakistan was asked to examine the matter and consider issuing circulars, advisories or guidelines to all scheduled banks. The bank was ordered to bear the petitioner's costs of Rs. 300,000.

LEGAL SIGNIFICANCE

Of direct and immediate concern to every scheduled bank and to customers whose accounts are restrained in the course of investigations into others. The judgment establishes that a precautionary debit block imposed without any lawful direction is itself an unlawful interference with property, that the subsequent removal of the block does not deprive the Court of occasion to decide the question, and that the cost of compelling a customer to litigate may be visited on the bank under the Cost of Litigation Act, 2017 with a compliance report through the Registrar. Its wider reasoning connects the migration of economic life to digital banking with the need for public confidence in the banking system, and invites the State Bank, as regulator, to issue regulatory guidance and to require internal compliance mechanisms so that precautionary restrictions unsupported by law do not prejudice account holders. Read with I.C.A. No. 362/2025, it closes the gap from both ends: the agency has no power to direct a freeze, and the bank has no power to impose one of its own motion.

LEGAL PROPOSITIONS (VERBATIM)

— Amounts deposited in a bank account constitute property within the meaning of Articles 23 and 24 of the Constitution.

— A bank, while holding deposits of its customers is burdened with the obligations of fidelity, due care and lawful dealing.

— Nevertheless, the controversy raised through the instant petition cannot be treated as inconsequential merely because the unlawful restraint has been withdrawn.

— Cooperation with investigating agencies in lawful matters is undoubtedly necessary for prevention and detection of financial crimes; however, such cooperation cannot justify assumption of powers which the law itself does not confer.

— A restriction upon operation of a citizen's bank account cannot be founded merely upon internal apprehensions, administrative caution or speculative concerns.

— Any deprivation touching proprietary rights must necessarily trace its source to express legal authority.

— Therefore, before imposing any restraint upon operation of an account, banks and investigating agencies both must ensure the existence of lawful authority, procedural fairness and reasonable justification.

— A citizen who deposits his money in a bank does so with the legitimate expectation that his property shall remain secure, accessible and protected from arbitrary interference.

LEGAL PRINCIPLES EXPOUNDED

The NCCIA has no lawful authority to direct the freezing or attachment of bank accounts absent express sanction in the parent statute.

Source: A Division Bench of this Court in the reportable judgment rendered in *Muhammad Uzair Anwar v. Federation of Pakistan and others* (ICA No.362 of 2025) has already examined the scheme of the Prevention of Electronic Crimes Act, 2016, as amended, alongside the National Cyber Crime Investigation Agency (Functions) Rules, 2025, and categorically held that the NCCIA possesses no lawful authority to direct freezing, cautioning or attachment of bank accounts or properties of citizens in the absence of express sanction in the parent statute.

Authority: Prevention of Electronic Crimes Act, 2016 as amended; NCCIA (Functions) Rules, 2025; *Muhammad Uzair Anwar v. Federation of Pakistan* (I.C.A. No. 362 of 2025)

The regulator should consider issuing guidance so that no operational restraint is imposed except strictly in accordance with law.

Source: It is, therefore, appropriate that respondent No.3-State Bank of Pakistan examines the present matter and consider issuance of suitable circulars, advisories or regulatory guidelines to all scheduled banks and financial institutions emphasizing that no debit block, operational restraint or freezing of bank account shall be imposed except strictly in accordance with law, pursuant to lawful authorization and after due verification.

Authority: Articles 23 and 24 of the Constitution; regulatory functions of the State Bank of Pakistan

Where unwarranted conduct compels a citizen to invoke constitutional jurisdiction, the costs of that litigation may be visited on the wrongdoer.

Source: Admittedly, the casual and unwarranted conduct of the respondent-Bank compelled the petitioner to invoke the constitutional jurisdiction of this Court and burdened him with litigation expenses, therefore, the respondent Bank shall bear the cost of litigation to the extent of petitioner.

Authority: Cost of Litigation Act, 2017

OPERATIVE ORDER

The said amount shall be paid to the petitioner by the respondent Bank within a period of one month from the date of this judgment; compliance report whereof shall be transmitted through the Registrar of this Court for perusal in chambers. ... Petition stands disposed-of in above terms. Copy of this order shall be transmitted to the respondents for compliance.

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ARBITRATION — SECTION 3 OF THE RECOGNITION AND ENFORCEMENT (ARBITRATION AGREEMENTS AND FOREIGN ARBITRAL AWARDS) ACT, 2011 — PRE-AWARD AND POST-AWARD STAGES — LONDON SEAT AND SUPERVISORY JURISDICTION — ELECTION AND KOMPETENZ-KOMPETENZ — THE ICC EMERGENCY ARBITRATOR UNDER ARTICLES 29 AND 30 — RES JUDICATA

Petrosin CNG (Private) Limited v. Mari Energies Limited

APPROVED FOR REPORTING

Enforcement Petition No. 04 of 2025 · Bench: Arbab Muhammad Tahir, J · Decided: Heard 31 December 2025; announced January 2026 (day left blank in the judgment) · Uploaded: 22 October 2026

FACTS

The parties executed a Gas Sale and Purchase Agreement dated 29 April 2022 for Associated Gas from the Halini Production Facilities, governed by the Flare Gas Policy, 1998 and the Flare Gas Utilization Guidelines, 2016. Article XIII provided for final settlement under the ICC Rules, with the Expedited Procedure Rules applicable irrespective of amount, the seat at London, the language English and Pakistani law governing. On 27 May 2025 the respondent issued a termination notice. Instead of invoking arbitration the petitioner filed Civil Suit No. 184 of 2025 at Islamabad on 30 May 2025 seeking declarations and injunctions and asserting the jurisdiction of the civil court. On the respondent's application under section 4 of the 2011 Act the Civil Court, by reasoned order of 21 June 2025, stayed the suit, referred the parties to arbitration and granted interim protection limited to six months or the grant of interim relief by the tribunal. The petitioner's W.P. No. 2493/2025 was dismissed on 31 October 2025 and I.C.A. No. 499/2025 on 10 December 2025, both on maintainability, and the latter was not challenged further. The petitioner then brought this enforcement petition under section 3, seeking recognition of the arbitration agreement, suspension of the termination notice and restraint against the creation of third-party interests, having filed its Request for Arbitration under the ICC Rules but without invoking the Emergency Arbitrator.

LEGAL ISSUE

Whether, in the absence of a final arbitral award, the High Court may under section 3 of the Act of 2011 recognise and enforce a foreign-seated arbitration agreement and grant interim relief suspending a termination notice, where the pre-award mechanism under section 4 has already been invoked and conclusively adjudicated and the ICC Emergency Arbitrator mechanism was not availed.

HOLDING

It may not. Section 3 vests exclusive jurisdiction but creates no independent cause of action and confers no right to enforce an arbitration agreement absent an award; the Act distinguishes pre-award from post-award stages, section 4 governing the former and section 3 the latter. The section 4 adjudication having been conclusively made, the petitioner cannot circumvent it by invoking section 3, and the attempt amounts to indirect re-litigation barred by res judicata. The designation of London as the seat vests supervisory jurisdiction exclusively in the courts of the seat, following HUBCO (PLD 2000 SC 841). Interim measures in aid of arbitration are purely ancillary and facilitative and cannot be used to grant final or determinative relief; suspension of the termination notice would grant the very relief sought in the arbitration. Having elected arbitration the petitioner cannot seek inconsistent parallel relief, and under kompetenz-kompetenz the tribunal alone rules on its own jurisdiction. The ICC Emergency Arbitrator mechanism under Articles 29 and 30 is an integral part of the agreed framework, and the failure to invoke it is fatal to the request for interim relief. No prima facie case, irreparable loss or balance of convenience was shown.

LEGAL SIGNIFICANCE

A thorough treatment of the boundary between court and tribunal in foreign-seated arbitrations, and the most detailed Pakistani discussion to date of the ICC Emergency Arbitrator. Four propositions have general application. First, section 3 of the 2011 Act is a post-award provision: it is not a vehicle for enforcing an arbitration agreement or obtaining interim relief before an award exists. Second, where the ICC Rules provide an Emergency Arbitrator, that mechanism is part of the parties' bargain and a party that bypasses it cannot manufacture urgency before a municipal court; the failure to invoke it is fatal to a request for court-ordered interim relief. Third, a foreign seat places supervisory jurisdiction in the courts of the seat, and interim relief

that determines substantive contractual rights is an impermissible exercise of that jurisdiction. Fourth, a party cannot resurrect a concluded issue by changing the statutory label of its proceeding; the doctrines of election, kompetenz-kompetenz and res judicata each stand in the way.

LEGAL PROPOSITIONS (VERBATIM)

- Section 3 vests exclusive jurisdiction in this Court over matters arising under the Act; however, it does not create an independent cause of action nor confer the right to enforce an arbitration agreement in the absence of an arbitral award.
- The Act clearly distinguishes between pre-award and post-award stages.
- In the present case, the petitioner, having neither voluntarily initiated arbitration nor complied with the Civil Court's order, cannot circumvent the Section 4 adjudication by invoking Section 3.
- Although the courts may grant interim measures in aid of arbitration, such jurisdiction is purely ancillary and facilitative. It cannot be exercised to grant final or determinative relief.
- The Emergency Arbitrator mechanism is not an optional or peripheral arrangement; rather, it is an integral part of the agreed arbitral framework, binding upon the parties by virtue of their arbitration agreement.
- A party cannot be permitted to ignore the agreed mechanism, manufacture urgency, and thereafter seek relief from a municipal court.
- Once a party elects arbitration as its chosen forum, it cannot revert to judicial proceedings to obtain relief inconsistent with that choice.
- Equally, under the principle of kompetenz-kompetenz, the arbitral tribunal is vested with the exclusive authority to rule on its own jurisdiction, including objections relating to the existence, validity, or scope of the arbitration agreement.
- The petitioner's failure to invoke the Emergency Arbitrator, therefore, is fatal to its request for interim relief before this Court.

LEGAL PRINCIPLES EXPOUNDED

A foreign seat places supervisory jurisdiction over the arbitral process exclusively in the courts of the seat.

Source: supervisory jurisdiction vests exclusively in the courts of the seat, and Pakistani courts cannot assume merits-based or supervisory jurisdiction over foreign-seated arbitrations, except to the limited extent permitted by statute.

Authority: Hub Power Company (HUBCO) v. Pakistan WAPDA (PLD 2000 SC 841); section 3, Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011

A concluded adjudication cannot be reopened by recasting the proceeding under a different statutory provision.

Source: The petitioner's attempt to invoke Section 3 of the Act of 2011, after having already invoked civil jurisdiction and having suffered a final determination under Section 4 directing recourse to arbitration, is a collateral effort to bypass binding judicial orders.

Authority: Sections 3 and 4, Act of 2011; Fecto Belarus Tractors Ltd.; Bank Alfalah Ltd.; Orient Power Company (Pvt.) Ltd., as cited in the judgment

Party autonomy requires the court to give effect to the parties' procedural choices.

Source: Courts are duty-bound to respect and give effect to the procedural choices made by the parties.

Authority: Articles 29 and 30, ICC Rules of Arbitration; Article XIII, GSPA dated 29.04.2022

Delay, inconsistent conduct and forum-shopping weigh against the grant of discretionary interim relief.

Source: In these circumstances, the balance of convenience unmistakably tilts in favour of the respondent, particularly when viewed in light of the petitioner's deliberate delay, inconsistent conduct, and repeated resort to multiple fora seeking identical reliefs.

Authority: Taisei Corporation, as cited in the judgment

OPERATIVE ORDER

In view of the foregoing discussion, this Court reaches the irresistible conclusion that the petitioner has failed to make out any case under Section 3 of the Act of 2011. The instant petition is, therefore, dismissed.

[■ View Full Judgment](#)

Sindh High Court

3 judgments

SINDH SALES TAX ON SERVICES — SERIAL NO. 13 OF THE TABLE TO SECTION 43 OF THE SINDH SALES TAX ON SERVICES ACT, 2011 — WHAT CONSTITUTES THE REPETITION OF AN OFFENCE — MENS REA IN PENALTY PROVISIONS — REMIT UNDER SECTION 63(5)

Sindh Revenue Board, Karachi v. M/s. Media 5ive Holdings (Karachideals.com), Karachi

APPROVED FOR REPORTING

2026 SHC KHI 2012 (Spl. Sales Tax Reference Application No. 179 of 2018) · Bench: Agha Faisal and Dr. Shah Nawaz Memon, JJ (judgment by Dr. Shah Nawaz Memon, J) · Decided: 22 October 2026 · Uploaded: 23 October 2026

FACTS

The respondent carries on business through the website Karachideals.com, offering discount vouchers, partner-merchant deals and online shopping. It took voluntary registration with effect from 1 December 2015 as a commission agent, and in compulsory registration proceedings the Assistant Commissioner found by Order-in-Original No. 692 of 2015 dated 4 January 2016 that its activity was business support services, adding that category to its profile without imposing any penalty. A show-cause notice of 18 April 2016 called upon it to show cause for non-payment and non-filing for July 2013 to March 2016. On 26 April 2016, during those proceedings, it e-filed null returns for the twenty-eight tax periods July 2013 to October 2015. By Order-in-Original No. 778 of 2016 dated 5 September 2016 a penalty of Rs. 2,502,432 was imposed under Serial No. 2, computed period by period, and a further penalty of Rs. 5,004,864 under Serial No. 13 for repeating the offence, being exactly twice the aggregate of the first. The Commissioner (Appeals) maintained the former and set aside the latter, holding that non-filing of more than one return in a row is a continuous offence and not a repetition, and that repetition presupposes an offence earlier established in proceedings in which the person was penalised. The Appellate Tribunal dismissed both appeals on 26 March 2018. The Board's reference, on which pre-admission notice issued on 12 November 2019, awaited adjudication since 2018; the respondent did not appear and service was held good.

LEGAL ISSUE

Whether the Appellate Tribunal was justified in maintaining the deletion of the penalty under Serial No. 13 upon the footing that non-filing of more than one return in a row is a single continuous offence; and whether, and upon what conditions, the failure to furnish true and correct returns for successive tax periods constitutes the repetition of an offence within that entry.

HOLDING

The first question is answered in the negative. The obligation under section 30 is periodic, so each failure is a separate offence complete on the passing of its own due date, and the premise of a single continuous offence cannot be sustained as a statement of law. On the second question, succession alone does not amount to repetition, for four reasons: Serial No. 2 already prices multiplicity and duration; where the Provincial Legislature intended successive defaults to carry an enhanced penalty it said so expressly, as in Serial Nos. 2A and 2B; Serial No. 13 is of general application and would otherwise double the graded scheme in almost every case; and, being penal, it is to be construed in favour of the subject where two constructions are open. The first default in a series is not a repetition; the entry applies to each default found to be a repetition, doubling the penalty for that offence rather than adding to it, and a single penalty computed as twice the aggregate of all defaults is not sanctioned. Mens rea is an ingredient, there being no words excluding it as there are in section 44(1), so the department must establish that the default said to be a repetition was wilful, contumacious, dishonest or otherwise attended by mens rea. Whether any default was a culpable repetition is a question of fact for the Tribunal as the last fact-finding forum, and the matter is remitted.

LEGAL SIGNIFICANCE

The first considered construction of Serial No. 13 of the Table to section 43 of the Sindh Sales Tax on Services Act, 2011, an entry of general application that the revenue has used to double penalties across the Table. Five points are of wide practical importance. First, a periodic statutory obligation generates a separate offence for each period, so successive non-filing is several offences and not one continuing offence. Second, number is not persistence: multiplicity of defaults does not of itself establish repetition. Third, the doubled penalty is substituted and not additional, and must be computed default by default rather than on the aggregate. Fourth, the penal character of the entry attracts the rule that of two reasonable constructions the one favourable to the subject prevails, and the words "shall be liable to" confer a discretion to be exercised judicially and proportionately. Fifth, mens rea is presumed to be an ingredient of a statutory offence unless excluded by express words or necessary implication, and the department must cross that threshold before any burden of explanation passes to the registered person. The judgment leaves open, for decision by the Tribunal with both parties present, whether repetition requires knowledge of the earlier offence or a prior adjudication.

LEGAL PROPOSITIONS (VERBATIM)

- *The obligation is thus periodic: every month brings its own return and its own due date.*
- *The premise that the non-filing of more than one return in a row is a single continuous offence cannot therefore be sustained as a statement of law, and the conclusion on Serial No. 13 cannot rest upon it.*
- *Serial No. 2 counts the defaults and grades each by its duration; Serial No. 13 enhances the penalty where an offence is repeated. The one is a matter of number, the other of persistence.*
- *We are satisfied that succession alone does not amount to repetition, and we say so for four reasons.*
- *The department must therefore establish, upon the record of the adjudication, that the default said to be a repetition was wilful, contumacious, dishonest or otherwise attended by mens rea, and only upon its doing so does the burden of explanation pass to the registered person.*
- *The enhanced penalty answers to persistence, and the question peculiar to it is whether the later default was committed by a person who, knowing that his conduct was an offence, did it again.*
- *The number of defaults measures persistence; it does not of itself establish wilfulness, for defaults many in number may be born of a single continuing cause.*
- *The first default in a series is not a repetition*

LEGAL PRINCIPLES EXPOUNDED**A penal provision open to two reasonable constructions is read in favour of the subject.**

Source: Where two constructions of such a provision are reasonably open, the one under which the offence is made out and the other under which it is not, it is the latter which is to be preferred.

Authority: Serial No. 13 of the Table to section 43, Sindh Sales Tax on Services Act, 2011; Tolaram Relumal (AIR 1954 SC 496)

The doubled penalty is a substituted penalty, not an addition to the penalty otherwise payable for the same default.

Source: The third is that the doubled figure is a substituted penalty and not an addition to the penalty otherwise provided for the same default: the entry doubles the sanction for the offence repeated, it does not treble it.

Authority: Serial Nos. 2 and 13 of the Table to section 43, Sindh Sales Tax on Services Act, 2011

The words "shall be liable to" confer a discretion to be exercised judicially and proportionately.

Source: Further, the words "shall be liable to" confer a discretion, to be exercised judicially and in a measure proportionate to the gravity of the offence, and not mechanically upon a tabulation of defaults.

Authority: Shamroz Khan (PLD 1978 SC 89); Saadat Ali Khan (2018 SCMR 387)

Culpability is a question of fact for the Tribunal and is not open to re-examination in reference jurisdiction unless a recognised question is distinctly raised.

Source: Whether a particular default was wilful, contumacious or attended by mens rea is quintessentially a question of fact, or at its highest an inference of fact from facts.

Authority: Section 63, Sindh Sales Tax on Services Act, 2011; Johri (1993 SCMR 287); Qadbros Engineering (2023 SCMR 939); Abdul Karim (2025 SCMR 969); Sindh Engineering (2002 SCMR 527)

OPERATIVE ORDER

The order of the learned Appellate Tribunal dated 26.03.2018 in Appeal No. AT-16/2017 shall accordingly stand modified; and that appeal shall stand restored to the extent of the penalty under Serial No. 13 and shall be decided afresh by the learned Appellate Tribunal, after affording the parties an opportunity of being heard, in the light of this judgment. ... The reference application is answered and disposed of in the above terms, with no order as to costs. ... Let a copy of this judgment be sent under the seal of this Court and the signature of the Registrar to the learned Appellate Tribunal, Sindh Revenue Board, in terms of section 63(5) of the Act, 2011.

■ View Full Judgment

CIVIL PROCEDURE — STAY OF TRIAL UNDER SECTION 10 CPC — IDENTITY OF PARTIES AND LITIGATING UNDER THE SAME TITLE — INHERENT POWERS UNDER SECTION 151 CPC — SCOPE OF INTERFERENCE WITH A REVISIONAL ORDER UNDER ARTICLE 199

M/s. ABM Investment v. Civil Aviation Club and another**APPROVED FOR REPORTING**

2026 SHC KHI 2011 (C.P. No. S-1471 of 2025) · Bench: Zulfiqar Ali Sangi, J · Decided: 22 October 2026 · Uploaded: 23 October 2026

FACTS

The dispute arises from an arrangement dated 21 February 2019 concerning bookings at the Grand Ballroom Marquee of the Civil Aviation Club. The petitioner sued for recovery of an advance of Rs. 18,000,000 together with damages and other consequential reliefs. The respondents applied under section 10 read with section 151 CPC for a stay, contending that Civil Suit No. 1920/2020, instituted earlier by Dr. Noshaba Faisal and another, involved the same contractual transaction, the same advance amount, substantially overlapping claims and the same defendants, and that parallel trials risked conflicting judgments. The petitioner opposed the application on the ground that it was neither a party to the earlier suit nor claiming through its plaintiffs, and that the payment had been made from its own account. The trial Court allowed the application on 16 October 2024, relying on averments in the earlier plaint as to an alleged joint venture and a deposit made by the petitioner on behalf of those plaintiffs. The petitioner's Civil Revision Application No. 03/2025 was dismissed by the District Judge, Malir on 22 October 2025. The earlier suit has since been transferred to the IVth Senior Civil Judge, Malir and renumbered Civil Suit No. 1707/2025.

LEGAL ISSUE

Whether the subordinate courts committed any illegality, jurisdictional defect or material irregularity in staying the petitioner's suit under section 10 CPC where the plaintiffs in the two suits are different and no legal relationship between them has been established, so as to warrant interference under Article 199 of the Constitution.

HOLDING

No interference was warranted. The object of section 10 is to prevent simultaneous trials of substantially identical disputes and conflicting adjudications, but the mere existence of common facts, similarity of transactions or overlap in reliefs does not attract the bar; the statutory conditions must be examined independently in the light of the pleadings, the nature of the rights asserted and the relationship between the parties. The petitioner's objection as to the distinct identity of the plaintiffs is not without significance, since identity of parties or of persons claiming under them is an express condition. Equally, its assertion that its claim is entirely independent cannot be accepted as conclusive on its own pleadings alone. The controversy cannot be resolved by comparing the names of the plaintiffs; the material consideration is whether the petitioner asserts an independent entitlement or whether its claim is connected with or derived through the same persons or arrangement. Section 151 preserves inherent powers but cannot be exercised so as to override an express statutory provision, and the possibility of conflicting judgments standing alone does not justify an indefinite stay. On the material placed before the Court, no patent jurisdictional defect or material illegality was demonstrated, and constitutional jurisdiction is not a substitute for a fresh appellate examination of a competent revisional decision.

LEGAL SIGNIFICANCE

A compact restatement of the conditions for a stay under section 10 CPC and of the limits of inherent power in aid of one, useful wherever a defendant faces parallel suits arising from a single transaction. Three points are of general application. First, overlap of facts, transactions or reliefs is not enough; the statutory conditions as to identity of parties and litigating under the same title must be separately satisfied on the pleadings. Second, neither a comparison of names nor a party's own assertion of independence is conclusive; the question is whether the claim is independent or derived through the same persons or arrangement. Third, section 151 cannot be used to override section 10 or to render its requirements redundant, and the mere possibility of conflicting decrees does not warrant an indefinite stay. The Court also marks the boundary of Article 199 review of a revisional order, confining interference to jurisdictional defect, material illegality, failure to exercise jurisdiction or an arbitrary exercise of discretion producing manifest injustice, and expressly leaves the merits of the rival claims open.

LEGAL PROPOSITIONS (VERBATIM)

- *However, the mere existence of common facts, similarity of transactions, or overlap in the reliefs claimed does not, by itself, attract the bar contemplated by Section 10, C.P.C.*
- *The statutory conditions must be independently examined in the light of the pleadings, the nature of the rights asserted, and the relationship, if any, between the parties to the respective proceedings.*
- *Conversely, the petitioner's assertion that its claim is entirely independent cannot be accepted as conclusive merely on the basis of its own pleadings, particularly when the respondents rely upon the averments contained in the earlier suit to establish an alleged connection between the respective claims.*
- *Accordingly, the controversy cannot be resolved merely by comparing the names of the plaintiffs in the two suits.*
- *Such inherent jurisdiction, however, cannot be exercised in a manner that overrides an express statutory provision or renders its requirements redundant.*
- *The possibility of conflicting judgments, standing alone, does not invariably furnish sufficient justification for staying proceedings indefinitely, particularly where the statutory requirements of Section 10, C.P.C., remain to be satisfied.*
- *It is equally well settled that the constitutional jurisdiction of this Court is not intended to substitute a fresh appellate examination for the decision of a competent revisional Court.*
- *Interference is warranted where the impugned order suffers from a jurisdictional defect, material illegality, failure to exercise jurisdiction vested by law, or an arbitrary exercise of judicial discretion resulting in manifest injustice.*

LEGAL PRINCIPLES EXPOUNDED

The object of section 10 CPC is to prevent simultaneous trials of substantially identical disputes and conflicting adjudications.

Source: *The underlying object of the provision is to prevent simultaneous trials of substantially identical disputes and to avoid the possibility of conflicting adjudications.*

Authority: *Section 10, Code of Civil Procedure, 1908*

What matters is whether the claim is independent or derived through the same persons or arrangement.

Source: *The material consideration is whether the petitioner asserts an independent legal entitlement arising from its own contractual relationship with the respondents or whether its claim is connected with, or derived through, the same persons or arrangement in a manner attracting the statutory requirements of Section 10, C.P.C.*

Authority: *Section 10, Code of Civil Procedure, 1908*

Inherent powers must be exercised on the circumstances of the particular case and directed to the ends of justice and prevention of abuse of process.

Source: *The exercise of inherent powers must be founded upon the circumstances of the particular case and must remain directed towards securing the ends of justice and preventing abuse of the process of the Court.*

Authority: *Section 151, Code of Civil Procedure, 1908*

OPERATIVE ORDER

For the foregoing reasons, the instant Constitution Petition is dismissed. Consequently, the orders dated 16.10.2024, passed by the learned IVth Senior Civil Judge, Malir, Karachi, in Civil Suit No.1039/2023, and dated 22.10.2025, passed by the learned District Judge, Malir, Karachi, in Civil Revision Application No.03/2025, are maintained. ... There shall be no order as to costs.

■ View Full Judgment

MINES AND MINERALS — GRANT OF MINING PERMITS UNDER THE SINDH MINES AND MINERALS GOVERNANCE ACT, 2021 AND RULES, 2023 — WHETHER A MINERAL CONCESSION IS PUBLIC PROCUREMENT — ADVICE OF THE MINES COMMITTEE AS A CONDITION OF A VALID GRANT — NO VESTED RIGHT FROM AN AUCTION BID — REFUND OF DEPOSITS

Muhammad Nazar Gondal v. Government of Sindh and others (with M/s. Habibullah Stones (Pvt.) Ltd v. Government of Sindh and others)

APPROVED FOR REPORTING

2026 SHC KHI 2000 (C.P. Nos. D-2494 and D-2495 of 2025) · Bench: Yousuf Ali Sayeed and Adnan Iqbal Chaudhry, JJ (judgment by Yousuf Ali Sayeed, J) · Decided: Heard 29 September 2026 · Uploaded: 20 October 2026

FACTS

Pursuant to an advertisement of 30 May 2023 the petitioners paid application fees and participated in an open auction held on 23 June 2023 for mining permits over five areas: two of fifty acres each near Kalu Nadi, District Thatta for reti/bajri, two of two hundred acres each near the Northern Bypass, District Karachi West for clay, and one of fifty acres near Nai Baran, District Thatta for reti/bajri. By identical letters dated 4 August 2023 the Director General, Mines and Mineral Development informed each petitioner that it had succeeded in obtaining the area at the reserved price, no other application having been received, but that the application fee of Rs. 100,000, ten per cent of the reserved price and an application under Rule 80 of the Sindh Mines and Minerals Governance Rules, 2023 remained to be furnished before the case could be processed further towards grant. The petitioners deposited the sums on 8 August 2023 and filed Form A on 9 August 2023. No permits issued. Instead, on 17 October 2023 the Department advertised fresh auctions for thirty-eight areas including these. The petitioners' complaints and appeals under the Sindh Public Procurement Rules, 2010 led to C.P. Nos. D-5723 and D-5724 of 2023, disposed of by consent on 19 March 2025 so that the Review Committee might decide by speaking order. On 7 May 2025 the Review Committee dismissed the appeal as non-maintainable, the auction of mines not being public procurement under section 2(m) of the Sindh Public Procurement Act, 2009. The Department's position was that the auction had been scrapped because the Mines Committee under section 5 of the Act read with Rule 4 had not been constituted, having been notified only on 10 November 2023.

LEGAL ISSUE

Whether the petitioners acquired any enforceable right to mining permits on the strength of the auction of 23 June 2023 and the letters of 4 August 2023, whether the process fell to be tested under the Sindh Public Procurement Rules, 2010, and whether the fresh advertisement of 17 October 2023 was illegal or mala fide.

HOLDING

The earlier consent disposal was no bar, the grievance now agitated having arisen only after the Review Committee declined jurisdiction. Reliance on the Public Procurement Rules was misconceived: the grant of a mining permit involves no acquisition by the Government but is a concession whereby the State parts with the right to extract a public resource for consideration, and is the antithesis of procurement; legality falls to be tested under the Act and the M&M Rules. Section 10 requires permits to be granted on the advice of the Mines Committee, which is an integral cog in the statutory machinery, and section 5(4) cannot cure a process conducted when no Committee existed at all. On the dates of the auction and of the letters the statutory apparatus was not in place and no permit could lawfully have issued. The letters by their own terms were a precursor to consideration of an application and not a grant. A bid at auction is in the nature of an offer giving rise to no rights, the highest bidder acquiring at best a legitimate expectation, with an enforceable right arising only on acceptance by the competent authority. Minerals being held in trust for the people, the decision to

re-auction under a properly constituted framework rather than accept a single bid at the reserved price was not arbitrary. Mala fides was bereft of particulars, and ubi jus ubi remedium presupposes a right. Fairness nonetheless required refund of the sums deposited.

LEGAL SIGNIFICANCE

Of direct importance to the grant of mineral concessions in Sindh and, more broadly, to any statutory grant conditioned upon the advice of a body not yet constituted. Three propositions have general application. First, the disposal of a public resource by concession is not public procurement, so the procurement regime and its appellate machinery do not apply; the governing statute and rules do. Second, a saving provision protecting proceedings from invalidity for a vacancy or defect in constitution presupposes the existence of the body and cannot breathe life into a process undertaken when there was none. Third, a bid at auction is an offer, the highest bidder has a legitimate expectation only, and an enforceable right arises solely on acceptance by the competent authority. The judgment also reaffirms, following *Suo Motu Case No. 13 of 2009 (PLD 2011 SC 619)* and *Maulana Abdul Haque Baloch (PLD 2013 SC 641)*, and the application of those principles to mining in this Province in *Pakistan Mineral Development Corporation (PLD 2020 Sindh 99)*, that public resources must be disposed of transparently and competitively; and although the petitions failed, the Court required the deposits taken in an unlawful process to be refunded within thirty days.

LEGAL PROPOSITIONS (VERBATIM)

— *The grant of a mining permit involves no acquisition of anything by the Government. On the contrary, it is a concession whereby the State parts with the right to extract a public resource in return for consideration, and is thus the very antithesis of procurement.*

— *The Mines Committee is thus an integral cog in the statutory machinery, and the Licensing Authority is not empowered to grant a mining permit of its own volition, independently of the advice of that Committee.*

— *Section 5(4) of the Act, which saves the proceedings of the Mines Committee from invalidity on account of a vacancy or a defect in its constitution, can be of no avail in such a situation, for that provision presupposes the existence of a Committee, and cannot breathe life into a process undertaken when there was no Committee at all.*

— *The letters were thus a precursor to the consideration of an application for the grant of a permit and were not themselves a grant.*

— *a bid made at auction is merely in the nature of an offer, which does not of itself give rise to any rights, and that a person declared to be the highest bidder at best acquires a legitimate expectation of the bid being accepted in preference to those of the other bidders, with an enforceable right arising only upon acceptance of the bid by the competent authority.*

— *Minerals are a natural resource held by the Government in trust for the people, and the Supreme Court has repeatedly emphasised that public resources are to be disposed of transparently and through a competitive process so as to secure the best return for the public exchequer*

— *Similarly, the maxim ubi jus ubi remedium presupposes the existence of a right, and in the absence of any right having accrued, the argument that the Petitioners have been left remediless does not take their case any further.*

LEGAL PRINCIPLES EXPOUNDED

A consent disposal without adjudication on the merits is no bar to a later petition on a grievance that has since arisen.

Source: suffice it to say that the earlier Petitions were disposed of by consent, without any adjudication on the merits of the Petitioners' claim, merely so as to enable the Review Committee to decide the pending appeals through a speaking order.

Authority: Article 199 of the Constitution; order dated 19.03.2025 in C.P. Nos. D-5723 and D-5724 of 2023

Where the statutory apparatus for a grant was not in place, no grant could lawfully have been made on the strength of the process undertaken.

Source: It follows that, on the date of the auction and of the letters on which the Petitioners rely, the statutory apparatus through which a mining permit could lawfully be granted had not been put in place, and no permit could lawfully have been issued to the Petitioners on the strength thereof.

Authority: Sections 5 and 10, Sindh Mines and Minerals Governance Act, 2021; Rules 4 and 80, Sindh Mines and Minerals Governance Rules, 2023

A department that conducted an unlawful auction and called for deposits cannot retain them, and fairness requires refund.

Source: *The Department, having itself conducted the auction in the absence of the Mines Committee and having called upon the Petitioners to make those deposits, cannot be permitted to retain the same to their detriment, and fairness demands that such sums be refunded.*

Authority: *Muhammad Jawed v. First Women Bank Ltd. (2020 SCMR 2134); Suo Motu Case No. 13 of 2009 (PLD 2011 SC 619); Maulana Abdul Haque Baloch v. Government of Balochistan (PLD 2013 SC 641); Pakistan Mineral Development Corporation Ltd. v. Province of Sindh (PLD 2020 Sindh 99)*

OPERATIVE ORDER

For the foregoing reasons, while the Petitioners have failed to make out a case for the issuance of a writ and the Petitions stand dismissed, the amounts deposited by them pursuant to the letters dated 04.08.2023, comprising the application fee for the mining permit and 10% of the reserved price in respect of each area, shall be refunded within thirty (30) days. The Petitioners shall be at liberty to participate in any fresh auction in respect of the areas in question, and these proceedings shall not be held against them in that regard.

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