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CASE LAW UPDATES

Pakistan Superior Courts — Verified Judgment Digest

Friday, 30 October 2026

Upload Window: Uploads of 27, 28, 29 and 30 October 2026, with stragglers swept from 23 and 26 October

FCC: 4 judgments | SC: 4 judgments | LHC: 4 judgments | SHC: 3 judgments | IHC: no new entries

4	4	4	3	15
FCC	SC	LHC	SHC	TOTAL

Operative orders quoted verbatim. Legal principles extracted directly from judgment text.

TABLE OF CONTENTS

Federal Constitutional Court of Pakistan

Commissioner Inland Revenue v. Muhammad Mustafa Gigi and connected review petitions, appeals and petitions — Constitutional law and taxation

Muhammad Ahmad Yousaf v. Muhammad Adeel Akhtar and others — Intra-Court Appeal

NBP Workers Welfare Union through its Secretary General v. Full Bench, National Industrial Relations Commission and others — Industrial relations

Khaliq us Zaman and another v. Deputy District Officer (Consolidation), Tehsil Jhelum at Attock and others — Land consolidation

Supreme Court of Pakistan

The State through Special Prosecutor, Anti-Narcotics Force v. Kamil Shah and another — Criminal procedure and evidence

The Collector of Customs MCC (Enforcement), Quetta v. Abdul Aziz and connected matters — Customs

Chief Executive Officer, NTDC, Lahore v. Masood Ahmad Qureshi and others (with Muhammad Afzal Gill and others) — Service

Mst. Rasheeda Begum through L.Rs. v. The Province of Sindh through Secretary Education & Literacy Department and others — Rent

Lahore High Court

Tahir Mehmood v. Appellate Tribunal Inland Revenue and others — Income tax

Qaiser Shabbir and 2 others v. Federation of Pakistan and 2 others (with connected petitions) — Banking

Dr. Syed Shah Rukh Hassan Rizvi and 10 others v. Chief Secretary, Government of the Punjab, S&GAD, Lahore and others — Service and constitutional law

Muhammad Ismail and 3 others v. The State and another — Criminal procedure

Sindh High Court

Punhal son of Shahal Sarki v. The State — Narcotics

Abdullah Raja v. Sultan Rehman and others — Civil procedure

Kando and others v. Ameen and others — Civil revision

Window and method. This issue covers judgments approved for reporting and uploaded by the Supreme Court, the Federal Constitutional Court, the Lahore High Court and the Sindh High Court on the working days 27, 28, 29 and 30 October 2026. Stragglers that appeared after the 26 October scan closed have been swept in: C.P. No. 15-K of 2024 of the Supreme Court (uploaded 23 October) and C.P.L.A. 104-L of 2017 of the Federal Constitutional Court (uploaded 26 October). Fifteen entries are digested from a pool of some fifty in-window candidates; the remainder were set aside as turning wholly on their own facts. Federal Constitutional Court judgment page has moved again. One week after the redesign recorded in the 26 October issue, the Court's judgment listing has moved from /judgments to /judgements. The former address now returns only the notice that the page is being moved to the Court's new site, with no listing at all. The Approved for Reporting column and the /api/public/site/files/ download scheme introduced last week are carried over to the new address. One Supreme Court judgment excluded as not approved for reporting. C.P.L.A. No. 3871 of 2022, Afrasyab Khan v. Mst. Shaista Khanum and others, uploaded 29 October, concerns the proof of an oral gift (Hiba) under section 138 of Muhammadan Law read with Articles 17, 79 and 117 of the Qanun-e-Shahadat Order, 1984, and would otherwise have been of general interest. Its closing endorsement reads "Not Approved for Reporting" and it is accordingly omitted. Practitioners should note that a keyword search for the phrase "approved for reporting" will match this negative endorsement as well; the endorsement must be read, not merely found. The text layer of that PDF is also partly corrupted, with stray Arabic-script fragments substituted for English words. Marked "Approved for Reporting: No" at the Federal Constitutional Court. C.P.L.A. No. 536-P of 2023 and C.P.L.A. No. 1333 of 2025, both uploaded 28 October and both

authored by Ali Baqar Najafi, J, are marked No in the listing and are omitted. Islamabad High Court nil. The Islamabad High Court listing stands unchanged at eight items from the 26 October scan, the three most recent of which were digested in that issue. There are no new additions for this window. Two in-window judgments held over. C.P.L.A. No. 104-L of 2017 (Member Colonies, Board of Revenue, Punjab v. Rasheeda Bibi), on temporary cultivation leases and the conferment of proprietary rights, and Const. P. No. D-424 of 2025 (Niaz Hussain Tunio v. Government of Sindh), on the Sindh Councils Unified Grades and the release of withheld salary, were both read in full and are sound but turn substantially on their own records. They are noted here rather than digested. Carry-forward queue. The two image-only Supreme Court scans remain unresolved: C.P.L.A. 1157/2021 and C.P.L.A. 788/2018 (Bibi Hanifa v. Dr. Jamila Raza, damages for malicious prosecution, 6.6 MB and still without a text layer).

Federal Constitutional Court of Pakistan

4 judgments

CONSTITUTIONAL LAW AND TAXATION — REVIEW OF THE JUDGMENT HOLDING THE INCOME SUPPORT LEVY ACT, 2013 INVALID FOR HAVING BEEN ENACTED AS A MONEY BILL — ARTICLES 70, 73(2) AND 260(1) — SCOPE OF REVIEW JURISDICTION — JUDICIAL DISCIPLINE BETWEEN BENCHES

Commissioner Inland Revenue v. Muhammad Mustafa Gigi and connected review petitions, appeals and petitions

APPROVED FOR REPORTING

C.R.P. No. 25-K of 2022 and connected matters · Bench: Amin-ud-Din Khan, CJ and Ali Baqar Najafi, J (judgment by Amin-ud-Din Khan, CJ) · Decided: Heard 12 October 2026; announced 28 October 2026 · Uploaded: 28 October 2026

FACTS

By judgment dated 28 December 2021 the Supreme Court refused leave to appeal in a batch of petitions arising from judgments of the High Court of Sindh concerning the constitutional validity of the Income Support Levy Act, 2013, upholding the conclusion that the Act, having been enacted through the Finance Act, 2013 without observance of the legislative procedure prescribed by the Constitution, did not acquire the status of a valid law. The Commissioner Inland Revenue sought review. The Act had in any event been repealed by section 10 of the Finance Act, 2014, without expressly preserving proceedings initiated or liabilities sought to be enforced under it. While the review petitions were pending, a three-member Bench by order of 21 June 2022 in Civil Petition No. 1718-K of 2021, authored by Munib Akhtar, J, granted leave on substantially identical constitutional questions and expressly contemplated reconsideration of the earlier determination. Following the Constitution (Twenty-Seventh Amendment) Act, 2025, the review petitions and a large body of connected appeals and petitions from the Lahore High Court came before this Court.

LEGAL ISSUE

Whether the judgment of 28 December 2021, holding that the Income Support Levy Act, 2013 could not validly be enacted as a Money Bill within Article 73(2) and so did not acquire the status of valid law, discloses an error apparent on the face of the record warranting review; and what effect a subsequent grant of leave by another Bench on identical questions has upon that determination.

HOLDING

No ground for review was made out. Review jurisdiction is limited and exceptional, directed to an error apparent on the face of the record or a manifest defect occasioning a miscarriage of justice; it is neither an extension of appellate jurisdiction nor a means of obtaining a fresh determination, and cannot be exercised merely because another interpretation is conceivable. The judgment under review consciously examined the provisions of the Act, its declared object, the definition of taxation in Article 260(1) and the procedure in Articles 70 and 73, and concluded that the levy did not fall within the constitutional classification of a Money Bill. The distinction between a Money Bill and ordinary legislation is substantive: Article 73 is a limited exception to Article 70 and cannot be expanded by characterising a measure as a levy or incorporating it into a Finance Act. The participation of both Houses is a substantive safeguard, not a procedural formality, and the Senate, representing the federating units, cannot be excluded from legislation outside the restricted ambit of Money Bills. Once the Act was held not to be valid law, enforcement of liabilities under it lost its foundation; the repeal without a saving was an additional consideration only. Disagreement with a judicial interpretation is not an error apparent on the face of the record. The review petitions and the connected matters were dismissed, save C.P.L.A. 863-L/2023, adjourned as involving a different point of law.

LEGAL SIGNIFICANCE

Of first importance both for revenue practice and for institutional reasons. On the substance, it settles that the Income Support Levy Act, 2013 never acquired the status of valid law, and reaffirms the constitutional architecture: the character of legislation is determined by its substance, object and legal effect rather than its nomenclature or the instrument through which it is introduced, so that the Money Bill procedure cannot be

used to bypass the Senate's legislative role under Article 70. On review jurisdiction, the Court draws a firm line between an erroneous decision and an error apparent on the face of the record, and holds that the jurisdiction is corrective rather than substitutive and cannot be enlarged by reference to subsequent proceedings involving similar questions of law. Most pointedly, the judgment closes with a statement on judicial discipline: the course adopted by a subsequent three-member Bench in granting leave on substantially identical questions while the earlier determination remained operative and under review is held to raise serious concerns about judicial discipline, legal norms and institutional propriety, and it is held that a subsequent grant of leave cannot of itself operate to review, modify or displace an earlier determination.

LEGAL PROPOSITIONS (VERBATIM)

— Its object is to correct an error apparent on the face of the record or a manifest defect which has occasioned a miscarriage of justice. It is neither an extension of appellate jurisdiction nor a mechanism for securing a fresh determination of questions already adjudicated.

— The distinction between a Money Bill and ordinary legislation is substantive and reflects the constitutional allocation of legislative authority between the two Houses of Parliament.

— Article 73 constitutes a limited exception to the ordinary legislative procedure prescribed under Article 70 and cannot be expanded merely by characterizing a legislative measure as a levy or incorporating it into a Finance Act.

— The constitutional character of legislation must be determined by reference to its substance, object and legal effect rather than its nomenclature or the legislative instrument through which it is introduced.

— The constitutionally mandated participation of both Houses in the legislative process constitutes a substantive safeguard rather than a mere procedural formality.

— The reasoning may be susceptible to disagreement; however, disagreement with a judicial interpretation cannot, by itself, constitute an error apparent on the face of the record.

— The jurisdiction is corrective rather than substitutive and cannot be enlarged by reference to subsequent proceedings involving similar questions of law.

— The mere pendency of connected proceedings or the subsequent grant of leave in another matter does not, without more, furnish an independent ground for reconsideration of an earlier judgment.

— Although refusal of leave does not invariably preclude consideration of a distinct petition, a subsequent grant of leave cannot, by itself, operate to review, modify or displace an earlier determination.

— The distinction between an erroneous decision and an error apparent on the face of the record must, therefore, remain firmly maintained.

— Judicial independence must be exercised consistently with judicial discipline, restraint and institutional decorum.

LEGAL PRINCIPLES EXPOUNDED

The Senate cannot be excluded from legislation falling outside the restricted ambit of Money Bills.

Source: *The judgment under review correctly distinguished the recommendatory role of the Senate under Article 73(1) from its legislative authority under Article 70 of "the Constitution".*

Authority: *Articles 70, 73(1), 73(2) and 260(1) of the Constitution; Income Support Levy Act, 2013; Finance Act, 2013*

Where the enactment itself is invalid, liabilities purportedly arising under it have no legal foundation, and the absence of a saving on repeal is an additional consideration only.

Source: *Once the Act was held not to have acquired the status of a valid law, the question of enforcing liabilities purportedly arising thereunder necessarily lost its legal foundation.*

Authority: *Section 10, Finance Act, 2014; Commissioner Inland Revenue v. Muhammad Mustafa Gigi (PLD 2022 SC 420)*

Judicial independence must be exercised consistently with judicial discipline and institutional decorum; coordinate or subsequent Benches must accord due regard to earlier determinations.

Source: *We reiterate that adherence to judicial discipline is indispensable to maintaining certainty, consistency and the institutional integrity of judicial adjudication.*

Authority: *Order dated 21.06.2022 in Civil Petition No. 1718-K of 2021; Commissioner Inland Revenue v. Muhammad Mustafa Gigi (PLD 2022 SC 420)*

OPERATIVE ORDER

In view of the foregoing discussion, we are satisfied that the judgment under review does not suffer from any error apparent on the face of the record or other fundamental defect warranting interference in review jurisdiction. The constitutional questions raised therein were duly examined and determined, and no sufficient legal ground has been established for their reconsideration. Consequently, the instant review petitions are dismissed, and the judgment dated 28.12.2021 shall remain undisturbed. The connected civil appeals and civil petitions, being founded upon substantially the same constitutional controversy, are also dismissed in accordance with the foregoing determination, except C.P.L.A. 863-L/2023, which is adjourned to a date in office, as Ms. Asma Hamid, appearing on behalf of Mr. Muhammad Yahya Johar, ASC, has stated that this case is not identical to the other cases in this bunch, as a different point of law is involved. There shall be no order as to costs.

■ View Full Judgment

INTRA-COURT APPEAL — THE JURISDICTIONAL BAR IN THE PROVISO TO SECTION 3(2) OF THE LAW REFORMS ORDINANCE, 1972 — JURISDICTION OF SETTLEMENT AUTHORITIES AFTER THE REPEAL ACT OF 1975 — FUNCTUS OFFICIO AND ALLEGATIONS OF FRAUD

Muhammad Ahmad Yousaf v. Muhammad Adeel Akhtar and others

APPROVED FOR REPORTING

F.C.P.L.A. No. 168-L/2026 · Bench: Amin-ud-Din Khan, CJ and Ali Baqar Najafi, J (judgment by Amin-ud-Din Khan, CJ) · Decided: 24 September 2026 · Uploaded: 28 October 2026

FACTS

The dispute concerns House No. 131-WV-458/RH at Mandi Raiwind, Lahore, originally evacuee property, provisionally transferred to Azeem Bukhsh in 1960 by Provisional Transfer Order dated 17 May 1960, followed by a Permanent Transfer Deed dated 13 October 1970 in favour of his legal heirs. The petitioner claims title through subsequent registered instruments and Mutation No. 34057 dated 30 September 2012. On an application instituted on 14 February 2022, respondent No. 2 by order of 31 March 2022 declared the property State land and directed its auction. A learned Single Judge of the Lahore High Court set that order aside on 14 December 2023. On Intra-Court Appeal No. 7676/2024 a Division Bench reversed that judgment on 2 March 2026. The Displaced Persons (Compensation and Rehabilitation) Act, 1958, under which the settlement proceedings had been taken, provided appellate and revisional remedies under sections 19 and 20, and had been repealed by the Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975, section 2(2) of which preserves jurisdiction only over proceedings pending immediately before repeal.

LEGAL ISSUE

Whether the Intra-Court Appeal was maintainable under section 3(2) of the Law Reforms Ordinance, 1972 given the proviso excluding such an appeal where the law governing the original proceedings provided at least one remedy of appeal, review or revision; and whether the notified officer had any jurisdiction, forty-seven years after the repeal of the settlement laws, to declare a Permanent Transfer Deed null and void.

HOLDING

The Intra-Court Appeal was incompetent and the Division Bench's judgment coram non judice. The proviso imposes a mandatory jurisdictional bar; the words "shall not be available or competent" are unequivocal and admit no discretionary relaxation. The bar depends on the nature and statutory origin of the proceedings rather than their nomenclature or the form of constitutional relief sought, and the statutory test relates to the availability of a remedy against the original order, not the order actually assailed. The existence of any one legally available remedy suffices; neither invocation nor exhaustion is a prerequisite. Here the controversy emanated from settlement proceedings of 1959-60 against which sections 19 and 20 of the 1958 Act provided remedies. Independently, respondent No. 2 lacked jurisdiction altogether: the application of 14 February 2022 was instituted nearly forty-seven years after repeal and fell outside the saving in section 2(2) of the Repeal Act, so the notified officers could not entertain it or declare any transfer instrument void, even on allegations of fraud. Once a transfer is lawfully completed the settlement authorities become functus

officio; an allegation of fraud neither confers jurisdiction nor revives powers already exhausted, and fraus omnia corrumpit does not dispense with the requirement of a competent forum. The order was also passed without notice to the petitioner, violating audi alteram partem read with Articles 4 and 10A.

LEGAL SIGNIFICANCE

A compact and heavily reasoned statement on three recurring questions. First, on Intra-Court Appeals: the proviso to section 3(2) of the Law Reforms Ordinance, 1972 is a mandatory jurisdictional bar which looks to the statutory origin of the dispute and to the remedies available against the original order, so that recasting a grievance as a constitutional petition cannot create an appellate jurisdiction the legislature withheld, and the bar operates whether or not the statutory remedy was ever invoked. Second, on evacuee and settlement property, a field still generating litigation half a century on: section 2(2) of the Repeal Act, 1975 saves only proceedings pending at repeal, confers no power to initiate fresh proceedings, and does not restore the plenary jurisdiction of the erstwhile settlement authorities; anyone wishing to challenge a Provisional Transfer Order or Permanent Transfer Deed must go to the civil court under section 9 CPC. Third, on fraud and jurisdiction: an allegation of fraud is not a jurisdictional solvent. The judgment also holds that a mutation merely reflecting an antecedent allotment neither confers title independently nor extinguishes rights lawfully acquired, and that defects of this kind cannot be disregarded in favour of competing proprietary claims.

LEGAL PROPOSITIONS (VERBATIM)

— The expression "shall not be available or competent" is unequivocal and admits of no discretionary relaxation.

— The substance and statutory origin of the controversy, rather than the form of relief sought, govern the applicability of the jurisdictional bar.

— The existence of any one legally available remedy of appeal, review or revision is sufficient to attract the prohibition under the proviso to section 3(2) of the Ordinance. Neither actual invocation nor exhaustion of such remedy is a prerequisite for its application.

— Significantly, the statutory test relates to the availability of a remedy against the "original order", rather than the particular order assailed in constitutional jurisdiction, which may have been passed at any subsequent appellate, revisional or review stage.

— A mutation merely reflecting an antecedent allotment or transfer neither independently confers title nor extinguishes rights lawfully acquired thereunder.

— Once the transfer is lawfully completed, the Settlement Authorities ordinarily become functus officio and cannot reopen or annul the concluded transaction except under an express statutory authority.

— An allegation of fraud, by itself, neither confers jurisdiction nor revives powers already exhausted. The principle fraus omnia corrumpit does not dispense with the requirement of a competent forum.

— Section 2(2) thereof preserves jurisdiction exclusively in respect of proceedings pending immediately before repeal and neither permits initiation of fresh proceedings nor restores the plenary jurisdiction of the erstwhile settlement authorities.

LEGAL PRINCIPLES EXPOUNDED

A statutory right of Intra-Court Appeal cannot be extended beyond its prescribed limits by interpretation, nor conferred by consent or acquiescence.

Source: *The right of Intra-Court Appeal, being a statutory creation, cannot be extended beyond its prescribed limits through judicial interpretation.*

Authority: *Proviso to section 3(2), Law Reforms Ordinance, 1972; Mst. Karim Bibi v. Hussain Bakhsh (PLD 1984 SC 344); Muhammad Abdullah (PLD 1985 SC 107); Nawab Din v. Member Board of Revenue (PLD 1979 SC 846)*

Where a constitutional petition arises out of statutory proceedings whose original order was appealable, reviewable or revisable, the bar operates of its own force.

Source: *Where a constitutional petition arises out of statutory proceedings in which the original order was amenable to appeal, review or revision, the prohibition under the proviso to section 3(2) of the Law Reforms Ordinance, 1972, operates ex proprio vigore, leaving no scope for assumption of appellate jurisdiction by the Division Bench.*

Authority: *Sections 19 and 20, Displaced Persons (Compensation and Rehabilitation) Act, 1958; sections 161, 163 and 164, Punjab Land Revenue Act, 1967*

Disputed questions of title and entitlement following a completed transfer are for the civil court.

Source: *Such disputed questions of title and entitlement are ordinarily amenable to adjudication under section 9 of the Code of Civil Procedure, 1908, subject to any statutory exclusion.*

Authority: *Section 2(2), Evacuee Property and Displaced Persons Laws (Repeal) Act, 1975; section 9, Code of Civil Procedure, 1908; Muhammad Din v. Deputy Settlement Commissioner (2022 SCMR 1481); Muhammad Ayub v. Ghulam Muhammad (2005 SCMR 1650)*

An order adversely affecting proprietary rights without notice or hearing is a substantive illegality, not a mere irregularity.

Source: *The principle audi alteram partem, read with Articles 4 and 10A of the Constitution, mandates procedural fairness before any determination prejudicial to vested rights.*

Authority: *Articles 4 and 10A of the Constitution; principle of audi alteram partem*

OPERATIVE ORDER

For the foregoing reasons, this petition is converted into an appeal and allowed. Consequently, the impugned judgment dated 02.03.2026, passed by the learned Division Bench of the Lahore High Court, is set aside, while the order dated 14.12.2023, rendered by the learned Single Judge of the said Court, is maintained. The parties shall bear their own costs.

■ View Full Judgment

INDUSTRIAL RELATIONS — WHETHER THE APPELLATE JURISDICTION OF THE FULL BENCH OF THE NIRC UNDER SECTION 58 OF THE INDUSTRIAL RELATIONS ACT, 2012 INCLUDES AN IMPLIED POWER OF REMAND — INHERENT AND ANCILLARY POWERS — JURISDICTIONAL ERROR DISTINGUISHED FROM ERRONEOUS EXERCISE OF JURISDICTION

NBP Workers Welfare Union through its Secretary General v. Full Bench, National Industrial Relations Commission and others

APPROVED FOR REPORTING

F.C.P.L.A. Nos. 1781 and 1782/2026 · Bench: Amin-ud-Din Khan, CJ and Ali Baqar Najafi, J (judgment by Amin-ud-Din Khan, CJ) · Decided: 15 October 2026 · Uploaded: 30 October 2026

FACTS

The petitioner, the elected Secretary General of the NBP Workers Welfare Union (Punjab-Islamabad CBU), sought amendments to Articles 1 and 11 of the Union Constitution, which were approved by respondent No. 2 by order dated 19 December 2023. Respondents Nos. 3 to 5 appealed to the National Industrial Relations Commission, and the Full Bench by order dated 1 July 2024 allowed the appeal, set aside the approval and remanded the matter for fresh decision after affording an opportunity of hearing to all concerned stakeholders. The petitioner challenged the appellate order before the Islamabad High Court in Writ Petitions Nos. 1739 and 1738/2025, principally invoking section 58(2)(a) of the Industrial Relations Act, 2012 and contending that, in the absence of an express power of remand, the Full Bench had exceeded its statutory jurisdiction and its order was coram non judice. The High Court dismissed the petitions on 6 May 2026.

LEGAL ISSUE

Whether the appellate jurisdiction conferred on the Full Bench of the National Industrial Relations Commission by section 58 of the Industrial Relations Act, 2012 necessarily includes the incidental power to remand a matter for fresh adjudication, notwithstanding the absence of express statutory authorisation.

HOLDING

It does. The conferment of appellate jurisdiction carries with it such incidental and ancillary powers as are reasonably necessary for its effective exercise, unless excluded by express provision or necessary implication; the maxim quando lex aliquid concedit, concedere videtur et id sine quo res ipsa esse non potest embodies the principle that a statutory grant includes powers indispensable to its execution. The authority to set aside, vary or modify an order may therefore by necessary implication encompass the power of remand where procedural infirmities or deficiencies in factual adjudication require reconsideration by the original forum. Here the remand was remedial in character, intended to cure procedural deficiencies and secure

compliance with audi alteram partem, and the appellate forum neither adjudicated the rival claims on merits nor expressed any conclusive opinion affecting substantive rights. A distinction must be drawn between an inherent lack of jurisdiction, which renders proceedings coram non judice, and an erroneous exercise of jurisdiction lawfully vested, which does not. The controversy concerning union elections, membership, constitutional amendments and rival claims to office is in any event for the specialised statutory forum.

LEGAL SIGNIFICANCE

Of general application wherever a statute confers appellate jurisdiction without spelling out the power of remand, a common feature of tribunal legislation in Pakistan. The judgment establishes that such a power is ordinarily implied as ancillary to the power to set aside, vary or modify, and that the absence of an express provision does not ipso facto negate it. Equally valuable is the firm distinction drawn between inherent want of jurisdiction and error in the exercise of jurisdiction lawfully vested: only the former renders an order coram non judice, and a remand order ancillary to a jurisdiction admittedly possessed cannot be labelled coram non judice merely for want of express authorisation. The Court warns that the contrary construction would unduly restrict the remedial efficacy of appellate jurisdiction and subordinate substantive justice to procedural technicalities, and reiterates that constitutional jurisdiction, being supervisory rather than appellate, cannot be used to undertake a fresh determination of contested factual issues while the competent statutory forum remains seized of the controversy.

LEGAL PROPOSITIONS (VERBATIM)

— It is a recognized principle of statutory interpretation that the conferment of appellate jurisdiction carries with it such incidental and ancillary powers as are reasonably necessary for its effective exercise, unless excluded by express provision or necessary implication.

— Accordingly, the authority to set aside, vary or modify an order may, by necessary implication, encompass the power of remand where procedural infirmities or deficiencies in factual adjudication necessitate reconsideration by the original forum.

— The mere absence of an express provision authorizing remand does not, ipso facto, negate such power, provided its exercise remains ancillary to the appellate jurisdiction conferred under section 58 of the Act and is consistent with the statutory scheme.

— Any contrary construction would unduly restrict the remedial efficacy of appellate jurisdiction and subordinate substantive justice to procedural technicalities.

— A distinction must be drawn between inherent lack of jurisdiction and an erroneous exercise of jurisdiction otherwise lawfully vested in a statutory forum. While the former renders proceedings coram non judice, the latter does not, ipso facto, invalidate the resulting order.

— Such matters fall primarily within the adjudicatory competence of the specialized statutory forum.

LEGAL PRINCIPLES EXPOUNDED

A statutory grant of power includes those powers indispensable to its execution.

Source: *The maxim quando lex aliquid concedit, concedere videtur et id sine quo res ipsa esse non potest embodies the principle that a statutory grant includes powers indispensable to its execution.*

Authority: *Section 58, Industrial Relations Act, 2012; maxim quando lex aliquid concedit, concedere videtur et id sine quo res ipsa esse non potest*

A remand made to cure procedural deficiency and secure a hearing is remedial and not an assumption of jurisdiction beyond statutory competence.

Source: *The remand was essentially remedial in character, intended to cure procedural deficiencies and ensure compliance with the principle of audi alteram partem.*

Authority: *Section 58, Industrial Relations Act, 2012; principle of audi alteram partem*

An appellate forum admittedly possessing jurisdiction does not act coram non judice merely because the particular direction is not expressly authorised.

Source: *The Full Bench admittedly possessed appellate jurisdiction under section 58 of the Act, and its direction for fresh adjudication cannot be construed as an assumption of jurisdiction beyond its statutory competence.*

Authority: *Section 58 and section 58(2)(a), Industrial Relations Act, 2012*

OPERATIVE ORDER

For the foregoing reasons, we find no ground warranting grant of leave to appeal. Consequently, leave is refused and the petitions are dismissed. The impugned judgment dated 06.05.2026, passed by the Islamabad High Court, is accordingly maintained. The competent statutory forum shall adjudicate the remanded matter afresh, strictly in accordance with law, after affording an effective opportunity of hearing to all concerned, uninfluenced by any observations made herein concerning the merits of the controversy. No order as to costs.

■ View Full Judgment

LAND CONSOLIDATION — EFFECT OF THE DELETION OF A RECITAL OF CONSENT FROM A HIGH COURT ORDER — DUTY TO ADJUDICATE ON THE RECORD RATHER THAN REMIT — GUIDING PRINCIPLES ISSUED TO THE REVENUE AUTHORITIES ON DELAY IN CONSOLIDATION PROCEEDINGS

Khaliq us Zaman and another v. Deputy District Officer (Consolidation), Tehsil Jhelum at Attock and others

APPROVED FOR REPORTING

C.P.L.A. No. 5323/2024 · Bench: Amin-ud-Din Khan, CJ and Ali Baqar Najafi, J (order by Amin-ud-Din Khan, CJ) · Decided: 26 October 2026 · Uploaded: 28 October 2026

FACTS

Consolidation proceedings in the village had commenced in 1979, and fresh consolidation was to be carried out in the light of an order of the Board of Revenue dated 20 March 1985. A writ petition filed by the private respondents was disposed of by the Lahore High Court, Rawalpindi Bench, by order dated 26 September 2024, which directed the revenue hierarchy to ensure implementation of an earlier judgment of the High Court dated 12 January 2000 and recorded that "learned counsel for the Respondents have no objection in this regard". By a subsequent order dated 18 November 2024 the same Judge allowed C.M. No. 2092/2024 and rectified the earlier order by deleting that sentence. The petitioners contended that the order was therefore not a consent order and that the earlier judgment had in any event been fully implemented by the revenue hierarchy, referring to the various orders on the file. The respondents objected that the petition was incompetent because the order was by consent.

LEGAL ISSUE

Whether, once the recital of consent was deleted from the order, the High Court could nonetheless dispose of the writ petition by remitting the matter to the revenue hierarchy without deciding on the merits whether the earlier judgment had been implemented.

HOLDING

It could not. The respondents' objection that the petition was incompetent as directed against a consent order was factually incorrect: the part recording the consent of counsel for the petitioners had been deleted by the same Judge, so the question of consent no longer arose. In that situation the High Court was required to adjudicate the matter on the documentary evidence and the orders passed by the revenue hierarchy, particularly as fresh consolidation was to be carried out in the light of the Board of Revenue's order of 20 March 1985 while consolidation in the village had commenced in 1979. The High Court having neither decided the petition on merits nor taken into consideration that the earlier order had already been implemented by the revenue hierarchy, referring the matter back for consolidation was not sustainable in law. The petition was converted into an appeal and allowed, and the High Court's order set aside.

LEGAL SIGNIFICANCE

The practical value of this order lies less in the narrow point decided than in the guiding principles issued to the revenue authorities, and in particular to the Senior Member, Board of Revenue, Punjab. The Court records its concern that proceedings begun in 1979 have remained embroiled in successive administrative and judicial proceedings for decades, that such protracted litigation defeats the very object of consolidation, namely the rationalisation of landholdings and certainty of proprietary rights, and that prolonged administrative inaction perpetuates uncertainty as to ownership and possession while occasioning financial

hardship and multiplicity of litigation. It holds the revenue authorities under a statutory obligation to exercise their powers diligently, fairly and expeditiously so that property rights protected by Article 23 of the Constitution are not rendered illusory through unwarranted delay, and issues six directions: expeditious conclusion within statutory or reasonable timelines; avoidance of unnecessary adjournments with reasons recorded for unavoidable delay; due opportunity of hearing and determinations based on the record and supported by cogent reasons; no reopening of orders which have attained lawful finality except under express statutory authority, with prompt implementation of binding judicial directions; discouragement of repetitive remands and successive proceedings; and effective supervision and accountability by the Senior Member.

LEGAL PROPOSITIONS (VERBATIM)

— However, when the part recording the consent of learned counsel for the petitioners was deleted by allowing C.M. No. 2092/2024 vide order dated 18.11.2024 by the same Judge, the question of consent no longer arise.

— Such protracted litigation defeats the very object of consolidation, namely, rationalization of landholdings and certainty of proprietary rights.

— Prolonged administrative inaction not only perpetuates uncertainty regarding ownership and possession but also occasions financial hardship and multiplicity of litigation.

— Unnecessary adjournments and administrative delays shall be avoided, and reasons for unavoidable delays shall be recorded.

— Orders attaining lawful finality shall not be reopened except under express statutory authority, and binding judicial directions shall be implemented promptly.

— Repetitive remands and successive proceedings shall be discouraged to prevent multiplicity of litigation.

— The Senior Member, Board of Revenue, Punjab, shall ensure effective supervision, timely disposal of longstanding matters and accountability for unjustified delays, strictly in accordance with law.

LEGAL PRINCIPLES EXPOUNDED

Once a recital of consent is deleted, the Court must adjudicate the matter on the record rather than remit it.

Source: *In that situation, the High Court was required to adjudicate upon the matter on the basis of the documentary evidence and the orders passed by the revenue hierarchy, particularly when fresh consolidation was to be carried out in the light of the order of the Board of Revenue dated 20.03.1985, whereas the consolidation proceedings in the village had initially commenced in 1979.*

Authority: *Article 199 of the Constitution; order dated 18.11.2024 allowing C.M. No. 2092/2024*

Remitting a matter to the revenue hierarchy without deciding whether an earlier order stood implemented is not sustainable.

Source: *When the High Court had not decided the petition on merits and had not taken into consideration the fact that the earlier order of the High Court dated 26.09.2024 had already been implemented by the revenue hierarchy, referring the matter back to the revenue hierarchy for consolidation purposes was not sustainable under the law.*

Authority: *Article 199 of the Constitution; West Pakistan Land Revenue Act and consolidation framework*

Consolidation proceedings must be concluded expeditiously and affected parties heard, with reasons recorded for unavoidable delay.

Source: *Affected parties shall be afforded due opportunity of hearing, and all determinations shall be based on the relevant record and supported by cogent reasons.*

Authority: *Article 23 of the Constitution; directions to the Senior Member, Board of Revenue, Punjab*

OPERATIVE ORDER

In this view of the matter, we convert this petition into an appeal and allow the same by setting aside the order passed by the High Court. ... We accordingly deem it appropriate to issue the following guiding principles to the revenue authorities, particularly the Senior Member, Board of Revenue, Punjab:

■ **View Full Judgment**

Supreme Court of Pakistan

4 judgments

CRIMINAL PROCEDURE AND EVIDENCE — RE-EXAMINATION OF A WITNESS AS OF RIGHT UNDER ARTICLE 133 OF THE QANUN-E-SHAHADAT ORDER, 1984 DISTINGUISHED FROM RECALL UNDER SECTION 540 CR.P.C. — DIRECTIONS CIRCULATED TO ALL HIGH COURTS AND PROSECUTORS GENERAL

The State through Special Prosecutor, Anti-Narcotics Force v. Kamil Shah and another

APPROVED FOR REPORTING

Crl.P.L.A. No. 251-P/2026 · Bench: Muhammad Hashim Khan Kakar and Salahuddin Panhwar, JJ (judgment by Salahuddin Panhwar, J) · Decided: 23 October 2026 · Uploaded: 29 October 2026

FACTS

The respondents are on trial before the Judge, Special Court (CNS-II), Peshawar in FIR No. 17 dated 8 March 2025 under sections 9(1), 6(f) and 15 of the Control of Narcotic Substances Act, 1997. The examination-in-chief of Muhammad Ashraf (PW-3) was recorded on 4 September 2025 and cross-examination was deferred. The witness reappeared some nine months later, on 10 June 2026, and was subjected to a lengthy cross-examination. On its conclusion the Special Prosecutor neither sought leave to re-examine the witness under Article 133 of the Qanun-e-Shahadat Order, 1984 nor put any question by way of re-examination. Instead an application was moved under section 540 Cr.P.C. seeking the recall and re-examination of the witness, which the trial Court allowed by order of 20 June 2026. A Single Bench of the Peshawar High Court, on a petition under section 561-A Cr.P.C., set that order aside on 16 July 2026 and dismissed the prosecution's application. The State came to this Court.

LEGAL ISSUE

Whether a party which omitted to re-examine its own witness under Article 133 of the Qanun-e-Shahadat Order, 1984 upon the conclusion of cross-examination may afterwards obtain the recall and re-examination of that witness under section 540 Cr.P.C., and what the relationship between the two provisions is.

HOLDING

The two provisions operate at different levels and must be read harmoniously. Article 133 regulates the ordinary course of examination and confers on the party calling a witness the right to re-examine, confined to matters referred to in cross-examination unless the Court permits new matter, in which case the adverse party acquires a corresponding right of further cross-examination. That right is the party's, not the Court's discretion. Section 540, by contrast, confers an exceptional judicial power exercisable only where the Court is satisfied that further evidence is essential to the just decision of the case; relevance, convenience or advantage to a party is not the test. A party which elects not to re-examine cannot claim recall as of right, though its omission does not extinguish the Court's jurisdiction under section 540. The Court also corrected the common misconception that re-examination is confined to clearing up ambiguities, adopting the reasoning of the Supreme Court of India in Rammi alias Rameshwar on the pari materia section 138 of the Evidence Act. On the facts, nothing showed that re-examination was essential to a just decision, and the High Court was right to set the trial Court's order aside.

LEGAL SIGNIFICANCE

A corrective judgment of daily practical importance in the trial courts, delivered with directions that a copy be circulated to the Registrars of all High Courts for the District Judiciary and to the Prosecutors General of all Provinces and the Islamabad Capital Territory. Three propositions have general application. First, re-examination under Article 133 is the right of the party calling the witness and is the proper course where cross-examination has produced an ambiguity, an incomplete answer or an apparent inconsistency; it must be exercised before the witness is discharged. Second, re-examination is not restricted to curing ambiguities but extends to seeking explanation or further elucidation of any matter touched upon in cross-examination, and even to new matter with the leave of the Court. Third, section 540 is not a routine substitute for the proper conduct of re-examination: it may not be invoked to strengthen a party's case or cure an inherent evidentiary deficiency, and the Court must identify why the existing record is inadequate and how the proposed

examination would address that inadequacy. The Court records its concern at the existing underuse of Articles 132 and 133 and warns that unaddressed ambiguity gives birth to artificial doubts which can benefit the actual offender.

LEGAL PROPOSITIONS (VERBATIM)

— Section 540 must not be invoked merely to strengthen a party's case or cure an inherent evidentiary deficiency

— Relevance, convenience, or the advantage to the party of such proposed evidence is not the consideration under this provision.

— The Court shall identify why the existing record is inadequate for a just decision and how the proposed examination would address that inadequacy.

— This provision does not extend discretion to the trial Court, rather it is the discretion of the party to re-examine the witness called by it.

— A distinction must therefore be maintained between the loss of an ordinary procedural opportunity and the continuing existence of an exceptional judicial power. A party who elects not to re-examine a witness cannot subsequently claim recall as a matter of right.

— Therefore, re-examination under Article 133 is not strictly restricted to curing ambiguities, but extends to seeking an explanation or further elucidation on any matter touched upon during cross-examination.

— If such ambiguity or incompleteness remains unaddressed, it gives birth to artificial doubts, and can thereby benefit the actual offender.

— Resort to Section 540 should be confined to cases where the Court is independently satisfied that the evidence is essential to a just decision, after ensuring that the safeguards of fairness and due process are observed.

— Where cross-examination produces an ambiguity, an incomplete answer or an apparent inconsistency capable of explanation, the proper course is to address it through Article 133 before the witness is discharged.

LEGAL PRINCIPLES EXPOUNDED

Article 133 regulates the ordinary course of examination; section 540 confers an exceptional judicial power. Neither renders the other redundant.

Source: *Article 133 regulates the ordinary course of examining a witness and confers upon the party calling the witness the right (and, in practical terms, the duty) to re-examine for the purpose of explanation.*

Authority: *Articles 132 and 133, Qanun-e-Shahadat Order, 1984; sections 94 and 540, Code of Criminal Procedure, 1898; Article 10A of the Constitution*

Re-examination as of right is confined to matters referred to in cross-examination; new matter requires the Court's leave, whereupon the adverse party may further cross-examine.

Source: *Where something new is desired to be introduced, a permission of the Court must be sought under Article 133(3) QSO; in such eventuality the adverse party acquires the corresponding right of further cross-examination upon those matters.*

Authority: *Article 133(1) and (3), Qanun-e-Shahadat Order, 1984*

The function of the re-examiner is not limited to resolving ambiguities.

Source: *The principal distinction between re-examination under Article 133 QSO, and Section 540 Cr.P.C is that, the re-examination under Article 133 QSO can be regarded as the right of the party to re-examine the witness it called but it must only restrict the re-examination to the matters referred in cross-examination, unless permitted by the Court to introduce a new matter.*

Authority: *Rammi alias Rameshwar v. State of M.P. ((1999) 8 SCC 649), on section 138 of the Evidence Act, pari materia to Article 133 QSO*

OPERATIVE ORDER

For the reasons recorded above, we find no merit in this petition. Leave to appeal is accordingly refused, and the petition stands dismissed. ... A copy of this judgment shall be transmitted to the Registrars of all High Courts for circulation among all Judges of the District Judiciary and to the Prosecutor Generals of all Provinces and Islamabad Capital Territory for circulation among all Prosecutors.

View Full Judgment

CUSTOMS — WHETHER ALMONDS WITHOUT SHELL AND CASHEW NUTS FALL WITHIN "FOODGRAINS AND FOOD ITEMS, ALL SORTS" AT SERIAL NO. 15 OF S.R.O. 566(I)/2005 — EJUSDEM GENERIS — CONSEQUENCES FOR CONFISCATION OF GOODS AND OF THE CARRYING VEHICLE

The Collector of Customs MCC (Enforcement), Quetta v. Abdul Aziz and connected matters

APPROVED FOR REPORTING

C.P.L.A. Nos. 283-Q to 285-Q and 117-Q to 119-Q of 2025 · Bench: Yahya Afridi, CJ, Muhammad Shafi Siddiqui and Miangul Hassan Aurangzeb, JJ (order by Muhammad Shafi Siddiqui, J) · Decided: 8 October 2026 · Uploaded: 28 October 2026

FACTS

On 20 October 2024 the Customs authorities, acting on information about the illegal removal of goods from the NLC Terminal at Taftan, intercepted vehicles at Nokundi carrying almonds without shell and cashew nuts of foreign origin. The Goods Declaration produced by the drivers related to raisins of Iranian origin and the vehicle particulars differed. Proceedings were taken against the goods and the vehicles on allegations of smuggling and illegal removal from the customs area, and the Collector of Customs (Adjudication), Quetta ordered outright confiscation of both. The Customs Appellate Tribunal, Quetta permitted release of the goods against payment of leviable duties and taxes with a redemption fine of 20 per cent of customs value, and set aside the confiscation of the vehicles. The High Court of Balochistan dismissed the Department's references. Before this Court the Department relied on S.R.O. 566(I)/2005 dated 6 June 2005, and in particular Serial No. 15, to bring the goods within the definition of smuggling in section 2(s)(ii) of the Customs Act, 1969 and so attract the statutory restriction on redemption of the carrying vehicle under the proviso to S.R.O. 499(I)/2009.

LEGAL ISSUE

Whether almonds without shell and cashew nuts fall within the description "foodgrains and food items, all sorts" at Serial No. 15 of S.R.O. 566(I)/2005, so as to render them smuggled goods within section 2(s)(ii) of the Customs Act, 1969 and attract the prohibition on redemption of the vehicle used for their carriage.

HOLDING

They do not. In their ordinary sense grains include cereals such as wheat, rice, maize, barley, oats, millet and sorghum, and may encompass pulses and legumes; almonds and cashew nuts are ordinarily described as nuts and do not fall within that category. The expression "food items, all sorts" must be construed in the context in which it appears rather than in isolation, and on the principle of ejusdem generis the general expression takes its colour from the class to which the preceding expression relates. The scheme of the notification confirms this: edible oil, black tea and vegetable ghee and cooking oil are separately listed, as are categories which might otherwise have been grouped as electronic items or as jewellery, which shows that the issuing authority identified particular categories rather than subsuming them under an unrestricted general description. Nothing prevented the competent authority from expressly including nuts. Restrictions under the Import Policy Order, 2022 do not of themselves make goods smuggled. The goods therefore falling outside the notification, the prohibition in the proviso to S.R.O. 499(I)/2009 on redemption of the carrying vehicle is not attracted on that basis.

LEGAL SIGNIFICANCE

Of immediate use to importers and to the Customs authorities in the very large class of cases where confiscation turns on whether goods answer a general description in S.R.O. 566(I)/2005. Three points have general application. First, ejusdem generis governs the construction of a general expression following a specific one in a notification of this kind, so "all sorts" does not mean everything conceivable. Second, the internal scheme of a notification is itself an interpretive guide: where particular categories have been separately identified, a general entry will not be read so as to rob those entries of significance. Third, and of considerable practical importance, a restriction or compliance requirement under the Import Policy Order does not convert goods into smuggled goods; that question is governed by the notification issued under

section 2(s)(ii). The consequence for vehicles is spelt out: confiscation of the conveyance on the strength of the proviso to S.R.O. 499(I)/2009 is sustainable only where the goods carried fall within the categories specified in S.R.O. 566(I)/2005.

LEGAL PROPOSITIONS (VERBATIM)

— There was nothing to prevent the competent authority from expressly including nuts as a separate category of goods, particularly as they are distinguishable from grains.

— Almonds without shell and cashew nuts, however, are ordinarily described as nuts and do not fall within the category of grains.

— The expression must be construed in the context in which it appears, rather than in isolation.

— Applying the principle of ejusdem generis, the general expression must be understood with reference to the class to which the preceding expression relates.

— Although the Import Policy Order, 2022 imposes certain restrictions and compliance requirements on the import of the subject goods, the existence of such restrictions does not, in itself, render them as "smuggled goods" within the meaning of the Act.

— The notification itself demonstrates that the issuing authority has identified particular categories of goods separately rather than subsuming them under an unrestricted general description.

— This scheme reinforces the view that the expression in Serial No. 15 cannot be extended by implication to encompass a distinct category of goods that has not been included therein.

LEGAL PRINCIPLES EXPOUNDED

A general description in a notification cannot be read so broadly as to render separately specified entries meaningless.

Source: *Were the expression to be construed as encompassing every conceivable food item, the separate entries relating to edible oil at Serial No. 11, black tea at Serial No. 35, and vegetable ghee and cooking oil at Serial No. 43 would lose their distinct significance.*

Authority: *Serial Nos. 11, 15, 35 and 43 of S.R.O. 566(I)/2005 dated 06.06.2005; section 2(s)(ii), Customs Act, 1969*

Whether goods are smuggled is determined by the notification issued under section 2(s)(ii), not by import restrictions imposed elsewhere.

Source: *In our view, almonds without shell and cashew nuts do not fall within any of the categories specified in S.R.O. 566(I)/2005. Consequently, the subject goods do not fall within the relevant definition of smuggled goods under section 2(s)(ii) of the Act on the basis of the aforesaid notification.*

Authority: *Section 2(s)(ii), Customs Act, 1969; Import Policy Order, 2022*

Confiscation of the carrying vehicle under the proviso to S.R.O. 499(I)/2009 depends upon the goods themselves falling within the specified categories.

Source: *Confiscation of the vehicle on this ground would be sustainable only if the subject goods fell within the categories specified in the aforesaid notification and consequently satisfied the relevant requirements of section 2(s)(ii) of the Act.*

Authority: *Proviso to S.R.O. 499(I)/2009 dated 13.06.2009; section 2(s)(ii), Customs Act, 1969*

OPERATIVE ORDER

In view of the foregoing, the impugned judgments do not call for interference. Leave to appeal is, accordingly, refused and these petitions are dismissed.

■ View Full Judgment

SERVICE — WHETHER EMPLOYEES OF THE NATIONAL TRANSMISSION AND DESPATCH COMPANY ARE CIVIL SERVANTS AMENABLE TO THE FEDERAL SERVICE TRIBUNAL — SECTION 17(1-B) OF THE WAPDA ACT, 1958 AND CORPORATISED SUCCESSORS — DOCTRINE OF INDOOR MANAGEMENT AND EQUAL TREATMENT

Chief Executive Officer, NTDC, Lahore v. Masood Ahmad Qureshi and others (with Muhammad Afzal Gill and others)

APPROVED FOR REPORTING

C.P.L.A. Nos. 1660 and 1661/2024 · Bench: Muhammad Ali Mazhar, Musarrat Hilali and Irfan Saadat Khan, JJ (judgment by Muhammad Ali Mazhar, J) · Decided: 2 June 2026 · Uploaded: 27 October 2026

FACTS

The respondents were appointed as Linemen in WAPDA, later promoted to SDO (BS-17), and their services were assigned to the National Transmission and Despatch Company, incorporated as a public limited company on 6 November 1998 under the Companies Ordinance, 1984 following the unbundling of WAPDA, and licensed by NEPRA in December 2002 for the exclusive transmission business for thirty years. They passed the departmental promotion examination under the Notification of 15 July 1984 and, after retirement, claimed Time Scale Upgradation to BS-18 and BS-19 on the strength of the WAPDA Notification of 12 August 2004 and the policy of 27 May 2010. Their written requests were declined on 1 April 2022. Before the Federal Service Tribunal the company took the plea that they were not civil servants within section 2(1)(b) of the Civil Servants Act, 1973, and could not produce any service rules of NTDC, submitting that the WAPDA rules applied. By judgment of 29 February 2024 the Tribunal set aside the departmental order and directed the grant of TSU in BPS-18 with effect from 12 August 2004 within two months.

LEGAL ISSUE

Whether the employees of a corporatised successor company such as NTDC are civil servants for the purposes of Article 212(3) of the Constitution and the Service Tribunals Act, 1973, so as to make their grievances amenable to the Federal Service Tribunal; and, if not, what obligations nonetheless rest on the company's management in dealing with their claims.

HOLDING

They are not. Every civil servant is in the service of Pakistan, but not every person in the service of Pakistan is a civil servant; employees of autonomous corporations and statutory bodies with their own statutory service rules cannot be deemed civil servants. Section 17(1-B) of the WAPDA Act, 1958, which declares service under the Authority to be service of Pakistan, does not extend to corporatised successors such as NTDC. The Tribunal itself relied on a separate NTDC notification, which demonstrates that the two organisations are distinct. The adoption of the WAPDA Efficiency and Discipline Rules, 1978 for internal use neither changes NTDC's corporate status nor confers a right to invoke the Tribunal's jurisdiction. To treat NTDC employees as civil servants would effectively revive section 2A of the Service Tribunals Act, 1973, declared ultra vires in Muhammad Mubeen us-Salam (PLD 2006 SC 602). At the same time, taking a jurisdictional plea does not absolve the management and Board of their corporate and managerial duty to implement their own internal rules and policies; under the doctrine of indoor management they must accord equal and fair treatment across the board. The Tribunal's judgment was set aside, but the Board was directed to reconsider the claims and to extend the same benefit if other employees on a par have been granted TSU.

LEGAL SIGNIFICANCE

Settles a jurisdictional question affecting a large class of employees in Pakistan's corporatised power sector and, by its reasoning, every public entity carved out of a statutory authority into a company. Three propositions have general application. First, a provision deeming service under a statutory authority to be service of Pakistan does not travel to the corporate entity which succeeds it on unbundling. Second, the internal adoption of another body's disciplinary or conduct rules for administrative convenience neither alters corporate status nor creates a right of access to the Service Tribunal. Third, and importantly for employees who lose the jurisdictional argument, the judgment refuses to let a successful plea of want of jurisdiction operate as a licence for unequal treatment: the Board remains bound to apply its own rules and policies

without favour or discrimination, and where employees on a par have received a benefit, the claimants must receive it too, retirement notwithstanding, with arrears worked out and a speaking order within two months. The Court also warns that treating such employees as civil servants would resurrect a provision already struck down in Mubeen us-Salam.

LEGAL PROPOSITIONS (VERBATIM)

— Taking into account the aforesaid definition, what is attention-grabbing with a plain sight is that every civil servant is in the service of Pakistan, but every person in the service of Pakistan is not a civil servant, therefore, the employees of autonomous corporations under the Federal Government/statutory bodies having their own service statutory rules of service cannot deemed to be civil servants.

— Solely on account of or for no other reason than the person is in "Service of Pakistan", cannot be classified or recognised as a Civil Servant.

— The reliance placed on Section 17 (1-B) of the Act of 1958 which in our considered view does not extend to the corporatized successor or corporate entities like NTDC.

— Since the business affairs of NTDC are governed and regulated by its Board of Directors as a corporate entity, hence, mere use of WAPDA Efficiency and Discipline Rules, 1978 as an administrative and secretarial adoption for internal misconduct neither changes its corporate status nor bestow any right to the employees to invoke the jurisdiction of FST for redress of grievances unless it is fixed in the definition of civil servant as envisaged under the CSA 1973.

— If NDTC employees are still considered to be civil servants and subjecting them to the jurisdiction of the Service Tribunal, it would tantamount to effectively revive and resurrecting Section 2A, which this Court has already declared ultra vires in the aforesaid dictum.

— If other employees at par with the respondents have been granted TSU, then they should not be discriminated and entitled to the equal treatment.

LEGAL PRINCIPLES EXPOUNDED

A plea of want of jurisdiction does not absolve a corporate body of its duty to implement its own rules and policies fairly.

Source: *Though as per plea of the petitioner that NTDC employees cannot invoke the jurisdiction of learned Tribunal being not the civil servants but concomitantly we are also not oblivion that mere taking jurisdictional plea, the management/BOD of the NTDC is not absolved from its own corporate and managerial duties to implement its internal rules/policies/decisions as held by one of us in the case of General Manager, Punjab Provincial Cooperative Bank, Ltd and others v. Ghulam Mustafa and others (2024 SCMR 1458).*

Authority: *General Manager, Punjab Provincial Cooperative Bank Ltd. v. Ghulam Mustafa (2024 SCMR 1458)*

Under the doctrine of indoor management, management and directors must adhere to their own internal rules and policies across the board without favour or discrimination.

Source: *under the essential principle of the "Doctrine of Indoor Management" the management and the Board of Directors, corporate bodies, and/or corporations cannot be absolved from their duty of equal and fair treatment with all employees*

Authority: *Doctrine of indoor management; Companies Act, 2017; Articles 4 and 25 of the Constitution*

Section 2A of the Service Tribunals Act, 1973 was declared ultra vires Articles 240 and 260 insofar as it deemed employees to be civil servants whose terms of service were not determined by the Federal Legislature.

Source: *declared Section 2A of the STA ultra vires of Articles 240 and 260 of the Constitution to the extent of the category of employees whose terms and conditions of service have not been determined by the Federal Legislature, and by a deeming clause they could not be treated as civil servants, as defined under Section 2(1)(b) of the Civil Servants Act, 1973*

Authority: *Muhammad Mubeen us-Salam v. Federation of Pakistan (PLD 2006 SC 602); section 2A, Service Tribunals Act, 1973; Articles 212, 240 and 260 of the Constitution*

OPERATIVE ORDER

In the wake of the above discussion, the Civil Petitions are converted into appeals and allowed. In consequence thereof, the impugned judgment of the learned Tribunal dated ... 29.02.2024, rendered in Service Appeals No. 245(L) and 246(L) of 2022, is set aside, and the appeals filed by the respondents before the learned Tribunal are dismissed.

However, the NTDC management/BOD shall consider the requests of both respondents fairly and with an independent application of mind, while remaining mindful of the aforesaid notifications issued prior to the date of retirement. If any other employee on par with the respondents has been granted TSU, the same benefit should also be granted to the respondents irrespective of their retirement, and the arrears of TSU shall be worked out and paid accordingly. The management/BOD shall pass a speaking order within a period of two months from the date of receiving a copy of this judgment, and the order shall be communicated to the respondents.

■ View Full Judgment

RENT — LIMITS OF ARTICLE 199 JURISDICTION IN SETTING ASIDE CONCURRENT FINDINGS OF THE RENT CONTROLLER AND THE APPELLATE COURT — RENT LAWS AS SPECIAL LAWS — TITLE NOT TO BE DETERMINED IN EJECTMENT PROCEEDINGS — SECTION 3 OF THE SINDH RENTED PREMISES ORDINANCE, 1979

Mst. Rasheeda Begum through L.Rs. v. The Province of Sindh through Secretary Education & Literacy Department and others

APPROVED FOR REPORTING

C.P. No. 15-K of 2024 · Bench: Muhammad Ali Mazhar, Irfan Saadat Khan and Aqeel Ahmed Abbasi, JJ (judgment by Muhammad Ali Mazhar, J) · Decided: 23 June 2026 · Uploaded: 23 October 2026 (straggler swept from the 26 October window)

FACTS

The petitioner purchased Plot No. 4/3, Survey No. 98/101, measuring 1,000 square yards, from Mst. Bushra Rahat by two sale deeds registered on 28 March 2011. The property was already under tenancy with the Government of Sindh, which had been paying rent to the previous owner at Rs. 50,000 per month under a tenancy agreement dated 1 December 2007. After purchase the petitioner issued notice under section 18 of the Sindh Rented Premises Ordinance, 1979 intimating the change of ownership and supplied title documents, whereupon it emerged that the Government asserted that the land had been wrongly transferred on the basis of an auction said to have been cancelled in 1974 because the auction purchaser failed to deposit the amount in time. The Rent Controller and the First Appellate Court recorded concurrent findings in the petitioner's favour and ordered ejectment. The High Court of Sindh set those findings aside on 5 December 2023 in C.P. No. S-1114 of 2022. Both sale deeds had been exhibited before the Rent Controller as Ex.A/3 and Ex.A/4 and the record and proceedings had been called for by the High Court.

LEGAL ISSUE

Whether the High Court, exercising jurisdiction under Article 199 of the Constitution, could set aside the concurrent findings of the Rent Controller and the First Appellate Court and, in substance, embark upon a question of title in rent proceedings.

HOLDING

It could not, on this record. Writ jurisdiction does not empower the High Court to revisit the judgments of the lower fora as if hearing a second appeal, to substitute its own opinion merely because another view of the evidence was possible, or to resolve complicated factual disputes so as to act as an appellate court in rent disputes. Concurrent findings may be disturbed only where they rest on gross misreading or non-reading of evidence, are illogical or based on guesses, were reached without or in excess of jurisdiction or in failure to exercise it, applied an incorrect provision, or where the cumulative effect of the oversights gives rise to severe prejudice or violates an express statutory provision or a fundamental right. Here the sale deeds forming part of the record escaped attention, and the alleged cancellation of the auction was not properly adverted to. The question of title could not be decided in rent proceedings or in writ jurisdiction. The respondent had earlier recognised the tenancy and paid rent without demur, and transformed the matter into a dispute of title only after the change of ownership, at a highly belated stage. Section 3 of the Ordinance is not self-executing: an exempting notification under sub-section (2), if any ever issued, should have been produced before the Rent Controller. The matter was remanded to the High Court for fresh adjudication.

LEGAL SIGNIFICANCE

A clear restatement, useful in every rent matter that reaches the constitutional side, of the boundary between writ and appellate jurisdiction. Three propositions have general application. First, rent laws are special laws, self-contained in their substantive and procedural provisions and designed for the fast-track resolution of tenancy disputes; construing them so as to drag such disputes out like civil suits frustrates the very object of the legislation. Second, writ jurisdiction keeps a tight rein on re-examining the lawfulness of the decision-making process but cannot re-weigh evidence or overturn factual findings unless they are completely perverse, whereas appellate jurisdiction permits a full hearing on facts and law. Third, a question of title cannot be imported into ejectment proceedings, and a tenant who has recognised the relationship and paid rent without demur cannot belatedly convert the matter into a title dispute; the Court invokes both Allegans contraria non est audiendus and the doctrine of approbate and reprobate. The treatment of section 3 of the Sindh Rented Premises Ordinance, 1979 as requiring an exempting notification to be produced, rather than operating automatically, is a practical point for both landlords and government tenants.

LEGAL PROPOSITIONS (VERBATIM)

— this jurisdiction neither empowers to revisit the judgment or orders of lower fora as if it is hearing a second appeal nor it can substitute own opinion merely because another view of the evidence was possible nor get to the bottom of complicated factual disputes out-of-band management pathway so as to act as an appellate court in rent disputes.

— For all intents and purposes, it is clear that rent laws are categorized as special laws which are equipoised with self-contained, self-reliant and self-regulated substantive and procedural provisions.

— The rent laws are aimed to make sure fast-track outcomes of tenancy disputes between the landlords and tenants.

— Merely alleging orally that auction was cancelled in 1974 does not suffice to give any cause of action to defy the relationship of landlord and tenant in ejectment proceedings which is not the forum to decide the title of the property.

— However, out of the blue, the tenancy issue was transformed into a dispute of title after the change of ownership, that too at a highly belated stage and despite that the matter had reached an advanced stage of proceedings.

— So far as the niceties of Section 3 of SRPO is concerned, it is not activated or set in motion automatically but it explicates in clear terms that notwithstanding anything contained in any law for the time being force, all premises other than those owned or requisitioned under any law, by or on behalf of the Federal Government or Provincial Government, situated within an urban area, shall be subject to the provisions of this Ordinance.

LEGAL PRINCIPLES EXPOUNDED

Concurrent findings may be disturbed in writ jurisdiction only on defined and narrow grounds.

Source: *By and large, it is an all-purpose norm that the High Court in its writ jurisdiction may not meddle with or upset the concurrent findings recorded by the Courts below unless on the face of it the findings recorded below seem to be structured on gross misreading or non-reading of evidence; the findings at first glance are found illogical, based on guesses and mere speculations which defy the good judgment; proceeded without jurisdiction or surpassed the lawful authority or failed to exercise the vested jurisdiction; the Courts below employed incorrect provision of law; the cumulative effect of slip-ups or oversights give rise to severe prejudice or violated express provisions of a statute or fundamental constitutional rights.*

Authority: *Article 199 of the Constitution; Sindh Rented Premises Ordinance, 1979*

Writ jurisdiction reviews the lawfulness of the decision-making process; appellate jurisdiction re-evaluates the evidence and the merits.

Source: *The essential characteristics flanked by the coordination of judicial powers is that writ jurisdiction keeps a tight rein on re-examining the lawfulness and meticulousness of the decision-making process whether the lower forum acted within its lawful authority and jurisdiction but cannot re-weigh evidence or interpret the evidence differently or overturn the factual findings unless they are completely perverse.*

Authority: *Article 199 of the Constitution*

A party may not approbate and reprobate; having recognised the tenancy and paid rent, it cannot later deny the relationship.

Source: *It is somewhat apposite to quote a Latin maxim "Allegans contraria non est audiendus" which resonances a principle of good faith that a person should not be allowed to testify hot and cold at different times about the same*

event and not to give contradictory statements

Authority: *Maxims Allegans contraria non est audiendus and Quod approbo non reprobo; doctrine of approbate and reprobate*

OPERATIVE ORDER

In view of the foregoing, certain crucial points falling within the jurisdictional ambit of the rent laws (SRPO), particularly those relating to the setting aside of concurrent findings recorded by the two courts below in writ jurisdiction under the special law, require reconsideration in order to arrive at a proper conclusion. Accordingly, this Civil Petition is converted into an appeal and allowed. Consequently, the impugned judgment of the High Court is set aside, and the matter is remanded for fresh adjudication to the High Court with independent application of mind, preferably within a period of six months from the date of receipt of this judgment.

■ **View Full Judgment**

Lahore High Court

4 judgments

INCOME TAX — WHETHER UPLOADING AN APPELLATE ORDER ON THE IRIS PORTAL CONSTITUTES VALID SERVICE UNDER SECTION 218(1)(D) OF THE INCOME TAX ORDINANCE, 2001 READ WITH RULE 74 OF THE INCOME TAX RULES, 2002, SO AS TO START LIMITATION FOR AN APPEAL TO THE TRIBUNAL UNDER SECTION 131

Tahir Mehmood v. Appellate Tribunal Inland Revenue and others

APPROVED FOR REPORTING

2026 LHC 8028 (I.T.R. No. 23 of 2026, Rawalpindi Bench) · Bench: Anwaar Hussain and Mirza Viqas Rauf, JJ (judgment by Anwaar Hussain, J) · Decided: Heard 15 and 20 October 2026 · Uploaded: 28 October 2026

FACTS

Three reference applications under section 133 of the Income Tax Ordinance, 2001 were heard together. In the present matter the order-in-original of 19 March 2021 was appealed to the Commissioner (Appeals) on 18 May 2021 and decided on 30 June 2021; the appeal to the Appellate Tribunal Inland Revenue was filed on 5 October 2021 with an application for condonation of delay explaining that, on returning from a foreign visit, the applicant contracted COVID-19 and was quarantined. In I.T.R. No. 29 of 2026 the appellate order of 17 March 2026 was said to have come to the taxpayer's knowledge only on service of a recovery notice on 27 April 2026, and in I.T.R. No. 30 of 2026 the appellate order of 18 December 2025 on service of a recovery notice on 28 April 2026. In each case the Tribunal treated the uploading of the appellate order on the Inland Revenue Information System (IRIS) as sufficient service for computing limitation and dismissed the appeal as time-barred. The Court had the assistance of an amicus curiae.

LEGAL ISSUE

Whether the mere uploading of an appellate order on IRIS constitutes valid electronic service under section 218(1)(d) of the Income Tax Ordinance, 2001 read with Rule 74 of the Income Tax Rules, 2002, so as to commence the period of limitation for an appeal to the Appellate Tribunal under section 131(2)(d).

HOLDING

It does not. Rule 74 identifies the electronic address to which a document must be sent and the circumstances in which transmission is treated as complete, and the definition of "electronic address" is confined to a facsimile number or an electronic mail address, with sub-Rule (3) prescribing the relevant confirmations. An IRIS account, by contrast, forms part of a web-based programme for the administration of inland revenue taxes defined in section 2(30AC), structured around Drafts, Outbox, Inbox and Completed Tasks folders; it facilitates electronic filing and communication, but its administrative functions do not of themselves confer the legal consequences of service on every act performed through it. The distinction is between accessibility and service: an order may be accessible without having been served in accordance with law. Electronic service is a legally recognised and independent mode and, once validly effected, needs no additional physical delivery; but its validity depends on compliance with the prescribed requirements. The

expectation that registered taxpayers monitor their accounts may bear on diligence and the credibility of an explanation for delay, but cannot substitute for compliance. The question of law was answered in the negative, the Tribunal's orders set aside and the appeals restored for decision on the merits.

LEGAL SIGNIFICANCE

Of immediate and wide practical importance to every taxpayer and practitioner dealing with the Federal Board of Revenue's electronic systems, and likely to be relied on well beyond income tax. The judgment separates three things that are habitually conflated: accessibility of a document on a portal, knowledge of its contents, and service in accordance with law. It holds that limitation runs from the event the statute prescribes, and cannot be made to run from an event the law does not recognise as its commencement. It harmonises the two Peshawar High Court decisions on the subject, treating Shabnam Riaz as recognising the independent efficacy of electronic service and Khadim Ullah Kakakhel as examining whether the particular act relied upon satisfied the prescribed requirements, and draws comparative support from the Delhi High Court in Suman Jeet Agarwal on the significance of a real-time alert accompanying electronic placement. The closing passage is likely to be quoted: modernisation of the means of communication does not dispense with the legal conditions that make communication effective, and technology remains an instrument of statutory administration rather than an independent source of statutory authority.

LEGAL PROPOSITIONS (VERBATIM)

— This Court is of the view that placing an order in an IRIS account does not, by itself, establish its transmission to an electronic address within the meaning of Rule 74 or fulfil the prescribed conditions.

— An order may be accessible without having been served in accordance with law.

— The question is not whether electronic service through IRIS is permissible, but whether the particular method employed satisfies the law governing its exercise. Once electronic service has been validly effected, no additional physical delivery is required merely because the communication is electronic.

— The decision reinforces the principle that knowledge and service are not necessarily synonymous, and that limitation must be computed by reference to the event prescribed by statute.

— Limitation may operate with rigour once it begins to run; it cannot be made to run from an event which the law does not recognize as its commencement.

— A duty to exercise vigilance does not relieve the respondent/department of its corresponding statutory obligation to communicate the order in accordance with law. To hold otherwise would permit an administrative practice or expectation to override an express condition imposed by law.

— The State may modernize the means by which it communicates its decisions, but it cannot, in the name of modernization, dispense with the legal conditions that make such communication effective. Technology remains an instrument of statutory administration, not an independent source of statutory authority.

— The right of appeal is a creature of statute; nevertheless, once the legislature confers that right, access to the appellate remedy cannot be defeated by computing limitation from an event which the statute does not recognize as service.

LEGAL PRINCIPLES EXPOUNDED

An IRIS account is an administrative workflow system; acts performed through it do not automatically carry the legal consequences of service.

Source: *The system undoubtedly facilitates electronic filing and communication, but its administrative functions do not, by themselves, confer the legal consequences of service on every act performed through it.*

Authority: *Section 2(30AC) and section 218(1)(d), Income Tax Ordinance, 2001; Rule 74, Income Tax Rules, 2002*

Electronic service is a recognised independent mode whose validity turns on compliance with the prescribed requirements.

Source: *The Pakistani precedents, read in their respective contexts, establish that electronic service is a legally recognized mode, but its validity depends on compliance with the requirements prescribed by the Rules.*

Authority: *Shabnam Riaz and Khadim Ullah Kakakhel (Peshawar High Court); Saqib Hayat Khan (Islamabad High Court); Suman Jeet Agarwal v. Income Tax Officer ((2022) 449 ITR 517 (Delhi))*

The exercise of the department's powers, however fiscally important, remains subject to the conditions imposed by law.

Source: *Its relevance lies in the principle that the exercise of powers by the respondent/ department, notwithstanding their fiscal importance, remains subject to the conditions imposed by law.*

Authority: *Commissioner Inland Revenue (Legal) Islamabad v. Pakistan LNG Limited (2026 SCMR 227); section 140, Income Tax Ordinance, 2001*

Constitutional guarantees do not enlarge the statutory right of appeal but reinforce the obligation not to defeat access to it except by the prescribed procedure.

Source: *The guarantees of lawful treatment under Article 4 and due process under Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973, do not enlarge the statutory right of appeal; rather, they reinforce the obligation to ensure that access to the appellate remedy is not defeated except in accordance with the procedure prescribed by law.*

Authority: *Articles 4 and 10A of the Constitution; section 131(2)(d), Income Tax Ordinance, 2001*

OPERATIVE ORDER

For the foregoing reasons, the question of law is answered in the negative, holding that mere uploading of an order on IRIS, without compliance with the prescribed requirements of service, does not by itself constitute valid electronic service under Section 218(1)(d) of the Ordinance read with Rule 74 of the Rules. Consequently, the present and connected Reference Applications are allowed, and the impugned orders dated 28.04.2026, 03.06.2026 and 19.05.2026 are set aside. As a corollary, the appeals preferred by the applicants shall stand restored to their original numbers before the Tribunal, which shall decide them on the merits in accordance with law. ... Office shall transmit a copy of this judgment under the seal of the Court to the Tribunal in terms of Section 133(8) of the Ordinance.

■ **View Full Judgment**

BANKING — WHETHER CRIMINAL PROSECUTION FOR "WILFUL DEFAULT" UNDER SECTION 2(G) READ WITH SECTION 20(7) OF THE FINANCIAL INSTITUTIONS (RECOVERY OF FINANCES) ORDINANCE, 2001 MAY BE INITIATED BY THE FIA BEFORE THE BANKING COURT HAS DETERMINED THE CIVIL LIABILITY UNDER SECTION 9(1)

Qaiser Shabbir and 2 others v. Federation of Pakistan and 2 others (with connected petitions)

APPROVED FOR REPORTING

2026 LHC 7996 (W.P. No. 17565 of 2020, Multan Bench) · Bench: Abid Hussain Chattha and Jawad Hassan, JJ (judgment by Abid Hussain Chattha, J) · Decided: Heard 30 September 2026; announced 28 October 2026 · Uploaded: 28 October 2026

FACTS

Six petitions were heard together. In the lead matter the petitioners challenged notices dated 17 December 2020 issued by the Federal Investigation Agency under section 160 Cr.P.C. on the complaint of a financial institution alleging wilful default under section 2(g)(i), (ii) and (iii) read with section 20(7) of the Financial Institutions (Recovery of Finances) Ordinance, 2001. The financial institution had earlier instituted a recovery suit, C.O.S. No. 27 of 2020, under section 9 of the Ordinance, which was decreed on 3 June 2020, with an appeal and an execution application still sub judice. Separately FIR No. 599/2020 had been registered under section 406 PPC concerning alleged misappropriation of pledged stocks; that FIR and seven similar FIRs were quashed by consolidated judgment dated 17 February 2022 on the ground that jurisdiction vested in the Banking Court under section 20 of the Ordinance. The financial institutions in each of the connected petitions had filed direct complaints before the FIA without any prior determination of wilful default by the Banking Court.

LEGAL ISSUE

Whether "wilful default" as defined in section 2(g)(i), (ii) and (iii) of the Financial Institutions (Recovery of Finances) Ordinance, 2001 requires prior determination by the Banking Court under section 9(1) before criminal prosecution for that offence can be initiated before the FIA under section 20(7) read with Rule 5 of the Rules, 2018.

HOLDING

It does. Wilful default is a distinct species of default simpliciter in terms of breach of obligations and requires prior determination by the Banking Court before prosecution can begin. The apparent bypassing of the Banking Court under the proviso to section 7(1)(b) is illusory, because section 20(7) itself requires thirty days' notice demanding payment of finance, and such a demand rests not on default simpliciter but on wilful default, which presupposes a prior determination that the default occurred and was deliberate. The punishment under section 20(8) is linked to the amount of default, so no punishment can be inflicted while that amount remains inconclusive. The reasoning in Taj International (PLD 2025 Supreme Court 633), on the parallel scheme of the Sales Tax Act, 1990, applies: criminal prosecution follows adjudication. The Division Bench respectfully disagreed with Mian Ayaz Anwar to the extent it held that sections 2(g)(ii) and (iii) require no prior determination of the amount due, and also rejected the divergent approach permitting prosecution to commence but be stayed pending civil proceedings. To hold otherwise would clothe financial institutions with an unfettered, unilateral and coercive recovery tool and convert a predominantly civil statute into a criminal one. The notices under section 160 Cr.P.C. were without jurisdiction.

LEGAL SIGNIFICANCE

A significant and carefully reasoned decision for banking and white-collar practice, in which a Division Bench expressly departs from an earlier view and declines the middle course of staying prosecutions. Three propositions have general application. First, where a special law deals essentially with civil matters but creates offences dependent on the prior determination of civil rights and liabilities, prosecution must not be initiated until those civil rights are conclusively determined. Second, where the measure of punishment is tied to a quantum which has yet to be adjudicated, initiating prosecution before adjudication is illusory. Third, a non obstante clause permitting a direct complaint to an investigating agency does not dispense with a statutory precondition built into the same provision. The judgment catalogues the distinguishing features of the offence of wilful default, which is cognizable, non-bailable and non-compoundable and carries the additional consequences under section 20(9) of ineligibility for finance for ten years and disqualification from contesting elections for five years after serving sentence, and treats those features as reasons for requiring stringent prior scrutiny by the Banking Court. The constitutional footing is set out by reference to Articles 4, 9, 10, 10-A, 14, 23, 24 and 25.

LEGAL PROPOSITIONS (VERBATIM)

— It is also well entrenched in our jurisprudence that special laws which essentially deal with civil matters but also tend to create offences for certain acts that are dependent upon prior determination of civil rights and liabilities require that prosecution for such offences is not initiated until civil rights are conclusively determined as reiterated in Taj International case (supra).

— Hence, the act of 'willful default' in terms of Section 2(g) of the Ordinance requires stringent prior scrutiny by the Banking Court before a person can be prosecuted for the said offence.

— The offence is cognizable, non-bailable and non-compoundable.

— It will cloth the financial institutions with an unfettered, unilateral, discriminatory and coercive tool to effect recovery of undetermined defaulted amounts through criminal prosecution leading to registration of FIR and arrest of accused persons, thereby, converting a predominant civil statute into a criminal law statute by effectively ousting the jurisdiction of the Banking Court until a challan is submitted before it for trial.

— Needless to emphasize that rights of a customer or a person granted by the Ordinance are constitutionally protected and acknowledged under Articles 4, 9, 10, 10-A, 14, 23, 24 and 25 of the Constitution which ineluctably provide for protection and due application of law in order to preserve life, liberty, reputation or property of a person.

— It relates to deliberate or intentional non-payment of the defaulted amount and its purpose extends beyond protection of availed finance and securities.

— Hence, the financial institutions unlawfully initiated criminal prosecution under Section 2(g) read with Section 20(7) of the Ordinance and Rule 5 of the Rules, 2018.

LEGAL PRINCIPLES EXPOUNDED

Wilful default is a distinct species of default simpliciter and requires prior determination by the Banking Court before prosecution.

Source: *To conclude, we hold that 'willful default' as defined in Section 2(g)(i)(ii) & (iii) of the Ordinance as a whole including all of its constituent components, is a distinct specie of default simpliciter in terms of breach of 'obligations' and thus, requires prior determination by the Banking Court under Section 9(1) of the Ordinance before criminal prosecution of 'willful default' as an offence can be initiated before the FIA under Section 20(7) of the Ordinance read with Rule 5 of the Rules, 2018.*

Authority: *Sections 2(g), 7(1)(b), 9(1), 20(7), 20(8) and 20(9), Financial Institutions (Recovery of Finances) Ordinance, 2001; Rule 5, Rules of 2018*

The statutory thirty days' notice presupposes a determination that the default occurred and was deliberate.

Source: *Naturally, the demand of payment of finance is not based on 'default simpliciter' but due to 'wilful default' which postulates that prior determination of default and that the same is deliberate or intentional essentially requires determination by the Banking Court without which demand for such payment would remain contested, unilateral and inadmissible inviting premature criminal prosecution.*

Authority: *Proviso to section 7(1)(b) and section 20(7), Financial Institutions (Recovery of Finances) Ordinance, 2001*

Criminal prosecution follows adjudication and assessment where the measure of the sentence is linked to a quantum requiring determination.

Source: *We further hold that criminal prosecution follows adjudication and assessment of tax under Section 11 of the Act, therefore, pre-trial steps including arrest and detention cannot be given effect to unless the tax liability of the taxpayer is determined in accordance with law.*

Authority: *Directorate of Intelligence and Investigation-FBR v. Taj International (Pvt.) Ltd. (PLD 2025 Supreme Court 633); sections 11, 33 and 37A, Sales Tax Act, 1990*

A construction which renders substantive provisions of the Ordinance redundant must be rejected, redundancy not being attributable to the legislature.

Source: *Such an interpretation would render substantial provisions of the Ordinance as redundant regarding determination of contractual civil rights and duties between a customer and a financial institution and recovery of defaulted amounts through enforcement or sale of securities through multiple civil remedies available under the Ordinance including execution while redundancy cannot be attributed to the provisions of the statute or to the legislature.*

Authority: *Syed Mushahid Shah; Mian Ayaz Anwar (disagreed with); Articles 4, 9, 10, 10-A, 14, 23, 24 and 25 of the Constitution*

OPERATIVE ORDER

The facts of the titled and connected Petitions listed earlier establish that the financial institutions filed direct complaints before the FIA without prior determination of civil liability of 'willful default' by the Banking Court. ... Hence, the financial institutions unlawfully initiated criminal prosecution under Section 2(g) read with Section 20(7) of the Ordinance and Rule 5 of the Rules, 2018. ... As such, the assumption of jurisdiction and issuance of notices under Section 160 of the Cr.P.C. by the FIA are without jurisdiction, unlawful and of no legal effect. ... In view of the above, the titled and connected Petitions are allowed and the impugned notices are set aside.

■ **View Full Judgment**

SERVICE AND CONSTITUTIONAL LAW — CONFLICT BETWEEN THE PMDC REGULATIONS, 2025 FRAMED UNDER A FEDERAL STATUTE AND THE PUNJAB SERVICE RULES OF 1979 GOVERNING MEDICAL TEACHING POSTS — ARTICLE 143 OF THE CONSTITUTION

Dr. Syed Shah Rukh Hassan Rizvi and 10 others v. Chief Secretary, Government of the Punjab, S&GAD, Lahore and others

APPROVED FOR REPORTING

2026 LHC 8086 (W.P. No. 11429 of 2026) · Bench: Ms. Shireen Imran, J · Decided: Heard 20 October 2026 · Uploaded: 29 October 2026

FACTS

The petitioners serve as Senior Registrars and Associate Professor in teaching hospitals of Punjab. The Pakistan Medical and Dental Council notified the PMDC Regulations, 2025 on 27 February 2025 under section 47(2)(d) of the Pakistan Medical and Dental Council Act, 2022, prescribing for appointment as Assistant Professor in a clinical specialty a recognised Level-III postgraduate qualification, two years of clinical experience in the relevant subject in a recognised institution and two research publications. Regulation 1(2) provides that the Regulations apply to all future appointments and promotions while existing appointments remain unaffected. On a requisition of 22 October 2025, the Punjab Public Service Commission issued Advertisement No. 43/2025 dated 13 November 2025 for eight posts of Assistant Professor Neurosurgery (BS-18) under the initial recruitment quota, reproducing the eligibility criteria of the Punjab Specialized Healthcare and Medical Education Department (Medical & Dental Teaching Posts) Service Rules, 1979 as amended on 2 July 2021, which permit initial recruitment on specified postgraduate qualifications without expressly requiring the two years' post-qualification clinical experience or the research publications. Of 38 sanctioned posts, 19 fall in each quota and all 19 promotion posts were occupied. The PMDC supported the petitioners' construction.

LEGAL ISSUE

Whether the eligibility criteria prescribed for appointment as Assistant Professor Neurosurgery under the provincial Service Rules, 1979 can prevail over the minimum professional qualifications and experience prescribed under the PMDC Regulations, 2025 framed under a federal enactment, having regard to Article 143 of the Constitution.

HOLDING

They cannot, to the extent of the inconsistency. The PMDC Regulations, 2025 are framed under express statutory authority in section 47(2)(d) of a federal enactment and are not merely administrative recommendations but statutory regulatory requirements intended to maintain uniform minimum professional standards throughout the country. Article 143 provides that where a provincial enactment is repugnant to a federal enactment which Parliament is competent to make, the federal enactment prevails and the provincial enactment is void to the extent of the repugnancy; but the principle is subject to an actual inconsistency within the respective legislative fields, and the Court must first ascertain whether the provisions are capable of harmonious operation. A comparison here discloses a material difference, so the advertisement, to the extent it permits consideration of candidates who do not satisfy the minimum PMDC requirements, is inconsistent with the federally prescribed standards. The Punjab Government may regulate appointments to provincial posts and may supplement the PMDC requirements with additional lawful conditions, but cannot reduce or dispense with the minimum professional standards prescribed by the competent federal regulator. The contention that the 50 per cent promotion quota was violated was not substantiated.

LEGAL SIGNIFICANCE

Of direct consequence for recruitment to medical teaching posts across the Punjab, and of wider interest as a worked example of Article 143 in operation. Three propositions have general application. First, Article 143 does not mean that every federal regulation automatically supersedes every provincial service rule: the Court must identify an actual inconsistency within the respective legislative fields and ask whether compliance with one necessarily entails violation of the other. Second, where harmonious construction is not reasonably

possible, provincial service rules must be read subject to the minimum professional standards prescribed by a competent federal regulator; the provincial rules may add lawful conditions but may not subtract from the federal minimum. Third, reproducing the existing service rules in an advertisement does not establish its legality where a subsequently enforced federal regulation has not been incorporated. The judgment follows Dr. Sulman Jaffar (2016 CLC 466) and the line of authority behind it, observing that substituting the eligibility determined by the specialised federal regulator invites uncertainty, discrimination and arbitrary administrative action.

LEGAL PROPOSITIONS (VERBATIM)

— The qualifications and experience prescribed thereunder is not merely administrative recommendations but statutory regulatory requirements intended to maintain uniform minimum professional standards throughout the country.

— The principle is, however, subject to the existence of an actual inconsistency within the respective legislative fields. It does not follow that every federal regulation automatically supersedes every provincial service rule.

— The principle relevant to the present controversy is that professional eligibility standards prescribed by the competent federal regulatory authority cannot be displaced by inconsistent provincial requirements.

— Thus, the impugned advertisement, to the extent that it permits consideration of candidates who do not satisfy the minimum PMDC requirements, is inconsistent with the federally prescribed professional standards.

— The Service Rules, 1979, may supplement the PMDC requirements through additional lawful conditions but cannot reduce or dispense with the minimum professional standards prescribed by the competent federal regulatory authority.

— Therefore, the respondents were required to ensure that the advertised eligibility criteria is in consonance with those Regulations.

— The petitioners cannot claim appointment against initial recruitment vacancies merely because they are serving as Senior Registrars.

LEGAL PRINCIPLES EXPOUNDED

Before Article 143 is applied, the Court must ask whether the two sets of provisions can operate harmoniously.

Source: *The Court must ascertain whether the provisions are capable of harmonious operation or whether compliance with one necessarily entails violation of the other.*

Authority: *Article 143 of the Constitution; section 47(2)(d), Pakistan Medical and Dental Council Act, 2022*

Statutory rules and regulations are to be interpreted so as to advance the purpose of their parent enactments and avoid inconsistency where possible.

Source: *It is settled law that statutory rules and regulations must be interpreted in a manner that advances the purpose of their parent enactments and avoids inconsistency wherever possible.*

Authority: *Article 143 of the Constitution; PMDC Regulations, 2025; Punjab Specialized Healthcare and Medical Education Department (Medical & Dental Teaching Posts) Service Rules, 1979*

Provincial authority to regulate appointments cannot be exercised so as to negate minimum professional standards prescribed by a federal enactment within Parliament's competence.

Source: *The Punjab Government undoubtedly possesses authority to regulate appointments to provincial posts through its statutory service rules but such authority cannot be exercised to negate minimum professional qualifications and experience prescribed under a federal enactment within the legislative competence of Parliament.*

Authority: *Dr. Sulman Jaffar v. Government of Punjab (2016 CLC 466); Dr. Abrar Maqbool v. Government of Punjab (2004 PLC (C.S.) 373); Zulfiqar Ahmed v. Punjab Public Service Commission (1997 MLD 1925); Articles 25 and 27 of the Constitution*

OPERATIVE ORDER

For the foregoing reasons, this petition is partly allowed and the impugned Advertisement to the extent it prescribes eligibility criteria inconsistent with the PMDC Regulations, 2025, is declared to be without lawful authority and of no legal effect. Respondents Nos. 3 and 4 are directed to finalise the recruitment process, subject matter of this petition, for the post of Assistant Professor Neurosurgery on the basis of eligibility criteria contained in PMDC Regulations, 2025. It is clarified that the prescribed distribution of posts between initial recruitment and promotion shall remain

unaffected.

■ View Full Judgment

CRIMINAL PROCEDURE — WHETHER THE DEPOSIT OF DAMAN AND ARSH IN COMPLIANCE WITH THE JUDGMENT APPEALED AGAINST WAIVES THE CONVICT'S RIGHT OF APPEAL — SPECIAL RIGHT OF APPEAL UNDER SECTION 415-A CR.P.C.

Muhammad Ismail and 3 others v. The State and another

APPROVED FOR REPORTING

2026 LHC 7906 (Criminal Appeal No. 29243/2023) · Bench: Amir Ajam Malik, J · Decided: Heard 7 October 2026 · Uploaded: 27 October 2026

FACTS

The appellants, with two co-accused who were acquitted, were tried by the Additional Sessions Judge, MCTC, Daska on a private complaint under sections 324, 337-F(v), 337-F(iv), 337-A(ii), 337-A(i), 337-F(i), 337-L(2), 147, 148 and 149 PPC, arising as a cross-version from FIR No. 402/2021 dated 29 May 2021 registered at Police Station Saddar Daska, District Sialkot. By judgment dated 27 March 2023 the trial Court convicted the four appellants, directing Muhammad Ismail to pay Daman of Rs. 100,000, Javed Daman of Rs. 75,000, Yasin Daman of Rs. 50,000 and Jamshaid Arsh equivalent to five per cent of the Diyat for 2020-2021, amounting to Rs. 138,868, all payable to the injured, Iftikhar. The appellants deposited the amounts and then appealed. The Court itself formulated, by order dated 5 May 2023, the question whether, once Daman and Arsh are paid, that amounts to conceding the conviction and sentence so as to cast clouds on the maintainability of the appeal, and the Public Prosecutors pressed that objection.

LEGAL ISSUE

Whether the deposit by convicts of the amounts of Daman and Arsh awarded against them, in purported compliance with the judgment under appeal, obliterates their statutory right to impugn the conviction on the grounds of misreading and non-reading of the evidence.

HOLDING

It does not. Section 415-A Cr.P.C. provides that, notwithstanding anything in the relevant Chapter, where more persons than one are convicted in one trial and an appealable judgment or order has been passed in respect of any such person, all or any of the persons convicted at that trial shall have a right of appeal. The provision does not make the exercise of that right conditional on non-payment of Daman or Arsh, nor declare that compliance with the monetary component of a judgment extinguishes the right to challenge the conviction. The deposit of Daman or Arsh and the relinquishment of the right of appeal are distinct legal questions: the former is an act of payment in compliance with a judicial order, the latter the loss of a procedural remedy, and whether the one produces the other must be determined from the statutory scheme rather than by treating payment, admission of guilt and waiver as interchangeable. A convict may pay to secure release or avert incarceration while maintaining that the conviction is vitiated. A court ought not by mere inference to engraft an additional procedural disqualification upon a party, nor ascribe to an act a legal consequence which the statute does not warrant. The appeal was maintainable, and on the merits the prosecution case was found riddled with doubt, the benefit of which accrues to the accused as a matter of right.

LEGAL SIGNIFICANCE

Resolves a question of practical importance in the very large class of hurt cases in which convictions carry Daman or Arsh rather than imprisonment, and in which convicts routinely pay in order to avoid arrest. The judgment establishes that payment in compliance with the operative judgment is not acquiescence, and that where the conditions of section 415-A Cr.P.C. are satisfied the deposit of Daman or Arsh cannot without an independent and legally sustainable basis be treated as an automatic forfeiture of the right of appeal. The reasoning rests on a principle of general application in the construction of procedural statutes: where the legislature has itself prescribed the precise circumstances in which a statutory right may be forfeited, the

court must ascertain with strict fidelity to the statutory text whether those circumstances have arisen, and may not add a disqualification by inference. The Court follows Abdul Rasheed (2026 MLD 649) on the express language of section 415-A, places the analysis on the constitutional footing of Articles 4, 9, 10-A, 14, 25 and 227, and reaffirms the rule in Nazir Ahmad that where the law prescribes a manner for doing an act, the act must be performed in that manner and not otherwise.

LEGAL PROPOSITIONS (VERBATIM)

— The right of the appellants to challenge both conviction and sentence remains fully preserved under the express mandate of Section 415-A of the Code of Criminal Procedure.

— Equally, such an approach cannot be permitted to disregard another cardinal principle of interpretation: that a court ought not, by mere inference, to engraft an additional procedural disqualification upon a party, or to ascribe to an act a legal consequence which the governing statute does not itself warrant.

— Where the legislature has itself prescribed the precise circumstances in which a statutory right may be forfeited, it is the duty of the court to ascertain, with strict fidelity to the statutory text, whether those circumstances have in fact arisen.

— In the present context, the deposit of Daman and Arsh and the relinquishment of the right of appeal are distinct legal questions. The former is an act of payment in compliance with a judicial order; the latter entails the loss of a procedural remedy.

— Where the right of appeal is preserved by law, it cannot be treated as extinguished merely because the convict took steps to avoid arrest or incarceration, unless the applicable law attaches that consequence to the circumstances established on the record.

— A convict may deposit the amount in compliance with the operative judgment, or to secure release and avert the hardship of incarceration, while maintaining that the conviction is vitiated by misreading or non-reading of evidence. The act of payment, standing alone, does not necessarily establish an unequivocal abandonment of the appellate remedy.

— The question of maintainability must, therefore, be resolved by identifying the precise legal consequence of the payment in the circumstances of the case, rather than by treating payment, admission of guilt and waiver of appeal as interchangeable concepts.

— The payment of Daman/Arsh and the relinquishment of the right of appeal are distinct legal concepts.

LEGAL PRINCIPLES EXPOUNDED

Where several persons are convicted in one trial and an appealable judgment has been passed in respect of any of them, all or any of the co-convicts have a right of appeal.

Source: *A plain and careful reading of the foregoing provision makes it abundantly clear that where several persons stand convicted in the course of a single trial, and an appealable judgment or order has been rendered in respect of any one of them, all or any of the co-convicts are equally clothed with the right to prefer an appeal.*

Authority: *Section 415-A, Code of Criminal Procedure, 1898; Abdul Rasheed v. The State (2026 MLD 649)*

The existence of the right of appeal is distinct from the ultimate determination of the appeal on its merits.

Source: *The decision reinforces the distinction between the existence of the right of appeal and the ultimate determination of the appeal on its merits.*

Authority: *Section 415-A, Code of Criminal Procedure, 1898; Abdul Rasheed v. The State (2026 MLD 649); Articles 4, 9, 10A, 14, 25 and 227 of the Constitution*

Where the law prescribes a particular manner for doing an act, the act must be performed in that manner and not otherwise.

Source: *when law required a thing to be done in a particular manner, the same must be done accordingly and if the prescribed procedure was not followed, it would be presumed that the same had not been done in accordance with law.*

Authority: *Nazir Ahmad v. King-Emperor (AIR 1936 PC 253); Jeehand v. The State (2025 SCMR 923); Noman Mansoor v. The State (PLD 2024 SC 805); maxim Communi observantia non est recedendum*

The benefit of reasonable doubt accrues to the accused as a matter of right, not grace or concession.

Source: *Circumstance creating a reasonable doubt in a prudent mind about the guilt of accused persons would make them entitled to the benefit of the doubt not as a matter of grace and concession but as a matter of right.*

Authority: *Khalid Mehmood v. The State (2011 SCMR 664); Ayub Masih v. The State (PLD 2002 SC 1048); Amin Ali v. The State (2011 SCMR 323)*

OPERATIVE ORDER

Accordingly, this appeal is allowed. ... the appellants stand acquitted of the charges. The case property, if any, shall be disposed of in accordance with law, and the record of the learned Trial Court be remitted back forthwith.

■ **View Full Judgment**

Sindh High Court

3 judgments

NARCOTICS — PROOF OF SAFE CUSTODY AND SAFE TRANSMISSION — PER-SLAB SAMPLING WHERE CHARAS IS RECOVERED IN SEPARATE SLABS — ABSENCE OF PRIVATE WITNESSES, VIDEO RECORDING AND AN OFFICER BELOW THE PRESCRIBED RANK — CONVICTION RECORDED UNDER THE WRONG CLAUSE OF THE TABLE AS A CURABLE SLIP

Punhal son of Shahal Sarki v. The State

APPROVED FOR REPORTING

Criminal Appeal No. D-45 of 2024 (Circuit Court, Larkana; no citation assigned) · Bench: Arbab Ali Hakro and Muhammad Osman Ali Hadi, JJ · Decided: 29 October 2026 · Uploaded: 29 October 2026

FACTS

Acting on spy information, a police party reached a point near Dingri Bridge on the road to Jacobabad at 1200 hours on 15 March 2023 and found the appellant holding a black plastic shopper. He ran but was caught within about fifty paces. No private person being available, two constables were made mashirs. The shopper contained three slabs of charas, two wrapped in yellowish plastic bearing "Kharooj 2023-2024" and the third in white plastic bearing "Gumnan 2023-2024", each weighing 500 grams, totalling 1,500 grams. Half, 750 grams, was separated and sealed as a sample with the shopper, and the remaining 750 grams sealed separately. The mashirnama was prepared at the spot and the FIR registered on return to the police station about an hour and a half later. The parcels were brought under arrival entry No. 20 at 1315 hours, handed to the investigating officer at 1345 hours and deposited in the malkhana at serial No. 21 of Register No. XIX. Permission to send the sample was sought on 15 March and granted on 16 March 2023; the sample was taken out under entry No. 8 on 17 March at 0845 hours and delivered the same day under road certificate No. 53, the seals being found satisfactory. The Chemical Examiner recorded consumption of 10 grams from each piece, each testing positive for charas. The appellant was charged under section 9(1)(3)(c) read with section 6 of the Act of 1997, but the operative part of the trial Court's judgment recorded the conviction under "Section 9-3(d)".

LEGAL ISSUE

Whether the recovery of 1,500 grams of charas was proved; whether safe custody of the case property and safe transmission of the sample were established notwithstanding a discrepancy as to who carried the sealed parcels on the return journey; whether the absence of private witnesses, of a video recording and the rank of the seizing officer vitiated the conviction; and under which clause of the Table the appellant stood to be convicted.

HOLDING

The recovery and the chain of custody were proved. Safe custody is established by producing every person who handled the parcels together with the contemporaneous police record, and each link here was proved by the person who held it and supported by a document. The discrepancy as to which of the men seated in the same vehicle held the already sealed parcels during a short drive left no gap: the parcels never left the company of the raiding party, the laboratory found the seals intact and the contents matched the mashirnama, and the non-production of the constable concerned does not attract the presumption under

Article 129(g) of the Qanun-e-Shahadat Order, 1984. Section 25 of the Act excludes section 103 Cr.P.C., so the absence of private witnesses casts no doubt; the evidence of police officials is not to be discarded merely for their official status; no law required a video recording; and an objection to the rank of the seizing officer fails where the appellant was arrested on a public road, is at most an irregularity curable under section 537 Cr.P.C., and no prejudice is shown. A portion having been drawn and tested from each of the three slabs, the whole 1,500 grams is proved. The recording of the conviction under clause (d) was a slip causing no prejudice and was altered to clause (c) under section 423(1)(b) Cr.P.C.

LEGAL SIGNIFICANCE

A model treatment of the issues that decide most narcotics appeals, and useful for the discipline it imposes on both sides. Four propositions have general application. First, safe custody is proved by producing every hand that held the parcel together with its contemporaneous entry, and a discrepancy over who carried already sealed parcels on a short joint journey does not break the chain. Second, where a narcotic is recovered in separate slabs a sample must be drawn and tested from each; if that is done the whole quantity is proved, and if it is not, only the quantity sampled can be attributed to the accused. Third, the statutory exclusion of section 103 Cr.P.C. by section 25 of the Act means the absence of private witnesses is not of itself a ground of doubt, the absence of a video recording is no ground for acquittal after a full trial where recovery and custody are otherwise proved, and an objection to the rank of the officer is at most a curable irregularity absent prejudice. Fourth, a conviction recorded under the wrong clause of the Table, where the accused was charged and tried under the right one, is a curable slip to be altered rather than a ground for acquittal. The judgment also notes that the delay of some forty-five hours in reaching the laboratory fell within the seventy-two hours in rule 4 of the Government Analysts Rules, 2001, which are in any case directory.

LEGAL PROPOSITIONS (VERBATIM)

— The evidence of police officials is not to be discarded merely because of their official status. It is to be tested like that of any other witness, and where it remains consistent and no animus is shown, it can be relied upon.

— Since the Chemical Examiner's report is the evidence on which a conviction under the Act of 1997 ultimately rests, the prosecution must prove that the parcels remained in safe custody from the scene until they reached the laboratory. It discharges that burden by producing the persons who handled the parcels, namely the seizing officer, the in-charge of the malkhana and the carrier of the sample, together with the relevant police record.

— At no stage did the parcels leave the company of the raiding party or travel with anyone apart from it.

— The discrepancy leaves no gap in the chain of custody.

— Here, the sample was made up of a portion of each of the three slabs; each portion remained in its own labelled wrapper and was not mixed with the others.

— Every slab having been sampled and tested, the whole 1500 grams is proved to be charas.

— The Supreme Court has held that the absence of a video recording, by itself, does not provide a ground for acquittal after a full trial where the recovery and the chain of custody are otherwise proved.

— The Rules are, in any case, directory, and a lapse in complying with them would not, by itself, discard a prosecution case otherwise proved.

— The Chemical Examiner records that 10 grams were consumed from each piece, which tested positive for charas by the Fast Blue B salt and TLC tests.

LEGAL PRINCIPLES EXPOUNDED

The statutory exclusion of section 103 Cr.P.C. means the absence of private witnesses does not of itself cast doubt on a recovery under the Act.

Source: *Section 25 of the Act of 1997 excludes the application of section 103 Cr.P.C. to searches made under the Act, so the absence of private witnesses does not, by itself, cast doubt on the recovery.*

Authority: *Sections 6, 9, 21 and 25, Control of Narcotic Substances Act, 1997; Muhammad Hanif v. The State (2003 SCMR 1237)*

Differences of recollection on matters of detail, months after the event, do not touch the recovery, the quantity, the sealing or the identity of the substance.

Source: *These are differences of recollection on matters of detail. They do not touch the recovery, the quantity, the sealing or the identity of the substance, and they do not render the prosecution account improbable.*

Authority: *Liaquat Ali v. The State (2022 SCMR 1097); Gul Muhammad v. The State (2026 SCMR 1395)*

Action by an officer below the prescribed rank is at most an irregularity curable under section 537 Cr.P.C. where no prejudice is shown.

Source: *has held that even an arrest, seizure or investigation by an officer below the prescribed rank is, at most, an irregularity curable under Section 537 Cr.P.C. where no prejudice is shown.*

Authority: *Section 21, Control of Narcotic Substances Act, 1997; section 537, Cr.P.C.; Muhammad Akram v. The State (2007 SCMR 1671); Muhammad Hanif v. The State (2003 SCMR 1237)*

A conviction recorded under the wrong clause of the Table, the accused having been charged and tried under the right one, is a curable slip to be altered on appeal.

Source: *It has caused no prejudice to the appellant, who was charged and tried for, and defended himself against, an offence under clause (c). The finding is liable to be altered accordingly under Section 423(1)(b) Cr.P.C., the defect being curable under Section 537 Cr.P.C.*

Authority: *Section 9(1), item 3(c) of the Table, Control of Narcotic Substances Act, 1997 as substituted by Act XX of 2022; sections 423(1)(b) and 537, Cr.P.C.; Fakhar Abbas v. The State (2026 SCMR 1553)*

OPERATIVE ORDER

The appeal is, therefore, dismissed. The finding of the trial Court is altered to one of conviction under section 9(1), item 3(c) of the Table, read with section 6 of the Act of 1997, as substituted by Act XX of 2022, and the sentence of rigorous imprisonment for nine years and a fine of Rs.80,000/-, in default simple imprisonment for two months, is maintained with the benefit of section 382-B Cr.P.C. The appellant shall serve the remaining sentence in accordance with law.

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CIVIL PROCEDURE — REJECTION OF A PLAINT UNDER ORDER VII RULE 11(D) CPC ON THE GROUND OF LIMITATION — ARTICLE 113 OF THE LIMITATION ACT, 1908 AND THE DATE OF NOTICE OF REFUSAL — SCOPE OF ARTICLE 199 REVIEW OF A REVISIONAL ORDER

Abdullah Raja v. Sultan Rehman and others

APPROVED FOR REPORTING

2026 SHC KHI 2043 (C.P. No. S-794 of 2025) · Bench: Zulfiqar Ali Sangi, J · Decided: 27 October 2026 · Uploaded: 27 October 2026

FACTS

Respondent No. 1 sued for specific performance of an alleged sale agreement dated 15 September 1998, with declaration and permanent injunction, in respect of Bungalow No. 65/11/I, Street No. 15, Off Khayaban-e-Badban, Phase V, Defence Housing Authority, Karachi, measuring 484.37 square yards, pleading a consideration of Rs. 7,000,000, delivery of possession to him and the execution of special and general powers of attorney in his favour, and that the petitioner had failed to execute the requisite B-lease despite repeated requests. The suit, Civil Suit No. 842/2023, was instituted in 2023. The petitioner disputes the execution and genuineness of the agreement, asserts title under documents executed in his favour by the Pakistan Defence Officers Housing Authority, and applied under Order VII Rule 11 CPC contending that the claim was barred by Article 113 of the Limitation Act, 1908 after a lapse of some twenty-five years. The trial Court dismissed the application on 3 October 2024 on the ground that no date for performance had been stipulated and that refusal was pleaded to have occurred in 2023. The Vth Additional District and Sessions Judge, Karachi South dismissed Civil Revision No. 146/2024 on 17 February 2025, holding that limitation involved disputed questions requiring evidence. It is admitted that possession has been with respondent No. 1 since 1998, which the petitioner acknowledged in his own separate suit for recovery of possession.

LEGAL ISSUE

Whether the plaint, read as a whole and accepted on its own terms, discloses that the suit for specific performance is barred by limitation so as to attract Order VII Rule 11(d) CPC, or whether the objection

depends on disputed questions requiring determination at trial.

HOLDING

No interference was warranted. Article 113 prescribes three years for a suit for specific performance, running from the date fixed for performance or, where no such date is fixed, from the date when the plaintiff has notice that performance is refused. On an application under Order VII Rule 11 the Court ordinarily examines the plaint as a whole with the documents relied upon and cannot import disputed defences or assess evidence; but where the suit appears from the statements in the plaint to be barred by law the Court is competent and indeed obliged to examine the objection at the threshold, and the mere assertion that limitation involves mixed questions of law and fact does not preclude rejection where the bar is apparent from the plaintiff's own pleadings. Here, however, neither the date of the petitioner's letter to the PDOHA nor the lapse of twenty-five years conclusively established the commencement of limitation, and the respondent's assertion of refusal in 2023 did not conclusively establish timeliness either; the question had to be examined on the pleadings as a whole with such evidence as might lawfully be required. The admitted possession since 1998, corroborated by the petitioner's own pleadings in his separate suit, was a relevant circumstance but not conclusive. The constitutional jurisdiction being supervisory, no patent jurisdictional defect or material illegality was shown.

LEGAL SIGNIFICANCE

A balanced and quotable statement of the limits of Order VII Rule 11(d) in limitation objections, a point argued almost daily. The judgment refuses both extremes: it rejects the proposition that a long lapse of time between an agreement and a suit is by itself a ground for rejecting a plaint, and equally rejects the proposition that a bare assertion of recent refusal conclusively saves the suit. The governing inquiry is the statutory one under Article 113, namely the date fixed for performance or, failing that, the date of notice of refusal as discernible from the pleadings. Two subsidiary points are of general use. First, the Court is not merely entitled but obliged to examine a bar apparent from the plaintiff's own pleadings at the threshold, and the familiar refrain that limitation is a mixed question of law and fact is not an answer where the bar is apparent on the plaint. Second, admitted possession and an admission in a party's own pleadings in separate proceedings are relevant circumstances in assessing the nature of the transaction, but their legal effect must be assessed with the remaining pleadings and cannot conclusively determine either genuineness or limitation.

LEGAL PROPOSITIONS (VERBATIM)

— The period commences from the date fixed for performance or, where no such date is fixed, from the date when the plaintiff has notice that performance is refused.

— It is settled that, while considering an application under Order VII Rule 11, CPC, the Court is ordinarily required to examine the plaint as a whole, together with the documents relied upon by the plaintiff, and cannot determine the matter by importing disputed defences or embarking upon an assessment of evidence.

— Nevertheless, where a suit appears from the statements contained in the plaint to be barred by law, the Court is competent, and indeed obliged, to examine such objection at the threshold.

— The mere assertion that a question of limitation involves mixed questions of law and fact does not, by itself, preclude rejection of a plaint where the statutory bar is apparent from the plaintiff's own pleadings.

— The contention that the lapse of approximately twenty-five years between the execution of the alleged agreement and the institution of the suit necessarily renders the claim time-barred cannot be accepted as an independent ground for rejection of the plaint without examining the matter in the light of the statutory parameters prescribed under Article 113 of the Limitation Act, 1908.

— Conversely, the mere assertion by respondent No.1 that the petitioner refused to perform the alleged agreement in the year 2023 does not, in itself, conclusively establish that the suit was instituted within the prescribed period of limitation, particularly where the circumstances preceding such alleged refusal and the conduct of the parties are also relevant to the controversy.

— The scope of constitutional jurisdiction under Article 199 is supervisory and is not intended to provide another tier of appeal against every interlocutory order passed by a competent civil Court.

— The question of limitation must be determined with reference to the date fixed for performance or, where no such date has been stipulated, the date on which the plaintiff had notice that performance was refused, as

discernible from the pleadings and other material legally available for consideration at the relevant stage.

LEGAL PRINCIPLES EXPOUNDED

The relevant inquiry is when the plaintiff acquired notice of refusal, and whether on the pleaded facts the suit was within time.

Source: *The relevant inquiry is whether the plaint contains material averments demonstrating when respondent No.1 acquired notice of refusal to perform the alleged contract and whether, on the basis of the pleaded facts, the suit was instituted within the prescribed period.*

Authority: *Article 113, Limitation Act, 1908; Order VII Rule 11(d), Code of Civil Procedure, 1908*

Rival assertions as to the execution and genuineness of an agreement fall within the domain of the competent civil Court.

Source: *These rival assertions concern matters which fall within the domain of the competent civil Court.*

Authority: *Article 199 of the Constitution*

Interference with an interlocutory order is warranted only on defined grounds; the mere possibility of a different view is not enough.

Source: *Interference is warranted where an order suffers from want or excess of jurisdiction, material illegality, patent misreading or non-reading of the record, or an arbitrary exercise of judicial discretion resulting in a failure of justice. A mere possibility of taking a different view on the material before the Court does not, by itself, justify interference in constitutional jurisdiction.*

Authority: *Article 199 of the Constitution; section 115, Code of Civil Procedure, 1908*

An admission in a party's own pleadings in separate proceedings is a relevant circumstance, but possession alone does not determine genuineness or limitation.

Source: *Nevertheless, the factum of possession, even when considered alongside the petitioner's admission in the separate suit, cannot, by itself, conclusively determine either the genuineness of the alleged agreement or the question of limitation; rather, its legal effect must be assessed in conjunction with the remaining pleadings and the applicable law.*

Authority: *Article 113, Limitation Act, 1908; Order VII Rule 11(d), CPC*

OPERATIVE ORDER

Accordingly, the instant constitutional petition is dismissed. The orders passed by the learned Courts below are maintained. ... It is, however, clarified that the observations made herein are confined to the controversy arising out of the present constitutional petition and shall not prejudice either party at the trial of Civil Suit No.842/2023. ... There shall be no order as to costs.

■ View Full Judgment

CIVIL REVISION — LIMITS OF SECTION 115 CPC IN DISTURBING CONCURRENT FINDINGS — PROOF OF AN ORAL GIFT AND THE EVIDENTIARY EFFECT OF A MUTATION ENTRY — WHETHER AN INHERITANCE CLAIM IS EXEMPT FROM LIMITATION

Kando and others v. Ameen and others

APPROVED FOR REPORTING

2026 SHC HYD 2047 (Civil Revision Application No. 145 of 2026) · Bench: Muhammad Humayon Khan, J · Decided: Heard 21 October 2026; decided 28 October 2026 · Uploaded: 28 October 2026

FACTS

The suit concerned a 50 paisa share measuring 10-06 acres in Survey Nos. 69/1, 69/2, 70 and 71, Deh Khunjejani, Taluka and District Hyderabad. Mst. Maryam was recorded as owner of that share, and Entry No. 71 dated 29 September 1966 in VF-VII-B recorded its transfer to her son Ameen on the basis of an oral gift. The applicants, claiming through her other three sons, brought F.C. Suit No. 51 of 2021 for declaration, cancellation of Entry No. 71 and injunction, pleading that she had died on 1 June 1965 and could not have made the gift, that the entry was fraudulent and that they learned of it in 2018. The heirs of Ameen pleaded that she died on 1 June 1970, after making the gift, and that they had remained in possession. The trial Court found no valid death certificate proving the pleaded date of 1965: a certificate to that effect had been obtained on an application dated 31 August 2020 and was cancelled after inquiry, and the Union Council record showed the date of death as 1 June 1970, while PW-1 stated in examination-in-chief that she had died in 1995. The applicants' own witnesses acknowledged the exclusive possession of Ameen and his heirs and said they had not claimed the land, and PW-1 admitted that neither his father nor his uncles had challenged the gift in their lifetimes. Kando, Mitho and Muhammad Ilyas lived approximately twenty-seven, forty-four and fifty-two years respectively after the entry. The suit was dismissed on 23 July 2025 and the appeal on 23 April 2026.

LEGAL ISSUE

Whether the concurrent findings that the gift was made during Mst. Maryam's lifetime and that the suit was barred by limitation suffer from misreading or non-reading of material evidence, a material procedural irregularity, or any other error falling within the scope of section 115 CPC.

HOLDING

They do not. Section 115 permits interference where a subordinate Court has exercised a jurisdiction not vested in it, failed to exercise jurisdiction so vested, or acted illegally or with material irregularity; it does not confer a second appellate jurisdiction for a fresh appraisal of evidence, and concurrent findings may be disturbed only on material misreading or non-reading, perversity, or an illegality or material irregularity affecting the result. The pleaded date of death was not established and no specific evidence was identified which the Courts below overlooked or misread. The objection as to the framing of issues fails because Issue No. 3 directly raised whether the gift was made during her lifetime, determination of which necessarily required consideration of whether she was then alive, and both sides led evidence on the question. The submission that a mutation entry alone does not prove a gift is correct as a general proposition, but the Courts below did not rest on the entry alone; on the oral and documentary evidence they found the gift, including delivery of possession, proved. On limitation, the entry of 1966 followed by open possession constituted an overt denial of the rights now asserted; a claim described as one of inheritance is not for that reason alone exempt from limitation, Article 120 applies to a declaratory claim from the accrual of the right to sue, and section 18 postpones limitation only where fraud kept the person entitled from knowledge or a necessary document was fraudulently concealed.

LEGAL SIGNIFICANCE

A disciplined application of section 115 CPC which will be useful wherever concurrent findings on an old revenue entry are challenged. Three propositions have general application. First, the revisional jurisdiction is supervisory and not a second appeal: a party must identify the specific evidence overlooked or misread rather than invite a fresh appraisal. Second, and of real practical importance in inheritance litigation, a claim described as one of inheritance is not for that reason alone exempt from limitation; where a revenue entry is

followed by open and exclusive possession, that constitutes an overt denial of the rights asserted, and a plea of discovery decades later must satisfy section 18. The judgment aligns this with Mst. Rabia Gula (2022 SCMR 1009) and Saadat Khan (PLD 2023 SC 362). Third, while a mutation entry neither confers title nor by itself proves a gift, that proposition does not assist where the Courts below rested their finding on the oral and documentary evidence as a whole, including admissions by the challengers' own witnesses as to possession and to the absence of any challenge during the lifetimes of those through whom they claim. The treatment of the objection to the framing of issues is also instructive: a party must show what evidence it was unable to produce and how the wording caused prejudice affecting the decision.

LEGAL PROPOSITIONS (VERBATIM)

— The provision does not confer a second appellate jurisdiction for a fresh appraisal of evidence.

— Concurrent findings may be disturbed where they are shown to rest on material misreading or non-reading of evidence, perversity, or an illegality or material irregularity affecting the result.

— No specific evidence has been identified which they overlooked or misread so as to render their conclusion perverse.

— The applicants have not shown what evidence they were unable to produce or how the wording of the issue caused prejudice affecting the decision.

— The submission that a mutation entry alone does not prove a gift is correct as a general proposition. The Courts below, however, did not rest their finding on the entry alone.

— A claim described as one of inheritance is not, for that reason alone, exempt from limitation.

— In substance, the applicants seek another appraisal of the evidence on the date of death, the proof of gift and limitation. That request, without a demonstrated defect of the kind contemplated by Section 115 CPC, does not warrant interference with concurrent findings.

— The applicants have not established a revisable error in the finding that the alleged discovery in 2018 did not save the suit from limitation.

LEGAL PRINCIPLES EXPOUNDED

Section 115 CPC confers a limited supervisory jurisdiction, not a power of fresh appraisal.

Source: *Section 115 CPC empowers this Court to interfere where a subordinate Court has exercised a jurisdiction not vested in it by law, failed to exercise jurisdiction so vested, or acted illegally or with material irregularity in the exercise of its jurisdiction.*

Authority: *Section 115, Code of Civil Procedure, 1908; Haji Wajdad v. Provincial Government through Secretary, Board of Revenue, Balochistan (2020 SCMR 2046)*

Article 120 governs a declaratory claim from the accrual of the right to sue, and section 18 postpones limitation only on proof of fraud keeping the claimant from knowledge.

Source: *Article 120 of the Limitation Act, 1908, applies to a declaratory claim from the time the right to sue accrues. Section 18 postpones limitation where fraud has kept the person entitled to sue from knowledge of the right or title, or where a necessary document has been fraudulently concealed.*

Authority: *Articles 120 and section 18, Limitation Act, 1908; Mst. Rabia Gula v. Muhammad Janan (2022 SCMR 1009); Saadat Khan v. Shahid-ur-Rehman (PLD 2023 SC 362)*

Determination of an issue as framed may necessarily embrace a subsidiary question on which both sides led evidence.

Source: *Determination of that issue necessarily required consideration of whether she was alive when the gift was made. Both sides led evidence on the question.*

Authority: *Order XIV, Code of Civil Procedure, 1908*

OPERATIVE ORDER

For the forgoing reasons, the revision application is dismissed in limine. Pending application(s), if any, stand disposed of. There shall be no order as to costs.

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