



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(01-07-2025 to 15-07-2025)

An Overview of Recent Judgments of the Supreme Court of Pakistan, Sindh High Court, and Lahore High Court, Latest Legislative Amendments and Important Articles, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

NOTABLE JUDGMENTS

Sr. No.	Court	Subject	Area of Law	Page
1	Supreme Court of Pakistan	Whether the appellant, Abdul Sattar Khan, validly performed Talb-i-Muwathibat (immediate demand) under Section 13 of the Khyber Pakhtunkhwa Pre-emption Act, 1987, in order to maintain his pre-emption suit?	Pre-emption Law	5
2	Supreme Court of Pakistan	Whether the petitioners are entitled to the recovery of prospective marriage expenses from their father (respondent No.1) as part of their maintenance suit, in the absence of any confirmed arrangements or preparations for their marriages?	Family Law	6
3	Sindh High Court	Whether the petitioner Najibullah (through L.R.) was entitled to the disputed evacuee property (Premises No.B-1711/1-2, Sukkur) after cancellation of the Provisional Transfer Order (PTO) by the Settlement Authorities, particularly when he had already been allotted another property under the Displaced Persons (Compensation and Rehabilitation) Act, 1958?	Displaced Persons (Compensation and Rehabilitation) Act, 1958	7
4	Sindh High Court	Whether Shaikh Iqbal Azam Farooqui (deceased) committed the offence of <i>wilful default</i> under the National Accountability Ordinance, 1999 (NAO), thereby justifying his conviction by the Accountability Court and the imposition of criminal liability on his legal heirs?	NAO 1999	8
5		The primary issue in this case was whether the appellants, Loung, Ghulam Hussain, and Baboo, were responsible for the murder of Muhammad Ibrahim, and whether the evidence presented sufficiently supported their conviction under Sections 302, 459, 460, 337-H(ii), 337-L(ii), 504, 114 & 34 of the Pakistan Penal Code	Criminal Law	10
6		Whether the trial court's conviction of the appellant, Niaz Hussain, for the offences under Sections 452, 365-B, 496-A, and 376 PPC was justified or not.	Criminal Law	12

7		Can a mother be granted a Guardianship Certificate while the father of the minor is alive and has not been declared unfit to act as guardian?	Guardian & Wards Act, 1890	13
8		Whether the Sindh Rented Premises Ordinance, 1979 or the Cantonments Rent Restriction Act, 1963 applies to the eviction case?	Rent Law	14
9		Whether the petitioner was entitled to receive a divorce certificate in Pakistan, despite the divorce being granted abroad, and whether the Court has jurisdiction to entertain the petition under Pakistani law?	Family Law	15
10		Whether the concurrent findings of the Rent Controller and Appellate Court under Section 14 of the SRPO, 1979, justifying eviction on the grounds of default and personal need, are legally sustainable?	Rent Law	17
11		The primary issues were whether the complaint was barred by limitation and whether the decision of the Consumer Protection Court required interference?	Sindh Consumer Protection Act, 2014	18
12		Whether the decisions of the Rent Controller and the Appellate Court regarding the fixation of fair rent under Section 8 of the Sindh Rented Premises Ordinance, 1979 were sustainable, particularly with regard to the rate of Rs.150 per square foot fixed by the Rent Controller and the subsequent reduction to Rs.120 per square foot by the Appellate Court, and whether the fair rent was correctly made applicable from the date of the rent application.	Rent Law	19

13	Islamabad High Court	Whether the petitioner, Mst. Saima Bibi, is entitled to post-arrest bail after being apprehended with a large quantity of Charas, under Section 6, 9(1), 3(c) of the Control of Narcotic Substances Act, 1997, while accompanied by her minor child.	Control of Narcotic Substances Act, 1997	20
14	Islamabad High Court	Whether the reassessment order suffered from a jurisdictional defect as it was passed by the Commissioner Inland Revenue, even though the power for reassessment had been delegated to the Additional Commissioner under section 122(5A) of the Income Tax Ordinance (ITO)?	Income Tax Ordinance (ITO)	21
15	Lahore High Court, Lahore	Whether a constitutional petition under Article 199 of the Constitution is maintainable against interlocutory orders of the civil and appellate courts refusing to grant <i>ad interim</i> injunction in a pending civil suit concerning easement rights over a rooftop?	Constitutional law	23
16	<p style="text-align: center;">SELECTED ARTICLES</p> <p style="text-align: center;">Sindh's New Narcotics Law: Reform or Rights Regression?</p> <p style="text-align: center;">By [SYED SAJJAD HUSSAIN SHAH] (Assistant Sessions Judge, Karachi West Sindh)</p>			25
11	Disclaimer			27

1. SUPREME COURT OF PAKISTAN
Civil Appeal No.79-P/2016
Abdul Sattar Khan Versus Umar Ayar

Present: Justice Musarrat Hilali,
Justice Shakeel Ahmed,
Justice Ishtiaq Ibrahim

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.a_79_p_2016.pdf

Facts: Abdul Sattar Khan, the appellant, filed a suit for possession through pre-emption on 5th August 2010 concerning agricultural land in Moza Bara Durushkhela, Swat, which had been purchased by the respondent, Umar Ayar, via sale mutation No. 2372 dated 10th April 2010. The Trial Court dismissed the suit on 30th September 2011, holding that the appellant lacked a superior right of pre-emption, though it found his performance of *Talb-i-Muwathibat* (immediate demand) compliant with the law. The Appellate Court later reversed this decision and decreed the suit in favor of the appellant on 6th March 2014. However, the High Court, in a civil revision, dismissed the suit on 21st October 2016, finding that the appellant had failed to prove valid *Talb-i-Muwathibat* due to non-production of the person who informed him of the sale. This led to the present appeal before the Supreme Court.

Issue: Whether the appellant, Abdul Sattar Khan, validly performed Talb-i-Muwathibat (immediate demand) under Section 13 of the Khyber Pakhtunkhwa Pre-emption Act, 1987, in order to maintain his pre-emption suit?

Rule: Section 13 of the KPK Pre-emption Act, 1987 requires that: The first demand (Talb-i-Muwathibat) must be made immediately upon acquiring knowledge of the sale. This must be proved through credible and unimpeachable evidence, including the testimony of the person from whom the knowledge was acquired. Precedents: *Abdul Rehman v. Haji Ghazan Khan* (2007 SCMR 1491) *Subhanuddin v. Pir Ghulam* (PLD 2015 SC 69) Failure to produce the informer can be fatal to a pre-emption claim.

Application: The appellant claimed he learned of the sale on 25.07.2010 from a person named Umar and made the demand immediately in front of two witnesses (PW-2 and PW-3). However, the informer (Umar) was never produced in court nor was his absence explained. Both the Trial Court and Appellate Court accepted the appellant's claim without this crucial testimony, which amounted to a misreading of evidence.

The High Court, in revisional jurisdiction under Section 115 CPC, rightly set aside these findings, holding that the omission undermined the legal validity of Talb-i-Muwathibat.

The Supreme Court affirmed that this omission broke the evidentiary chain and failed to satisfy the mandatory statutory requirement.

Conclusion: The Supreme Court held that the appellant failed to prove a valid Talb-i-Muwathibat under Section 13 of the Act due to non-production of the informer. Therefore, the appeal was dismissed, and the High Court's decision to reject the pre-emption suit was upheld.

2

SUPREME COURT OF PAKISTAN

CPLA No.2872-L OF 2022

Naseem Mai and another Versus Malik Muhammad Shah Aalam and others

Present: **MR. JUSTICE SHAHID BILAL HASSAN**
MR. JUSTICE AAMER FAROOQ

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2872 1 2022.pdf

Facts: The petitioners, Naseem Mai and another, filed a suit for the recovery of maintenance allowance and marriage expenses against Malik Muhammad Shah Aalam (respondent No.1). They sought a maintenance allowance of Rs. 10,000 each per month along with the future maintenance allowance at the same rate. Additionally, they claimed Rs. 2,000,000 for their marriage expenses, citing that they were still bachelors and their marriages were expected to be arranged. The trial court, after hearing the case, decreed the maintenance allowance at the rate of Rs. 5,000 per month for the past and Rs. 10,000 per month from the institution of the suit, along with 10% annual increase. The court also decreed Rs. 1,000,000 for marriage expenses, to be recovered from the respondent at the time of their marriages. The respondent, aggrieved by the judgment, appealed, and the appellate court dismissed the appeal. The respondent then filed a writ petition in the Lahore High Court, which partially accepted the appeal by setting aside the claim for marriage expenses. The petitioners then filed a civil petition for leave to appeal before the Supreme Court, challenging the decision.

Issue: Whether the petitioners are entitled to the recovery of prospective marriage expenses from their father (respondent No.1) as part of their maintenance suit, in the absence of any confirmed arrangements or preparations for their marriages?

Whether the claim for marriage expenses is premature and speculative, and can be adjudicated in the present circumstances?

Rule: Under the **Family Courts Act, 1964**, claims for maintenance, dower, and other related matters can be adjudicated, but **prospective marriage expenses** are not included as an enforceable claim unless there is an immediate, definite need or refusal to contribute at the time of engagement or marriage.

Courts can only adjudicate on claims that are based on **existing rights** and **actual infringement**, not on speculative, hypothetical claims for future events that have not materialized or cannot be substantiated by concrete evidence.

Application: The petitioners filed a suit for the recovery of maintenance and marriage expenses from their father, claiming Rs. 10,000 per month for maintenance and Rs. 2,000,000 for marriage expenses. The Family Court decreed the maintenance allowance but reduced the marriage expenses to Rs. 1,000,000. The Lahore High Court partially accepted the appeal and set aside the marriage expenses claim. The petitioners then filed an appeal to the Supreme Court.

The Supreme Court analyzed the claim for marriage expenses, emphasizing that such a claim is speculative, as there was no fixed date or confirmed preparations for marriage. The Court noted that the law does not create an enforceable obligation for parents to pay future, indefinite marriage expenses, especially when the marriage is not yet arranged or confirmed.

Conclusion: The Supreme Court upheld the Lahore High Court's decision, ruling that the claim for marriage expenses is premature and speculative. The Court dismissed the petition, preserving the petitioners' right to seek appropriate legal recourse once their marriages are confirmed and actual expenses are incurred. The petition for leave to appeal was denied.

3. **SINDH HIGH COURT**

C.P. No. S – 56 of 1966

Najibullah through L.R. Muhammad Imran Mughal v. Ghous Bux & others

Present: **Honorable Mr. Muhammad Faisal Kamal Alam**

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0ODY3Y2Ztcy1kYzgZ>

Facts: Najibullah (through legal representative Muhammad Imran Mughal) challenged the cancellation of a Provisional Transfer Order (PTO) dated 09.12.1959, which initially transferred property No. B-1711/1-2, Sukkur (“Subject Property”) to him under the Displaced Persons (Compensation and Rehabilitation) Act, 1958. The PTO was later cancelled by the Deputy Settlement Commissioner on 17.09.1964 and upheld by appellate and revisional authorities. Najibullah had already received another property (B-1637/2-B), which was cited as a reason for ineligibility for the subject property. Intervenors Khalil-ur-Rehman Qadri and Muhammad Iqbal claimed to have purchased portions of the Subject Property from prior transferees.

- Issue:** Whether the petitioner Najibullah (through L.R.) was entitled to the disputed evacuee property (Premises No.B-1711/1-2, Sukkur) after cancellation of the Provisional Transfer Order (PTO) by the Settlement Authorities, particularly when he had already been allotted another property under the Displaced Persons (Compensation and Rehabilitation) Act, 1958?
- Rule:** Under the Displaced Persons (Compensation and Rehabilitation) Act, 1958, and its 1962 Ordinance amendments, the Settlement Authorities have no power of *review* over transfer orders unless based on fraud/misrepresentation. A person already allotted property is generally not entitled to a second allotment. In constitutional jurisdiction (Article 199 of the Constitution), the High Court cannot reappreciate factual findings of quasi-judicial tribunals unless there is jurisdictional error, illegality, or mala fide. Doctrine of laches bars constitutional relief where there is unexplained delay.
- Application:** The petitioner had been previously allotted Property No. B-1637/2-B (referred to as "Other Property"). He later obtained a Provisional Transfer Order (PTO) for another property (B-1711/1-2), which was cancelled by the Deputy Settlement Commissioner. The impugned cancellation orders were upheld by the Appellate and Revisional Authorities, noting the petitioner's prior allotment and ineligibility for further transfer. The Petitioner's claim of fraud and forged title documents was unsupported and contradicted by official transfer records and permanent title deeds (PTDs) issued to Respondent No.1 and Mst. Sardara Bibi. The Court noted the petition was filed after nearly six months of the last impugned order (17.07.1965), with no justification for delay, making the writ petition hit by *laches*. The High Court emphasized that the findings of fact by Settlement Authorities—such as possession, eligibility, and past allotment—could not be disturbed in writ jurisdiction absent clear legal error.
- Conclusion:** The petition was dismissed on merits and on account of *laches*. The three orders passed by the Settlement Authorities were upheld. The petitioner had no enforceable legal right, as he already received another property. No Permanent Transfer Deed (PTD) was issued to him. There was no fraud or jurisdictional error in the impugned orders.
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4. SINDH HIGH COURT

Criminal Accountability Appeal No. 14 of 2013
[Shaikh Iqbal Azam Farooqui vs. The State]

Present: Mr. Justice Omer Sial
Mr. Justice Mohammad Hassan (Akber)

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0Nzg5Y2Ztcy1kYzgz>

Facts: Shaikh Iqbal Azam Farooqui, the Managing Director of Eurasia Manufacturers Importers and Exporters (Pvt.) Ltd., obtained a loan of Rs. 3.6 million from the National Bank of Pakistan (NBP), secured by pledged stock and current assets. The company defaulted, and in 1993, the Bank obtained a civil decree for recovery but failed to enforce it for over a decade. In 2004, the Bank requested the State Bank to initiate wilful default proceedings under Section 31-D of the National Accountability Ordinance, 1999. Despite Farooqi's response explaining the default and offering the pledged goods for recovery, the matter was referred to NAB, which filed a criminal reference. Farooqi was convicted in 2013 and sentenced to seven years imprisonment and a fine of Rs. 5.187 million, but passed away in 2017. His legal heirs pursued the appeal, arguing lack of wilful intent, flawed investigation, inadmissible evidence, and discriminatory prosecution, as the Bank had failed to act on its security and presented no credible proof of deliberate default.

Issue: Whether Shaikh Iqbal Azam Farooqui (deceased) committed the offence of *wilful default* under the National Accountability Ordinance, 1999 (NAO), thereby justifying his conviction by the Accountability Court and the imposition of criminal liability on his legal heirs?

Rule: Definition of Wilful Default under Section 5(u) NAO, 1999 (formerly 5(r)): A person is guilty of wilful default if, after receiving notice, he intentionally fails to repay an amount due to a bank or financial institution.

Mens Rea Requirement: Judicial precedents (e.g., *Junaaid Asad Khan v. The State* PLD 2021 Kar 152) clarify that wilful default requires intent — mere inability to pay due to business failure or bank's inaction is insufficient.

Burden of Proof in Criminal Law: Prosecution must establish guilt beyond reasonable doubt, which is a higher standard than the preponderance of evidence used in civil cases.

Application: The loan of Rs. 3.6 million obtained by Eurasia (Farooqi's company) was secured through pledged stock and assets. The Bank failed to realize the pledged security for over a decade. Trial court's conviction was based on documents produced by unauthorized bank witnesses who were not present during the loan process and admitted to having no firsthand knowledge or authority.

Investigation flaws: NAB's investigation was procedurally flawed: no documents seized, no banking officials charged, and no proper investigation into pledged goods or the Bank's responsibility. The investigating officer admitted that pledged goods were destroyed by rain and no misappropriation was found.

The trial court relied on unauthenticated evidence, denied Farooqi a fair chance to cross-examine witnesses, and presumed wilful default based solely on civil court findings.

The High Court held that the Bank's failure to act on pledged assets, despite having sufficient security and decree, raised serious doubts.

Discriminatory treatment: thousands of similar recovery suits were pending, yet Eurasia's directors were singled out for NAB prosecution without justification, violating principles of equal protection under Article 25 of the Constitution.

The amount in question (Rs. 5.187 million) was modest compared to the State's resource expenditure in prosecuting the case, highlighting inefficiency and possible arbitrariness in referring the matter to NAB.

Conclusion: The High Court found that the prosecution failed to prove wilful intent behind the default and that serious procedural lapses occurred at both investigative and trial levels. The standard of proof required for criminal conviction was not met, and evidence presented was inadmissible or unreliable. The Court allowed the appeal, set aside the conviction, and acquitted the appellant, thereby clearing Farooqi's name and relieving his heirs of any liability

5. SINDH HIGH COURT

Loung and 02 others v/s. The State

Criminal Appeal No.S-163 of 2021

Present: **Mr Justice Riazat Ali Sahar**

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0ODQxY2Ztcy1kYzgZ>

Sindh High Court Citation (2025 SHC HYD 1839)

Facts: The case revolves around a violent attack that occurred on the night of 09.11.2014, when the complainant's household was intruded upon by four assailants, including the appellants Loung, Ghulam Hussain, and Baboo. The motive for the attack was rooted in a longstanding land dispute between the complainant's family and Loung. During the attack, Loung shot the complainant's son, Ibrahim, in the head at point-blank range, causing his death. Meanwhile, Baboo and another assailant, Liaquat, beat the complainant and his other son, Ishaque, with sticks. The assailants fled the scene after issuing threats. Despite the subsequent medical efforts to save Ibrahim, he died en route to the hospital. The complainant, after attending to funeral rites, lodged an FIR naming the accused. The appellants were arrested shortly after the crime, and the prosecution's case was supported by the testimony of eyewitnesses, medical evidence, and forensic

reports linking the crime scene to the recovered weapon. Despite challenges raised by the defense, including the delay in filing the FIR and claims of false implication due to the enmity between the parties, the court upheld the conviction based on strong, consistent evidence.

Issue: The primary issue in this case was whether the appellants, Loung, Ghulam Hussain, and Baboo, were responsible for the murder of Muhammad Ibrahim, and whether the evidence presented sufficiently supported their conviction under Sections 302, 459, 460, 337-H(ii), 337-L(ii), 504, 114 & 34 of the Pakistan Penal Code.

Rule: The appellants were convicted under various sections of the Pakistan Penal Code, including Section 302 (murder), Section 459 (house trespass with intent to cause grievous hurt), and Section 460 (house trespass with intent to commit murder). The court relied on consistent and reliable eyewitness testimony, supported by medical and forensic evidence, to establish the guilt of the appellants. Additionally, case law such as Muhammad Ijaz v. The State (Jail petition No. 206 of 2019) and Allah Bakhsh v. The State (PLD 1978 SC 171) reinforced the principle that related witnesses can provide credible testimony when the crime occurs in their presence. The court also referred to Azeem Khan & another v. Mujahid Khan (2016 SCMR 274) and Muhammad Ashraf v. State (2012 SCMR 419) to affirm that minor lapses in the investigation do not automatically undermine the prosecution's case when the core evidence is strong.

Application: The prosecution presented consistent eyewitness testimonies from the complainant (PW-1), his son (PW-2), and a guest (PW-4), who all identified the appellants as the perpetrators of the attack. The murder weapon, a 12-bore shotgun, was recovered from Loung and confirmed to be the same weapon used in the killing through ballistic evidence. Additionally, forensic and medical evidence corroborated the eyewitness accounts, confirming the fatal injury to the deceased's head and injuries to the complainant and his son. Despite the defense's arguments regarding enmity and the delay in filing the FIR, the court found that the delay was explained by the necessity of attending to the deceased and the injured, and the enmity provided a logical motive for the appellants to commit the crime. The defense's suggestions regarding fabrication and procedural flaws in the investigation were not sufficient to undermine the strong evidence presented by the prosecution.

Conclusion: The court upheld the conviction of the appellants under the relevant sections of the Pakistan Penal Code. The evidence, including reliable eyewitness testimony, medical and forensic reports, and the corroborating circumstances, was deemed sufficient to prove the guilt of the appellants beyond reasonable doubt. Consequently, the appeal was dismissed, and the conviction was upheld.

6. **SINDH HIGH COURT**

Niaz Hussain Siyal v/s. The State

Criminal Appeal No.S-106 of 2023

Present: Mr Justice Jan Ali Junejo

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0ODUxY2Ztcv1kYzgZ>
Sindh High Court Citation (2025 SHC LAR 1841)

Facts: The appellant, Niaz Hussain, was convicted for offences under Sections 452, 365-B, 496-A, and 376 of the PPC, following an FIR lodged by the complainant, Nazeer Ahmed. The complainant alleged that Niaz, along with three other unidentified accomplices, forcibly entered his house, abducted his wife, Mst. Shahida, and took her along with their minor daughter. The trial court convicted the appellant based on the victim's testimony and other evidence. However, the appellant appealed, challenging procedural irregularities and the non-consideration of exculpatory evidence, including a Constitutional Petition and Nikahnama suggesting a voluntary marriage between the victim and the appellant.

Issue: Whether the trial court's conviction of the appellant, Niaz Hussain, for the offences under Sections 452, 365-B, 496-A, and 376 PPC was justified or not.

Rule: The trial court must ensure procedural fairness by adhering to Section 540 CrPC, which allows for the summoning or recalling of witnesses if their testimony is essential for a just decision. Additionally, under Section 342 CrPC, the accused must be confronted with all incriminating evidence to provide an opportunity to explain or rebut it. The right to a fair trial is guaranteed under Article 10A of the Constitution, which includes the opportunity for the accused to fully challenge the prosecution's case. Any failure to follow these procedures can result in a miscarriage of justice.

Application: The High Court of Sindh set aside the appellant's conviction, citing procedural flaws in the trial court's handling of the case. Key issues included the trial court's failure to follow Section 540 CrPC by allowing additional witnesses without notice to the appellant, and the failure to comply with Section 342 CrPC, which requires the accused to be confronted with incriminating evidence. Additionally, the trial court overlooked crucial exculpatory evidence, including a Constitutional Petition and Nikahnama, which suggested the victim's voluntary marriage to the appellant. The court relied on *Chairman NAB v. Muhammad Usman* (PLD 2018 SC 28) to emphasize the importance of fair trial rights under Article 10A of the Constitution. As a result, the appellant's conviction was overturned.

Conclusion: The High Court of Sindh found that the trial court's conviction was flawed due to significant procedural violations, including the failure to issue notice when

summoning additional witnesses and not allowing the appellant to confront new incriminating evidence under Section 342 CrPC. Moreover, the trial court overlooked exculpatory evidence, such as the Constitutional Petition and Nikahnama, which indicated the victim's voluntary marriage with the appellant. These lapses violated the appellant's right to a fair trial under Article 10A of the Constitution. Given these procedural deficiencies and the inconsistencies in the prosecution's case, the High Court set aside the conviction and acquitted the appellant.

7. SINDH HIGH COURT

Manahil Imran & another v. Muhammad Sadiq Khurshid & another
Constitution Petition No. S-1309 of 2024.

Present: Mr. Justice Muhammad Jaffer Raza

Source: [https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0ODIzY2Ztcy1kYzg2025 SHC KHI 1832](https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0ODIzY2Ztcy1kYzg2025%20SHC%20KHI%201832)

Facts: The petitioner, Manahil Imran, filed a Guardian & Wards application seeking to be appointed as guardian of her minor daughter under Sections 7 and 10 of the Guardian & Wards Act, 1890. The Family Court allowed her request and issued a Guardianship Certificate, giving her authority over matters such as the child's domicile, CNIC, passport, and educational records, while also restricting her from removing the child from court jurisdiction without permission.

Later, the respondent father, Muhammad Sadiq Khurshid, filed his own application under Section 25 of the Act, seeking permanent custody of the child. His application was rejected, but he was granted regular visitation rights. Both parents appealed. The appellate court set aside the Guardianship Certificate (in Appeal No. 39/2024) but maintained the visitation schedule. The mother filed the present constitutional petition challenging only the revocation of the Guardianship Certificate—not the father's visitation rights.

Issue: Can a mother be granted a Guardianship Certificate while the father of the minor is alive and has not been declared unfit to act as guardian?

Rule: Under Section 7 of the Guardian & Wards Act, 1890, courts may appoint a guardian when it serves the minor's welfare. However, Section 19(b) of the same Act clearly prohibits appointing a guardian if the father is alive and has **not been declared unfit**. In such cases, the court must **first assess the father's fitness**, and only if he is found "unfit," can another person be appointed as guardian.

Relevant case law:

2021 MLD 817: A guardian may only be appointed in place of the father if the father is proven unfit.

2011 CLC 1062: The burden of proving the father is unfit lies on the applicant seeking guardianship.

Application: In this case, the Family Court granted guardianship to the mother without first assessing or declaring whether the father was unfit. No specific evidence was produced to show that the father was abusive, negligent, or incapable of caring for the child. The record showed no serious allegations made against the father, and the Family Court judgment did not contain any finding about his fitness.

The appellate court correctly noted this legal deficiency and cancelled the Guardianship Certificate. The High Court agreed, observing that under the law, the father's guardianship role cannot be excluded unless it is proven through evidence that he is unfit. The mother failed to do so. Even though the parents' relationship was strained, that by itself did not justify sidelining the father's legal rights as guardian.

The court also noted that it made sincere efforts to mediate between the parties for the child's welfare, but no compromise could be reached.

Conclusion: The constitutional petition was dismissed. The court held that since the father was alive and no finding of unfitness was made, the mother could not be granted exclusive guardianship. Therefore, the appellate court's decision to revoke the Guardianship Certificate was legally correct.

8. SINDH HIGH COURT

Constitution Petition No. S – 239 of 2025

Abdul Karim Khan v. M/s. Chevron Pakistan Limited & others

Present: Mr. Justice Muhammad Jaffer Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc1MDczY2Ztcy1kYzgZ>
2025 SHC KHI 1854

Facts: The Petitioner, Abdul Karim Khan, filed a constitutional petition challenging the judgment dated 27.02.2025 passed in First Rent Appeal No. 36/2024, which was based on the judgment 26.10.2024 in Rent Case No. 09/2024. The Petitioner had filed a rent case seeking eviction of the Respondent, M/s. Chevron Pakistan Limited, primarily on grounds of default. The Rent Controller refused to assume jurisdiction, stating that the case fell under the Cantonments Rent Restriction Act, 1963 (the "Act") and not the Sindh Rented Premises Ordinance, 1979 (the

"Ordinance"). The Petitioner challenged this decision, contending that the Ordinance applied and the lower courts erred in refusing jurisdiction.

Issues: Whether the Sindh Rented Premises Ordinance, 1979 or the Cantonments Rent Restriction Act, 1963 applies to the eviction case?

Rule: The Court relied on Section 17 of the Cantonments Rent Restriction Act, 1963, which stipulates that a landlord seeking eviction of a tenant must apply to the Cantonment Rent Controller. The law specifically applies to buildings within cantonment areas. Additionally, Section 5 of the Act ousts jurisdiction from any other court, overriding any inconsistency with other laws. The Court also reviewed the reply to the show-cause notice furnished by the Cantonment Board, which confirmed that the tenement in question was located within the jurisdiction of the cantonment and thus falls under the Act.

Application: In applying the law to the case, the Court found that the tenement was situated within the limits of the Cantonment Board Faisal, confirming that the Cantonments Rent Restriction Act, 1963 applied and not the Sindh Rented Premises Ordinance, 1979. The Petitioner's insistence on applying the Ordinance was rejected by the Court, which agreed with the lower courts' finding. The Court also referenced previous rulings, including I.S.G.A. Ltd. v. Mrs. Rift Fakhir, where it was held that matters relating to rent in cantonment areas must be adjudicated under the Cantonments Rent Restriction Act.

Conclusion: The Court concluded that the concurrent findings of the lower courts were correct and that no interference was warranted in the constitutional jurisdiction. As such, the petition was dismissed along with all pending applications, and the Court made no order as to costs.

9. SINDH HIGH COURT

Constitution Petition No. S – 254 of 2024
Zeeshan Razzak v. M/s. Cantonment Board Clifton & others

Present: Mr. Justice Muhammad Jaffer Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc1MDcxY2Ztcy1kYzgZ>
2025 SHC KHI 1853

Facts: Zeeshan Razzak, a dual national of Pakistan and the United States, married Respondent No. 3 in 2003 under the Muslim Family Law Ordinance, 1961. After living in the U.S., they divorced in Texas on 12.09.2022. Upon returning to Pakistan, Zeeshan sought a divorce certificate, but his application was rejected due

to jurisdictional issues. The respondents argued that since neither the petitioner nor Respondent No. 3 were permanent residents of Pakistan, the certificate could only be issued through Pakistan's mission abroad, as per SRO No. 1086(K)/61 and the West Pakistan Rules. Zeeshan contended that his business and tax activities in Pakistan made him eligible for the certificate locally.

Issue: Whether the petitioner was entitled to receive a divorce certificate in Pakistan, despite the divorce being granted abroad, and whether the Court has jurisdiction to entertain the petition under Pakistani law.

Rule: The case revolves around the interpretation of Rule 3(b) of the West Pakistan Rules under the Muslim Family Law Ordinance, 1961, which determines the jurisdiction for divorce applications. The rule stipulates that the jurisdiction for confirming a divorce lies with the Union Council where the wife was residing at the time of divorce or the Union Council where the person pronouncing the divorce is permanently residing. The jurisdiction of Pakistani authorities abroad is governed by SRO No. 1086(K)/61, which empowers the Ministry of External Affairs to appoint officers in Pakistan's missions abroad to discharge functions under the Ordinance.

Application: In this case, the petitioner was residing abroad at the time of the divorce, and the divorce was finalized in the United States. The petitioner applied for a divorce certificate in Pakistan, asserting that his business activities and tax payments made him subject to Pakistan's jurisdiction. However, the respondents argued that the petitioner failed to establish his permanent residency in Pakistan, and the divorce certificate could only be issued through the relevant Pakistan mission abroad, as per the provisions of the Muslim Family Law Ordinance and related rules. The Court observed that the petitioner had not established permanent residency in Pakistan, thus failing to satisfy the jurisdictional requirements under Rule 3(b) of the West Pakistan Rules. The Court agreed with the respondents' argument and noted that the jurisdiction for granting the divorce certificate rested with the Pakistan mission in the petitioner's country of residence, not the Pakistani authorities in Karachi.

Conclusion: The petition was dismissed. The Court concluded that the petitioner could not obtain a divorce certificate under the jurisdiction of Pakistani authorities due to his failure to prove permanent residency in Pakistan. Instead, the petitioner was advised to seek the divorce certificate through the appropriate Pakistani mission abroad, as per the SRO No. 1086(K)/61. The Court emphasized that this was a valid alternative remedy, ensuring no infringement of the petitioner's fundamental rights.

10. SINDH HIGH COURT

Constitution Petition No. S – 276 of 2024

**Mirza Mehboob (since deceased) through his legal heir Ahmed Ali Rauf Mirz
Versus
Mst. Najma Begum & other**

Present: Mr. Justice Muhammad Jaffer Raza

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0ODE5Y2Ztcy1kYzgZ>
2025 SHC KHI 1831

Facts: The petitioner filed this Constitution Petition challenging the judgment of the VIth Additional District Judge, Karachi Central, in First Rent Appeal No.169/2023. The appeal arose from the order of the VIth Rent Controller, Karachi Central, in Rent Case No.364/2021. Respondent No.1, a widow, filed a rent case under Section 14 of the Sindh Rented Premises Ordinance, 1979, seeking the eviction of the petitioner on the grounds of default and personal bona fide need. The petitioner, who is the tenant, contested the eviction order and appealed against the judgment, which was dismissed by the learned appellate court.

Issue: Whether the concurrent findings of the Rent Controller and Appellate Court under Section 14 of the SRPO, 1979, justifying eviction on the grounds of default and personal need, are legally sustainable?

Rule: Section 14 of the Sindh Rented Premises Ordinance, 1979, allows a landlord to seek eviction of a tenant on the grounds of personal need under specific circumstances. Section 15 pertains to default but is distinguishable from Section 14. The personal need of the landlord is required to be bona fide but does not require the same standard of proof as under Section 15.

Application: The Rent Controller and appellate court misapplied Section 14 by erroneously treating it like Section 15, which deals with defaults. The petitioner's admission of default was wrongly relied upon for eviction under Section 14. The personal need of the respondent, being a widow, was valid, but the issue of default should have been adjudicated under Section 15, not Section 14. The courts failed to appreciate the distinction between the two sections and incorrectly interpreted the grounds for eviction. Additionally, no evidence was presented by the petitioner to show that the respondent had other tenements in her possession.

Conclusion: The court dismissed the petition, as the findings of the courts below regarding the petitioner's eviction based on default were erroneous. The court found that the personal need of the respondent was valid, but the eviction should have been sought under Section 15 for default, not Section 14. No further orders were made regarding costs.

11. SINDH HIGH COURT

Miscellaneous Appeal No. 51 of 2020

Saudi Arabian Airlines Corporation v. Muhammad Ali & others

Present: **Mr. Justice Muhammad Jaffer Raza**

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc1MDY5Y2Ztcy1kYzgZ>
2025 SHC KHI 1852

Facts: The appellant, Saudi Arabian Airlines Corporation, filed an appeal against the order passed by the Consumer Protection Court in Claim Number 12/2019. The complaint was filed by Respondent No.1, who claimed damages and compensation due to the cancellation of a flight from Karachi to Jeddah. The respondent sought compensation and legal costs amounting to Rs. 405,000. The Consumer Protection Court partly allowed the claim, awarding Rs. 90,000 for economic loss, Rs. 175,000 for compensation, and Rs. 25,000 as a fine. The appellant contested the claim on grounds of limitation, stating that the claim was filed beyond the 30-day statutory period, and on merits, arguing that the evidence did not support the claim.

Rule: Under Section 29 of the Sindh Consumer Protection Act, 2014, claims must be filed within 30 days from the cause of action arising. Extensions can be allowed only for up to 60 days, provided there is sufficient cause for delay. Claims must be substantiated by evidence, and mere assumptions without evidence are not sufficient to uphold a claim.

Issue: The primary issues were whether the complaint was barred by limitation and whether the decision of the Consumer Protection Court required interference.

Application: The appellant argued that the claim was filed after the 30-day limitation period, with the cause of action arising on 28.09.2019, but the claim was filed on 06.11.2019. The court found that the cause of action arose on 14.10.2019, and the complaint was filed within the limitation period. On the merits, the appellant argued that Respondent No.1 did not substantiate his claim with adequate evidence, particularly with respect to hotel bookings and transportation receipts. The court found that the evidence presented was insufficient and that certain assumptions made by the Consumer Protection Court were unfounded.

Conclusion: The court held that the claim was timely filed and that the Consumer Protection Court's decision was not supported by sufficient evidence. The judgment of the lower court was set aside, and the appeal was allowed, dismissing the claim filed by Respondent No.1.

12. SINDH HIGH COURT

Const. P. 1080/2024

Muhammad Ali Thr. Attorney Abbas Ali (Petitioner)

VS Nazaz Ali and others (Respondent)

Present: Mr. Justice Muhammad Jaffer Raza

**Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc1MDc1Y2Ztcy1kYzgZ>
2025 SHC KHI 1855**

Facts: The landlord, Sheikh Nazaz Ali, was one of the co-owners of the “State View Building” located on I.I. Chundrigar Road, Karachi. He had filed five rent cases under Section 8 of the Sindh Rented Premises Ordinance, 1979 against various tenants—namely, Muhammad Ali, Abbas Ali, Muhammadi Snack Bar, Ramzani Bakery, and Khairabad Tea Shop—for fixation of fair rent of different commercial tenements occupied by the tenants for over 25 years. The learned Rent Controller passed orders on 20.09.2023, fixing the rent at Rs.150 per square foot, effective from the date of the rent applications. Aggrieved, the tenants filed first rent appeals, which were partly allowed by the appellate court on 21.08.2024 by reducing the rent to Rs.120 per square foot while keeping the effective date unchanged. Dissatisfied, both parties filed constitutional petitions before the High Court: the landlord sought restoration of the Rent Controller’s rate, while the tenants challenged the legality of the rent enhancement altogether.

Issue: Whether the decisions of the Rent Controller and the Appellate Court regarding the fixation of fair rent under Section 8 of the Sindh Rented Premises Ordinance, 1979 were sustainable, particularly with regard to the rate of Rs.150 per square foot fixed by the Rent Controller and the subsequent reduction to Rs.120 per square foot by the Appellate Court, and whether the fair rent was correctly made applicable from the date of the rent application.

Rule: The Supreme Court in several binding precedents, including 2018 SCMR 581 (State Life Insurance v. British Head and Footwear), has held that a landlord is not required to prove all four factors under Section 8 of the Ordinance and that proof of comparable rents in similar localities may suffice. In 2023 SCMR 1147 (Akhtar Kamran v. Pervaiz Ahmed), the apex Court observed that courts may take judicial notice of increased costs of living, taxes, repairs, and devaluation without the need for strict documentary proof. In 2009 MLD 911 (Oceanic International v. Lalazar Enterprises), the Court emphasized that judges may use their own knowledge of inflation and economic trends when fixing fair rent. Lastly, in 2010 SCMR 745 (Victor Restaurant v. State Life), the Supreme Court confirmed that fair rent should ordinarily apply from the date of filing the rent application, unless valid reasons are recorded otherwise.

Application: The Court noted that the landlord, despite not leading direct comparative rent evidence, filed an affidavit that remained largely unchallenged in cross-examination. The tenants, while admitting to operating commercial businesses in a prime commercial area (I.I. Chundrigar Road), failed to lead any rebuttal evidence regarding prevailing market rents. The Rent Controller's reliance on an estate agent's report without examining the author was found legally untenable. The Appellate Court had accordingly reduced the rent to Rs.120 per square foot, and the High Court found this reduction reasonable, striking a balance in view of the landlord's failure to prove actual rents in the vicinity. The application of fair rent from the date of filing was upheld as being in line with binding precedent.

Conclusion: The High Court dismissed all petitions and upheld the Appellate Court's decision fixing fair rent at Rs.120 per square foot, with a 10% annual increase, payable from the date of the rent application.

13. ISLAMABAD HIGH COURT

Crl. Misc No.355 of 2025

Mst. Saima Bibi alias Shama Versus The State.

Present: **Mr. Justice Sardar Muhammad Sarfraz Dogar,**
Honourable Chief Justice, Islamabad High Court.

Source: [https://mis.ihc.gov.pk/frmRdJgmnt?cseNo=Criminal%20Miscellaneous-355-2025%20%7C%20Citation%20Awaited&cseTle=Mst.%20Saima%20Bibi%20alias%20Shama%20VS%20The%20State%20etc.%20&jgs=Honourable%20Chief%20Justice%20Mr.%20Justice%20Sardar%20Muhammad%20Sarfraz%20Dogar&jgmnt=/attachments/judgements/192835/1/Crl.Misc.No.355 of 2025 638785167572360524.pdf](https://mis.ihc.gov.pk/frmRdJgmnt?cseNo=Criminal%20Miscellaneous-355-2025%20%7C%20Citation%20Awaited&cseTle=Mst.%20Saima%20Bibi%20alias%20Shama%20VS%20The%20State%20etc.%20&jgs=Honourable%20Chief%20Justice%20Mr.%20Justice%20Sardar%20Muhammad%20Sarfraz%20Dogar&jgmnt=/attachments/judgements/192835/1/Crl.Misc.No.355%20of%2025%20638785167572360524.pdf)

Facts: The petitioner, Mst. Saima Bibi, was apprehended on 21.01.2025 by a police party from the ANF while in possession of three packets of Charas, each weighing 1200 grams, for a total of 3600 grams. The recovery of the narcotics was captured on video. The petitioner was charged under Section 6, 9(1), 3(c) of the Control of Narcotic Substances Act, 1997, in FIR No.15, registered at Police Station ANF, Islamabad. Additionally, the petitioner was accompanied by her minor son during the arrest.

Issue: Whether the petitioner, Mst. Saima Bibi, is entitled to post-arrest bail after being apprehended with a large quantity of Charas, under Section 6, 9(1), 3(c) of the Control of Narcotic Substances Act, 1997, while accompanied by her minor child.

Rule: Section 497 of the Criminal Procedure Code (Cr.P.C.) governs the grant of post-arrest bail, with bail generally being disallowed for serious narcotics offenses under Section 51 of the Control of Narcotic Substances Act, 1997. The court must

also consider the risk of the accused repeating the offense, especially in drug-related cases. The court has discretion to consider special circumstances, such as the presence of a suckling baby, but this is not automatically grounds for bail.

Application: The petitioner was arrested after 3600 grams of Charas were recovered from her possession. The recovery was recorded on video. The alleged offense falls within the range of Section 9(c) of the CNSA, which mandates a minimum of nine years' imprisonment for possession of narcotics. The petitioner argued for bail on the basis of her suckling baby, relying on previous case law granting bail to women in similar circumstances. However, the court found that there was no prima facie material to suggest the petitioner was wrongfully implicated, and the narcotics were clearly linked to her. The court emphasized the responsibility of parents in preventing their children from being exposed to the consequences of their involvement in crime. The court cited previous rulings where the presence of a child was insufficient to grant bail in narcotics cases, particularly where there was a risk of re-offending.

Conclusion: The petition for bail was dismissed. The court found no merit in granting bail based on the presence of the petitioner's minor child, as the evidence against her was strong. The trial should proceed expeditiously, with special consideration given to the child's welfare during the trial process.

14.

ISLAMABAD HIGH COURT

I.T.R No. 32 of 2020

Pakistan Mobile Communications Limited (PMCL)

Vs.

The Commissioner Inland Revenue (Zone-IV) Large Taxpayers Unit, Islamabad and others.

Present: Honourable Mr. Justice Babar Sattar,
Honourable Ms. Justice Saman Rafat Imtiaz

Source: [https://mis.ihc.gov.pk/frmRdJgmnt?cseNo=Income%20Tax%20Reference-32-2020%20%7C%20Citation%20Awaited&cseTle=Pakistan%20Mobile%20Communication%20Limited,%20etc%20VS%20Commissioner%20Inland%20Revenue,%20\(Zone-IV\),%20LTU,%20etc&jgs=Honourable%20Mr.%20Justice%20Babar%20Sattar,%20Honourable%20Ms.%20Justice%20Saman%20Rafat%20Imtiaz&jgmnt=/attachments/judgements/121595/1/PMCL vs FBR- ITR 32 638852623250211640.pdf](https://mis.ihc.gov.pk/frmRdJgmnt?cseNo=Income%20Tax%20Reference-32-2020%20%7C%20Citation%20Awaited&cseTle=Pakistan%20Mobile%20Communication%20Limited,%20etc%20VS%20Commissioner%20Inland%20Revenue,%20(Zone-IV),%20LTU,%20etc&jgs=Honourable%20Mr.%20Justice%20Babar%20Sattar,%20Honourable%20Ms.%20Justice%20Saman%20Rafat%20Imtiaz&jgmnt=/attachments/judgements/121595/1/PMCL vs FBR- ITR 32 638852623250211640.pdf)

Facts: The case involves Pakistan Mobile Communications Limited (PMCL) challenging the decision of the Appellate Tribunal Inland Revenue (Tribunal) that upheld the Commissioner Inland Revenue's reassessment order. PMCL had disposed of its tower business to its wholly-owned subsidiary, Deodar, for approximately USD 940 million, recording an accounting gain of Rs. 59.3 billion. The issue revolves around whether this transaction qualifies for tax deferral under Section 97(1) of the Income Tax Ordinance, 2001, as a disposal within a wholly-owned group, and whether PMCL qualifies as an industrial undertaking for tax purposes. Additionally, the case examines the jurisdiction of the Commissioner to issue the reassessment order despite the delegation of powers to the Additional Commissioner and the application of alternative corporate tax under Section 113C of the ITO. The Court also addressed the failure of the Tribunal to pass directions on amortization and depreciation for previous tax years.

Issue: Whether the reassessment order suffered from a jurisdictional defect as it was passed by the Commissioner Inland Revenue, even though the power for reassessment had been delegated to the Additional Commissioner under section 122(5A) of the Income Tax Ordinance (ITO)?

Whether PMCL is entitled to the benefit of Section 97(1) of the ITO for the transaction involving the disposal of its tower business to Deodar, a wholly-owned subsidiary?

Whether PMCL qualifies as an industrial undertaking for purposes of Section 2(29C) of the ITO for the tax year 2018?

Whether the Tribunal erred in not passing any directions related to amortization and depreciation?

Rule: Section 122(5A) and 122(6) of the Income Tax Ordinance (ITO) govern the powers of the Commissioner and the Additional Commissioner concerning the reassessment of income.

Section 97(1) of the ITO provides tax deferral on the disposal of assets within a wholly-owned group of resident companies, requiring specific conditions, including that no gain or loss should arise from the transaction.

Section 2(29C) of the ITO defines an industrial undertaking, which must meet specific criteria for taxation purposes.

Section 113C of the ITO pertains to the application of alternative corporate tax, using accounting income as a proxy for tax liability

Application: The Court held that the delegation of powers under Section 122(5A) to the

Additional Commissioner does not strip the Commissioner of concurrent authority under Section 211(2). Thus, the reassessment order was not void, as the Commissioner can still exercise the power, as long as it has not been conclusively exercised by the delegatee (Additional Commissioner).

Regarding Section 97(1), the Court found that PMCL was not entitled to the tax deferral benefit. The transaction involved the disposal of assets at fair market value, and the declaration of accounting gain (Rs.59.3 billion) rendered the deferral provision inapplicable. Additionally, the Court determined that PMCL did not constitute a wholly-owned group with Deodar for the purposes of Section 97(4).

On the issue of PMCL qualifying as an industrial undertaking, the Court agreed with the tax department that PMCL did not meet the criteria for an industrial undertaking under Section 2(29C) for the tax year 2018. The Finance Act, 2021, clarified that telecommunication companies licensed by PTA are included, but this did not apply to PMCL for the year in question.

The Court refrained from addressing depreciation and amortization issues at length, as they were subject to future adjudication by the Commissioner.

Conclusion: The Court ruled in favor of the tax department, dismissing PMCL's claim for tax deferral under Section 97(1) of the ITO. The reassessment order passed by the Commissioner was upheld, and the appeal regarding PMCL's status as an industrial undertaking was rejected. The issue of advance tax under Section 148 was remanded to the Commissioner for further inquiry.

15. LAHORE HIGH COURT

Writ Petition No.: 42046 of 2025

Arshad Iqbal Rana v. Salman Sajjad & others

Present: Judge: Honorable Mr. Justice Malik Waqar Haider Awan

Source: <https://sys.lhc.gov.pk/appjudgments/2025LHC4850.pdf>

Facts: Arshad Iqbal Rana (petitioner) purchased *Flat No. 1, First Floor, Dastgir Arcade, Sham Nagar Chauburji, Lahore* from respondents 1–2 through registered Sale Deed No. 1870 dated 18-04-2007. The deed expressly states the sale is without ownership of the land beneath or the rooftop. On the rooftop above the third storey the petitioner installed a private water tank and solar panels. Respondents, who own the building, intend to add another storey. Petitioner claims this will encroach on his “easement” over the roof and violate the Punjab Environmental Protection Act, 1997, because no official approval was obtained. In the underlying civil suit (declaration, specific performance, permanent & mandatory injunction, or damages), the trial court on 01-07-2025 refused an *ad interim* injunction; the appellate court on 03-07-2025 upheld that refusal. Petitioner invoked Article 199,

arguing there is no efficacious alternative remedy and urging the High Court to set aside both interlocutory orders.

Issue: Whether a constitutional petition under Article 199 of the Constitution is maintainable against interlocutory orders of the civil and appellate courts refusing to grant *ad interim* injunction in a pending civil suit concerning easement rights over a rooftop?

Rule: Article 199(1)(c) of the Constitution of Pakistan confers extraordinary constitutional jurisdiction on the High Court, but it is not a substitute for ordinary remedies available under law unless no other adequate remedy exists. Order XLIII Rule 1(r) CPC provides a statutory remedy of appeal against orders granting or refusing temporary injunctions. *Ad interim* injunctions, being temporary and interlocutory, are not final orders and are generally not open to constitutional review unless they suffer from jurisdictional defect or manifest injustice.

Application: The petitioner challenged refusal of an *ad interim* injunction (not a final temporary injunction) by trial and appellate courts regarding rooftop rights and prevention of further construction. The trial court had *not* finally decided the injunction application under Order XXXIX Rules 1 & 2 CPC; only an interim relief was declined. The sale deed expressly excluded rights to the rooftop: "بغیر ملکیت زمین زیریں و چھت بالائی", negating the claim of ownership or easement. Petitioner's reliance on fundamental rights under Article 9 was held to be misplaced because such rights are subject to limitations and ownership rights of others. The Court held that easement rights (even if claimed) cannot override ownership rights and interim orders like refusal of *ad interim* injunction do not merit constitutional interference unless jurisdictional error or violation of natural justice is shown. The judgment emphasized that constitutional jurisdiction should not be invoked casually to challenge every interim order, otherwise it would open floodgates of litigation.

Conclusion: The constitutional petition was dismissed in limine as not maintainable, since: The order challenged was *interlocutory*; The regular remedy under CPC remained available; No jurisdictional defect or gross injustice was shown. Constitutional jurisdiction under Article 199 cannot be invoked to challenge interlocutory *ad interim* orders when statutory remedies are available and the matter is still sub judice before the civil court. Ownership rights take precedence over easement claims, and fundamental rights under the Constitution are not absolute but subject to legal limitations and context.

SELECTED ARTICLE

Sindh's New Narcotics Law: Reform or Rights Regression?

By [SYED SAJJAD HUSSAIN SHAH]

(Assistant Sessions Judge, Karachi West Sindh)

<https://www.academia.edu/resource/work/129492018>

Introduction:

In a landmark legislative move, the Sindh Assembly enacted the Sindh Control of Narcotic Substances Act, 2024, effectively replacing the federal Control of Narcotic Substances Act, 1997 within the province. While the new law aims to reinforce provincial autonomy and enhance legal responses to drug-related offences, it has generated serious legal debate—particularly regarding bail jurisdiction and the ouster of trial courts' authority.

This article examines the core features of the Act, its legal implications for personal liberty, and the concerns raised by the superior judiciary, while also comparing the law with narcotics legislation in other provinces of Pakistan.

A New Legal Framework for Narcotics in Sindh.

The 2024 Act mirrors much of the federal law's substance regarding the definition of offences, punishment, and procedures. However, Section 35(1) of the Sindh Act introduces a significant departure by explicitly barring the application of Sections 496 and 497 of the Cr.P.C., thereby removing the jurisdiction of Sessions Courts to entertain bail applications in cases registered under the Act.

This means that an individual arrested under the new Act, regardless of the quantity or nature of the substance involved, cannot seek bail from the trial court—a right previously available under federal law.

The Constitutional Dilemma: Access to Bail and Due Process

This legislative change has raised constitutional and procedural concerns, particularly regarding Articles 9 and 10A of the Constitution, which guarantee the right to liberty and fair trial, respectively. Without designated Special Courts as contemplated under the Act, accused persons are left without a clear statutory forum for seeking pretrial release, leading to prolonged incarceration without judicial scrutiny.

The Sindh High Court, recognizing the gravity of this lacuna, recently addressed the issue in CP No. D-2103/2025, wherein it observed:

“It is evident from a bare reading of Section 35(1) of the Sindh Control of Narcotic Substances Act, 2024, that the legislature has expressly ousted the

jurisdiction of courts below to entertain bail applications under Sections 496 and 497 of the Criminal Procedure Code, 1898. However, the constitutional right to liberty under Article 9, read with the guarantee of a fair trial under Article 10A of the Constitution of Pakistan, cannot be rendered illusory merely due to legislative silence or institutional inaction. In the absence of designated Special Courts under the said Act, this Court, in the exercise of its constitutional jurisdiction under Article 199, shall entertain petitions seeking bail, subject to satisfaction on merits. This is imperative to avoid violation of fundamental rights and to uphold the rule of law in transitional legislative phases.”

This judgment has effectively kept the door open for constitutional bail under Article 199 of the Constitution, yet it also underscores the urgent need for the government to establish Special Courts and remove ambiguity in procedural remedies.

Comparative Analysis: The Federal-Provincial Disparity

As of now, Punjab, Khyber Pakhtunkhwa, Balochistan, and Islamabad continue to operate under the federal CNSA, 1997, where trial courts retain full authority to consider bail applications. The procedural bar created by Sindh’s law has resulted in a patchwork of unequal legal protections across Pakistan—an outcome that arguably violates Article 25 of the Constitution, which guarantees equality before the law.

An accused arrested in Lahore or Quetta may approach a Sessions Court for bail, while their counterpart in Karachi must file a constitutional petition in the High Court, often after days or weeks of delay and additional legal expense.

Administrative Measures and Judicial Response

In light of mounting bail petitions and procedural hurdles, the Hon’ble Acting Chief Justice of the Sindh High Court issued a circular on 16 May 2025 directing that bail petitions under the Act may be filed with an affidavit from counsel and Vakalatnama attested by Jail Authorities, waiving the need for an affidavit from the accused person in custody. This administrative step is a practical response to the procedural burden but does not substitute the need for legislative clarity and judicial infrastructure.

The Way Forward: Legislative and Policy Recommendations
To strike a balance between effective narcotics control and constitutional safeguards, the following measures are imperative:

1. Immediate constitution of Special Courts under the 2024 Act to ensure timely adjudication and bail consideration.
2. Amendment of Section 35 to restore limited bail discretion to trial courts, especially in cases involving small quantities or non-violent offenders.
3. Inter-provincial harmonization of narcotics laws to avoid unequal access to justice across provinces.

4. Integration of rehabilitation and public health frameworks in narcotics legislation, in line with UNODC standards emphasizing treatment over punishment.

Conclusion

The Sindh Control of Narcotic Substances Act, 2024 represents a significant assertion of provincial legislative power post-18th Amendment. However, without careful procedural safeguards, it risks undermining fundamental rights and placing undue burdens on both the accused and the judiciary. A measured, rights-based approach—rooted in constitutional guarantees and practical judicial access—is vital to ensure that the fight against narcotics does not become a fight against liberty itself.

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