



# HIGH COURT OF SINDH

## Case Law Review



**Fortnightly Bench Update**



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**FORTNIGHTLY BENCH UPDATE**

**(16-12-2025 to 31-12-2025)**

An Overview of Recent Judgments of the Federal Constitutional Court of Pakistan, 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**

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# 1. FEDERAL CONSTITUTION COURT OF PAKISTAN

C.P.L.A. No. 1451-L/2024

**Parties:** Central Government through Chairman, Evacuee Trust Property Board, etc. Versus Member (Judicial-IV) Board of Revenue, Punjab, Lahore, etc.

**Present:** **Mr. Justice Syed Hasan Azhar Rizvi.**  
**Mr. Justice Muhammad Karim Khan Agha.**

**Source:** [https://www.fccp.gov.pk/Judgments/C.P.L.A.1451-L-2024\(Mr.%20Justice%20Syed%20Hasan%20Azhar%20Rizvi\).pdf](https://www.fccp.gov.pk/Judgments/C.P.L.A.1451-L-2024(Mr.%20Justice%20Syed%20Hasan%20Azhar%20Rizvi).pdf)

**Facts:** The petitioner, described as "Central Government through Chairman, Evacuee Trust Property Board," filed Writ Petition No. 14005/2020 in the Lahore High Court challenging matters related to evacuee trust property—specifically, land measuring 56 Kanals and 15 Marlas, historically used as a cremation ground for the local Hindu community and reserved for Mariyan Ahl-e-Hanud. This land was mutated in favor of the Education Department, Government of Punjab, via Mutation No. 6141 dated 28.05.1989, leading to prolonged litigation between the Evacuee Trust Property Board and the provincial department. The Lahore High Court, in its order dated 17.04.2024, declined jurisdiction, observing that the dispute was between the Central and Provincial Governments, which fell under the Supreme Court's original jurisdiction per Article 184(1) of the Constitution of the Islamic Republic of Pakistan, 1973 (at the time). The parties conceded this position. The petitioner then filed a civil petition for leave to appeal in the Supreme Court, which was transferred to the Federal Constitutional Court pursuant to the Constitution (Twenty-Seventh Amendment) Act, 2025, under Article 175E(1).

**Issues:** Whether the Lahore High Court correctly declined jurisdiction under Article 199 of the Constitution on the ground that the dispute was between two Governments (Central/Federal and Provincial), thus falling exclusively under the original jurisdiction now vested in the Federal Constitutional Court per Article 175E(1)? Whether the misdescription of the petitioner as "Central Government through Chairman, Evacuee Trust Property Board" and concessions made by counsel could divest the High Court of its jurisdiction?

**Rules:** Section 3(1) establishes the Evacuee Trust Property Board as a body corporate with perpetual succession, a common seal, and powers to acquire, hold, dispose of property, contract, and sue or be sued in its own name (Section 3(2)). Section 4(2)(s) empowers the Board to institute and defend suits and proceedings in courts. Recognizes only Federal and Provincial Governments; there is no constitutional entity termed "Central Government." Original jurisdiction for disputes between two or more Governments was under Article 184(1) (pre-27th Amendment) and is now under Article 175E(1) (post-amendment), but this does not extend to disputes involving statutory corporations. Article 199 vests High Courts with writ jurisdiction over matters not falling under such original jurisdiction. In *Pakistan Railways v. Karachi Development Authority* (2003 SCMR 563), statutory or local authorities, being separate bodies corporate with their own funds and officers, cannot be equated with the Government for purposes of Article 184(1). Misdescription of parties or concessions at the bar cannot divest a court of jurisdiction

that otherwise vests in it under the Constitution.

**Application:** The Federal Constitutional Court examined the legal status of the Evacuee Trust Property Board under the 1975 Act, concluding it is a distinct juristic entity capable of litigating in its own name, separate from the Federal Government. The real contest was between the Board and the Punjab Education Department, not between Governments, rendering the High Court's observation erroneous. The term "Central Government" is constitutionally inaccurate, and the dispute does not qualify as one between Governments under Article 175E(1). Applying the precedent from Pakistan Railways, the Court held that statutory corporations like the Board are not simpliciter the Federal Government. Furthermore, the misdescription in the memo of parties and any concessions by counsel could not oust the High Court's jurisdiction under Article 199, as jurisdiction is determined by law, not party descriptions or agreements.

**Conclusion** The petition was converted into an appeal and allowed. The impugned order dated 17.04.2024 was set aside, and the case was remanded to the Lahore High Court for fresh adjudication in accordance with law, preferably within three months from receipt of the order. The order is not approved for reporting.

## **2. FEDERAL CONSTITUTION COURT OF PAKISTAN**

C.P.L.A. Nos. 962, 963 and 964 of 2023

**Parties:** Riaz Hussain, through Legal Representatives versus Chairman Federal Land Commissioner Etc.

**Present:** **Mr. Justice Aamer Farooq,**  
**Mr. Justice Rozi Khan Barrech**

**Source:** [https://www.fccp.gov.pk/Judgments/CPLA%20Nos.%20962,%20963%20and%20964%20of%202023\(Mr.%20Justice%20Rozi%20Khan%20Barrech\).pdf](https://www.fccp.gov.pk/Judgments/CPLA%20Nos.%20962,%20963%20and%20964%20of%202023(Mr.%20Justice%20Rozi%20Khan%20Barrech).pdf)

**Facts:** Karam Ali, predecessor of petitioner Riaz Hussain, was declared a land declarant under land reform laws. By order dated 12.10.1977, his holding was determined at 12,691.260 Produce Index Units (PIUs), with 4,819 PIUs excess and resumed in village Karak Muhammada. This was challenged through appeals and revisions, ultimately dismissed by the Supreme Court on 06.12.1986, affirming the 1977 order. Despite this finality, Karam Ali filed another revision in 2010 without disclosing prior litigation, which was allowed by the Chairman Federal Land Commission on 07.02.2011, restoring the land. Private respondents (allottees/purchasers of the resumed land) challenged this via writ petitions in Lahore High Court: W.P. No. 26860/2021, W.P. No. 27943/2019, and W.P. No. 23118/2011 (with CMAs under Section 12(2) CPC to set aside dismissals as withdrawn based on alleged unauthorized compromises). The High Court, by judgment dated 24.11.2022, accepted the writs and CMAs, setting aside the 2011 order. The petitioner sought leave to appeal this judgment in the Federal Constitutional Court. The petitions were heard ex parte as no one appeared for the petitioner.

**Issues:** Whether the Chairman Federal Land Commission's order dated 07.02.2011 was valid,



given the Supreme Court's prior final decision in 1986, and in violation of Article 189 of the Constitution? Whether the writ petitions were barred by laches due to delay in filing? Whether the High Court correctly allowed applications under Section 12(2) CPC to set aside dismissals of W.P. No. 23118/2011 as withdrawn based on compromises? Whether leave to appeal should be granted against the High Court's judgment? **Rules: Article 189 of the Constitution (1973):** Decisions of the Supreme Court (and now Federal Constitutional Court post-27th Amendment) on questions of law or principles are binding on all other courts and authorities in Pakistan. Subordinate authorities cannot reopen or re-adjudicate matters finally decided by the apex court. **Article 190:** All executive and judicial authorities must act in aid of the Federal Constitutional Court and Supreme Court. **Principle of Res Judicata:** Once a matter is conclusively adjudicated, it cannot be relitigated to maintain judicial integrity and finality. **Void Orders and Limitation:** No period of limitation runs against void orders (e.g., those issued without jurisdiction or in violation of binding precedents). **Section 12(2) CPC:** Allows setting aside orders obtained by fraud, misrepresentation, or without jurisdiction. A wakalatnama (power of attorney) authorizes an advocate to appear and act but does not inherently permit compromises without explicit client consent. **Scope of Leave to Appeal:** Under Article 185(3) (now transferred to Federal Constitutional Court), leave is granted only if there is a substantial question of law, jurisdictional error, or manifest injustice. Findings of fact by High Courts are not reassessed unless patently improbable or against evidence. **Laches in Writ Petitions:** High Courts may entertain delayed petitions on merits if involving void orders or fundamental rights, especially where no statutory limitation applies.

**Application:** The Court held that the 2011 order violated Article 189, as it reopened a matter finally settled by the Supreme Court in 1986 without disclosure of prior litigation, rendering it void ab initio. Thus, no laches barred the writ petitions, as limitation does not apply to void orders. On the CMAs under Section 12(2) CPC, the High Court correctly found the withdrawals unauthorized, as the advocate lacked explicit power to compromise, especially since some petitioners had died or not consented, indicating misrepresentation. The High Court's judgment was well-reasoned, supported by record, and free of errors warranting interference. No grounds for leave to appeal were established, especially as the petitions were heard ex parte.

**Conclusion:** The civil petitions for leave to appeal were dismissed for lack of merit. Leave refused. Approved for reporting.

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### 3. SUPREME COURT OF PAKISTAN

Civil Appeals No. 106-K to 111-K & 650-K of 2024

**Parties:** The Province of Sindh through Chief Secretary and others Versus Azhar Ali (C.A. 106-K/24), Nadir Ali (C.A. 107-K/24), Sikandar Ali (C.A. 108-K/24), Imtiaz Ali (C.A. 109-K/24), Nadeem Abbas (C.A. 110-K/24), Khalid Ahmed (C.A. 111-K/24), Nadeem Solangi (C.P. 650-K/24)

**Present:** Mr. Justice Muhammad Ali Mazhar.



**Mr. Justice Athar Minallah.**  
**Mr. Justice Salahuddin Panhwar**

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.a. 106 k 2024.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.a. 106 k 2024.pdf)

- Facts:** The respondents are legal heirs of deceased, invalidated, or incapacitated civil servants of the Government of Sindh. They sought employment under the deceased quota provided in Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974. The Sindh High Court, in several constitutional petitions, directed the Government to issue appointment letters to the respondents. The Government of Sindh challenged these orders before the Supreme Court, arguing that the respondents had applied **beyond the two-year limitation period** prescribed in Rule 11-A and that the rule itself had later been declared unconstitutional by the Supreme Court in *General Post Office v. Muhammad Jalal* (PLD 2024 SC 1276).
- Issues:** Whether the High Court erred in granting relief under Rule 11-A despite alleged non-compliance with the two-year limitation period. Whether the later Supreme Court judgment striking down Rule 11-A could invalidate High Court orders passed prior to that judgment. Whether Rule 11-A, being a beneficial provision, could be interpreted liberally to protect the rights of minor children of deceased civil servants.
- Rules:** Rule 11-A, Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974. Provides employment to a child or spouse of a deceased/invalidated/incapacitated civil servant, subject to applying within two years. Doctrine of Beneficial Interpretation. Doctrine of Prospective Operation of Judgments. Article 189, Constitution of Pakistan (binding effect of Supreme Court judgments)
- Application:** The Supreme Court held that Rule 11-A was a beneficial provision meant to protect families of deceased or incapacitated civil servants. Where children were minors at the time of death and the widow was not accommodated, denying employment later would defeat the spirit of the rule. The Court further ruled that: The Sindh High Court correctly applied a liberal and purposive interpretation of Rule 11-A. The judgment in *General Post Office v. Muhammad Jalal*, which struck down Rule 11-A, operates prospectively. Past and closed transactions cannot be reopened merely because the law was subsequently changed. Thus, High Court orders passed before the Supreme Court's later judgment were legally protected and could not be set aside.
- Conclusion:** The Supreme Court found no illegality or perversity in the impugned High Court orders. Civil Appeals No. 106-K to 111-K of 2024 were dismissed. C.P.L.A. No. 650-K of 2024 was dismissed and leave refused. The High Court's directions granting employment under Rule 11-A remained valid.
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#### 4. SINDH HIGH COURT

State through Deputy / Additional Attorney General, Karachi v. The Learned Special Court (Offences in Banks), Karachi & others  
Criminal Revision Application No. 35 of 2022 (With MA No. 2172 of 2022)

**Present:** Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Syed Fiaz Ul Hassan Shah

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzAwMDA5Y2Ztcy1kYzgZ>  
2025 SHC KHI 3553

**Facts:** The present Criminal Revision Application was filed by the State through the Deputy/Additional Attorney General, Karachi, challenging the order dated 30.11.2021 passed by the learned Special Judge (Offences in Banks), Sindh at Karachi. The impugned order arose from FIR No. 31 of 2021 registered under Sections 3 and 4 of the Anti-Money Laundering Act, 2010 at Police Station FIA Crime Circle, Hyderabad. The matter originated from FIR No. 17 of 2021 registered under Sections 34, 409, 420, 471 and 109 PPC against officials of Habib Bank Limited, including Agriculture Finance Officers and branch management. During investigation, it was revealed that the accused, acting in collusion, had embezzled approximately PKR 21.4 million through forged, fraudulent, and unauthorized transactions in Agricultural Finance (ARF) accounts, issuance of disputed cheque books, routing of funds without justification, and renewal of ARF facilities without informing account holders. The misappropriated amount was withdrawn in cash and disposed of jointly by the accused. Based on these findings, a separate FIR under the Anti-Money Laundering Act was registered. However, the learned trial court held that proceedings under Section 3 AMLA punishable under Section 4 could only be initiated through a complaint before the competent court and not through registration of an FIR under Section 154 Cr.P.C. The FIR was declared void and ordered to be returned, prompting the present revision.

**Issue:** Whether offences under the Anti-Money Laundering Act, 2010 are cognizable and mandatorily require registration of an FIR; whether the term “complaint” used in Section 21(2) AMLA denotes a private complaint under Section 200 Cr.P.C.; whether the bar against second FIRs applies to money laundering proceedings; and whether the Special Court (Offences in Banks) possessed jurisdiction to entertain AMLA offences independently.

**Rule:** Sections 3, 4, 7, 20 and 21 of the Anti-Money Laundering Act, 2010, particularly after amendment declaring AMLA offences cognizable and non-bailable, govern the initiation and prosecution of money laundering offences. Explanation II to Section 3 AMLA dispenses with the requirement of prior conviction for the predicate offence. Section 39 AMLA gives overriding effect to the Act over inconsistent laws. Procedural provisions of the Code of Criminal Procedure, including Sections 154, 157, 173 and 190 Cr.P.C., apply insofar as they are not inconsistent with AMLA. The settled principle is that a special statute overrides general law. Judicial precedents including *Justice Qazi Faez Isa v. President of Pakistan* (PLD 2021 SC 1), *Sugra Bibi v. State* (PLD 2018 SC 595 – distinguished), *Muhammad Abbasi v. SHO* (PLD 2010 SC 969), and *Nur Ellahi v. The State* (PLD 1966 SC 708) clarify the distinction between FIR-based prosecutions and private complaints, and the autonomy of special statutory regimes.

**Application:** Applying these principles, the High Court held that AMLA establishes a distinct and autonomous offence of money laundering, separate from the predicate offence, requiring independent investigation and prosecution. Since AMLA offences are cognizable, registration of an FIR under Section 154 Cr.P.C. is mandatory where information discloses the commission of such offence.

The Court ruled that the word “complaint” in Section 21(2) AMLA does not mean a private complaint under Section 200 Cr.P.C.; rather, it refers to a statutory complaint or report filed by an authorized investigating agency after investigation, akin to a police challan under Section 173 Cr.P.C. Treating it as a private complaint would defeat the legislative intent and undermine the statutory investigation framework of AMLA.

It was further held that the doctrine barring second FIRs does not apply to AMLA cases, as money laundering is a distinct offence and not part of the same transaction as the predicate offence. The Court also clarified that Special Courts constituted under the Offences in Respect of Banks (Special Courts) Ordinance, 1984 do not have independent jurisdiction over standalone AMLA offences; however, where the predicate offence is triable by such court, AMLA charges may be tried incidentally to avoid multiplicity of proceedings.

**Conclusion:** The High Court concluded that the learned trial court misapplied the law by equating the AMLA concept of “complaint” with a private complaint under the Cr.P.C. and by declaring the FIR void. It was held that AMLA offences are cognizable, require registration of a separate FIR, and must proceed through investigation and submission of challan by an authorized agency. The bar against second FIRs is inapplicable to money laundering offences. Accordingly, the Criminal Revision Application was allowed, the impugned order dated 30.11.2021 was set aside, and the trial court was directed to proceed in accordance with law.

## 5. SINDH HIGH COURT

First Appeal No. 10 of 2025, in the High Court of Sindh, Karachi

**Parties:** Zarai Taraqati Bank Limited (ZTBL), versus Ms. Mahjabeen Rabbani

**Present:** Justice Muhammad Faisal Kamal  
Justice. Sana Akram Minhas.

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjk4ODMxY2Ztcv1kYzgZ>  
2025 SHC KHI 3530

**Facts:** The appellant bank disbursed a finance facility of Rs. 499,000 to the respondent for establishing a milk shop. The respondent, a widow whose husband passed away in 2017, initially repaid Rs. 21,803 toward the principal. She later deposited Rs. 480,000 with the Nazir of the Banking Court on March 7, 2024. The markup claimed by the bank was Rs. 211,153, of which Rs. 77,000 had been paid (updated from an initial Rs. 43,000), leaving a remaining markup of Rs. 134,153. The bank filed a suit for recovery, and the Banking Court awarded cost of funds from the date of institution of the suit. The respondent's house property (Plot No. D-1, Sheet No. 1, Sector 10, Arshi Mohallah, Orangi Township, Karachi, measuring 85 square yards) was mortgaged as security. The respondent's application for markup waiver was pending with the bank. The court noted this as a

hardship case and involved the Additional Attorney General to explore assistance from Bait-ul-Mal. A worksheet filed by the bank showed cost of funds at Rs. 532,231, which included disallowed items like professional fees (Rs. 60,000) and suit costs.

- Issues:** Whether the cost of funds should be awarded from the date of default (as claimed by the appellant under Section 3 of the Financial Institutions (Recovery of Finances) Ordinance, 2001) rather than from the date of institution of the suit, as decided by the Banking Court. N. Whether the remaining markup (Rs. 134,153) could be waived, considering the respondent's hardship as a widow from a humble background. Accuracy of the bank's calculation of cost of funds, including the inclusion of professional fees and suit costs. Whether financial assistance from Bait-ul-Mal could cover the cost of funds to relieve the respondent's liability and secure her mortgaged property.
- Rule:** **Section 3 of the Financial Institutions (Recovery of Finances) Ordinance, 2001:** Provides for recovery of finances, including cost of funds from the date of default. **Pakistan Bait-ul-Mal Act, 1991, Section 4-A:** Allows extension of financial help to deserving individuals, such as widows, for humanitarian purposes. General banking and court procedures regarding waiver of markup in hardship cases, recalculation of dues, and release of mortgaged property upon discharge of liability.
- Application:** The court heard arguments from both parties and the Additional Attorney General. It waived the remaining markup of Rs. 134,153 entirely, citing the respondent's hardship and the bank's limited offer of only a 25% rebate on lump-sum payment. The court disallowed Rs. 60,000 in professional fees and miscellaneous charges, directing these to be borne by the bank. The deposited amount of Rs. 480,000 (plus any accrued profits) was to be withdrawn by the bank within two days as full discharge of the respondent's liability. Property documents were to be released to the respondent within 10 days thereafter. The cost of funds component (initially claimed at Rs. 532,231 but requiring recalculation for accuracy) was directed to be paid by Bait-ul-Mal under Section 4-A of the 1991 Act, with representatives from the bank and Bait-ul-Mal to reconcile figures within two weeks. The Additional Attorney General was tasked with coordination. The court emphasized that this was a unique hardship case and not to be cited as precedent.
- Conclusion:** The appeal was disposed of with no order as to costs, along with all pending applications. The respondent's full liability was discharged upon the specified actions, with her property secured and no further payments required from her. The bank's interests were protected through Bait-ul-Mal's payment of recalculated cost of funds.
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## 6. SINDH HIGH COURT

High Court Appeal No. 434 of 2003, in the High Court of Sindh at Karachi.

**Parties:** Trading Corporation of Pakistan (Pvt) Ltd (TCP) versus Agri Impex Trading Company Ltd, represented by Mr. Ghulam Murtaza, Advocate.

**Present:** Justice Muhammad Faisal Kamal Alam  
Justice Sana Akram Minhas.

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjk5NzM5Y2Ztcy1kYzgZ>  
2025 SHC KHI 3544, 2025 SHC KHI 3545, 2025 SHC KHI 3551

- Facts:** The Rice Export Corporation of Pakistan (merged into TCP in 2001) entered into a contract dated 11.8.1994 with the Respondent for the supply of 150,000 metric tons of Pakistan long grain Irri-6 Sindh White Rice (15/20% broken) at USD 182.50 per metric ton FOB, with shipment to be completed by 23.1.1995. The Respondent provided a 2% security deposit. TCP supplied only 114,572.95 metric tons, leaving a shortfall of 35,427.05 metric tons. After correspondence, the Respondent invoked arbitration. Arbitrators unanimously awarded USD 1,035,072.12 as price differential damages for the unshipped balance and USD 139,975.64 as liquidated damages for delays in two partial shipments (6,407.70 metric tons delayed by 11 days and 12,000 metric tons by 90 days). The Respondent's prayer clause was amended post-evidence to include price differential damages, but no additional evidence was allowed. A Single Judge upheld the award as a Rule of Court/Decree in Suit No.215/1999 on 20.10.2003. TCP appealed.
- Issues** Whether the Respondent bore and discharged the burden of proving actual loss from the shortfall in rice supply to justify an award of damages. Whether liquidated damages could be awarded in the absence of any contractual provision authorizing such relief for the buyer. Whether the belated amendment to the prayer clause (introducing a new claim for price differential damages after evidence closed) was valid, especially without allowing additional evidence or framing a new issue, and whether this constituted arbitral misconduct. Whether the arbitral award and the Single Judge's judgment were legally sustainable given the lack of evidence, contractual basis, and errors apparent on the record.
- Rules:** **Arbitration Act, 1940 (Section 26-A):** Arbitrators must state reasons in sufficient detail; courts can review awards for errors of law, inconsistency with evidence, or misconduct, and may set aside or remit awards. **Contract Act, 1872 (Section 73):** Compensation for breach requires proof of actual loss naturally arising or foreseeable; mere breach or admission does not suffice without evidence like replacement contracts or payment receipts. **Contract Act, 1872 (Section 74):** Liquidated damages or penalties can only be claimed if expressly stipulated in the contract; even then, reasonable compensation not exceeding the stipulated sum requires proof of loss.
- Application:** The court held that the Respondent failed to plead or prove actual loss, producing no evidence of replacement purchases, payments, or financial detriment; reliance on TCP's admission of shortfall was insufficient, as breach alone does not establish compensable loss. No contractual clause allowed liquidated damages for the buyer, rendering the award of USD 139,975.64 illegal and constituting misconduct by importing unauthorized terms. The post-evidence amendment introducing price differential damages (USD 1,035,072.12) without additional evidence, issue framing, or opportunity to respond violated procedural fairness and expediency rationale. The Single Judge misread the record by assuming post-amendment evidence and erred in distinguishing precedents like *Aslam Saeed*. TCP's conduct (e.g., its arbitrator's inconsistency with prior awards) undermined its case but did not validate the unlawful award. Errors apparent on the award's face justified intervention.
- Conclusion:** The appeal was allowed, setting aside the arbitral award dated 24.12.1998 and the Single

Judge's judgment/decree dated 20.10.2003 in Suit No.215/1999. Each party to bear its own costs. Records remitted back. Copy of decision to TCP Chairman.

**7. SINDH HIGH COURT**

Constitutional Petition No.D-1179 of 2022

Hadi Younus Dada and others versus Sindh Building Control Authority and others

Abdul Aziz Essa versus The Deputy Commissioner Karachi East and others

Constitutional Petition No. D-5670 of 2021

**Present:** Mr. Justice Yusuf Ali Sayeed

Mr. Justice Abdul Hamid Bhurgri

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjk5MTk1Y2Ztcy1kYzgZ>  
2025 SHC KHI 3536 2025 SHC KHI 3537

**Facts:** The petitioners in C.P. No. D-1179 of 2022 and C.P. No. D-5670 of 2021 challenged the revised layout plan of *Andaleeb Cooperative Housing Society*, which was approved on 09.12.2019 by the Master Plan Department. The petitioners claimed that under the original master plan approved on 23.09.2008, they were allotted 600 square yards plots, but the revised plan abolished this category, thereby violating their vested and proprietary rights. They further alleged that the Annual General Meeting (AGM) convened for revising the plan was illegal, objections were ignored, the Society's title was disputed in pending civil suits, and additional commercial plots were created in violation of the Karachi Building and Town Planning Regulations, 2002. The respondents denied these claims, contending that no final allotment existed in favour of the petitioners, that due process was followed, and that the petitions were barred by laches, estoppel, disputed questions of fact, and the availability of an alternate statutory remedy under the Sindh Cooperative Societies Act, 2020.

**Issue:** (i) Whether the petitioners had any vested or enforceable legal rights in respect of 600 square yards plots that could be protected under Article 199 of the Constitution?

(ii) Whether the revised layout plan of the Society could be challenged in constitutional jurisdiction despite the availability of an alternate statutory remedy, disputed questions of fact, and delay?

**Rule:** The Court applied the principles that constitutional jurisdiction under Article 199 cannot be invoked where no vested or enforceable right is established, where disputed questions of fact require evidence, or where an efficacious alternate remedy exists. Under Articles 113 and 114 of the Qanun-e-Shahadat Order, 1984, a person who knowingly abstains from objecting or participating in a lawful process is estopped from later challenging its

outcome. The Sindh Cooperative Societies Act, 2020, particularly Sections 73 and 116, provides a complete mechanism for adjudication of disputes between societies and their members and bars the grant of injunctions by civil or constitutional courts. Additionally, the doctrine of laches disentitles a litigant from relief where there is unexplained delay and third-party rights have intervened.

**Application:** Applying these principles, the Court found that the petitioners failed to establish any vested or proprietary right, as no final allotment letters or identifiable plot numbers were produced; the documents relied upon showed only provisional or proposed allocations. The AGM for revising the layout plan was convened after due notice, and the petitioners admittedly chose not to attend or effectively pursue objections, thereby attracting the doctrine of estoppel. The Court further held that the grievances raised were factual and contractual in nature, involving internal affairs of a cooperative society and disputed questions of fact, which could not be adjudicated in constitutional jurisdiction. The availability of an alternate and efficacious remedy before the Cooperative Court under the Sindh Cooperative Societies Act, 2020 rendered the petitions non-maintainable. Moreover, the petitions were filed after an unexplained delay of over two years from approval of the revised plan, during which third-party rights had been created, attracting the doctrine of laches.

**Conclusion:** The Court concluded that the petitioners were not “aggrieved persons” within the meaning of Article 199, as they possessed no vested or enforceable rights in the subject property. The petitions were held to be barred by laches, estoppel, availability of an alternate statutory remedy, and involvement of disputed questions of fact. Consequently, without expressing any opinion on the legality or validity of the revised layout plan itself, both constitutional petitions were dismissed as not maintainable.

## 8. SINDH HIGH COURT

### **H.M Motors versus Federation of Pakistan & others**

- A- Constitutional Petition No.D- 4910 of 2025  
Constitutional Petition No.D- 7798 of 2022  
Constitutional Petition No.D-2301 of 2025  
Constitutional Petition No.D-329 of 2024
- B- Constitutional Petition No.D-4727 of 2025  
Constitutional Petition No.D-4379 of 2025  
Constitutional Petition No.D-2619 of 2025  
Constitutional Petition No.D-328 of 2025



C- Constitutional Petition No.D-329 of 2024  
 Constitutional Petition No.D-4342 of 2018  
 Constitutional Petition No.D-6022 of 2023  
 Constitutional Petition No.D-5708 of 2024

D- Constitutional Petition No.D-5191 of 2025

Directorate of Intelligence and Investigation Inland Revenue Karachi  
 Versus M/s Agha Steel Industries Limited and others  
 High Court Appeal No. 268 of 2019  
 High Court Appeal No. 269 of 2019

**Present:** Mr. Justice Adnan Iqbal Chaudhry  
 Mr. Justice Muhammad Jaffer Raza

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzAwMTUxY2Ztcy1kYzgZ>  
 2025 SHC KHI 3555

**Facts:** The petitioners were registered persons under the Sales Tax Act, 1990 and taxpayers under the Income Tax Ordinance, 2001. They challenged surprise searches and seizures conducted at their business premises by tax authorities purportedly under Section 38 of the Sales Tax Act, 1990 and Section 175 of the Income Tax Ordinance, 2001. During these searches, officials seized business records, books, and computer hardware. The petitioners alleged that the searches were conducted without lawful authority, without valid warrants, or without any pending proceedings, rendering them unconstitutional and illegal. The matters were grouped into four categories (A–D) based on whether warrants were obtained, whether proceedings were pending, and whether reasons were recorded. Two High Court Appeals arising from a similar legal controversy were also heard alongside the petitions.

**Issue:** (i) Whether surprise searches and seizures conducted by tax authorities under Section 38 of the Sales Tax Act, 1990 and Section 175 of the Income Tax Ordinance, 2001 are lawful in the absence of search warrants, pending proceedings, or recorded reasons?

ii) Whether material obtained through such searches can lawfully be retained or used for determining tax liability?

**Rule:** The Court reaffirmed the legal principles settled in Team A-Ventures (Pvt.) Ltd. and A & Z Agro Industries. Under the Sales Tax Act, powers under Section 38 are not independent and must be exercised in conjunction with Section 40, which requires a judicially sanctioned warrant; moreover, warrants can only be issued where proceedings under the Act are already pending and the search is not a fishing inquiry. Any search conducted without satisfying these conditions is unlawful, and evidence obtained is liable

to be excluded under the doctrine of “fruit of the poisonous tree,” subject to limited exceptions. Under the Income Tax Ordinance, Section 175 may only be invoked where a specific provision of the Ordinance is sought to be enforced, proceedings are pending against the taxpayer, and reasons for the search are expressly recorded in the authorization to prevent arbitrary or abusive exercise of power.

**Application:** Applying these principles, the Court found that cases falling under Categories A, B, and C involved searches conducted either without warrants, without initiation of proceedings, or without recorded reasons, rendering such searches unlawful. Consequently, the authorizations and searches in those cases were declared illegal, the seized material was ordered to be returned, and the tax authorities were restrained from using such material as evidence for determining tax liability, except where recognized exceptions applied. In contrast, cases falling under Category D involved searches where proceedings were pending and reasons were duly recorded, thereby fulfilling statutory requirements; hence, those petitions were dismissed. Regarding High Court Appeals Nos. 268 and 269 of 2019, the Court held that the impugned order of the learned single judge was fully aligned with the settled law and required no interference. An additional challenge to a posting order under Section 40-B of the Sales Tax Act also failed, as the appellants could not demonstrate any legal infirmity.

**Conclusion:** The Court concluded that tax authorities must strictly comply with statutory safeguards while exercising search and seizure powers, failing which such actions are unconstitutional and void. Petitions falling within Categories A, B, and C were allowed with consequential relief of return of seized material and exclusion of unlawfully obtained evidence, while Category D petitions were dismissed as lawful searches. Both High Court Appeals were dismissed, thereby affirming the settled legal position that search powers under tax laws are circumscribed, conditional, and subject to judicial scrutiny to prevent abuse.

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## 9. SINDH HIGH COURT

Constitutional Petition No.D-5902 of 2025

M/s. Hoora Pharma (ltd) versus Pakistan through Secretary Ministry of finance and others

**Present:** Mr. Justice Adnan Iqbal Chaudhry  
Mr. Justice Muhammad Jaffer Raza

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzAwMzkyY2Ztcy1kYzgZ>  
2025 SHC KHI 3573  
2025 SHC KHI 3574

- Facts:** The petitioner, M/s. Hooraa Pharma (Pvt.) Ltd., is an importer and distributor of surgical sutures. Historically, sutures imported by the petitioner were classified under PCT 9938, attracting zero customs duty and exemption from sales tax. In December 2024, the Directorate of Intelligence & Investigation (Customs) objected to this classification, asserting that sutures fall under PCT 3006.1090, which, while also subject to zero customs duty, does not carry a complete sales tax exemption. Consequently, for the subject consignment imported through Goods Declaration dated 01.08.2025, the petitioner itself classified the goods under PCT 3006.1090 and claimed reduced sales tax at 1% under the Eighth Schedule, contending that sutures qualify as “drugs” under the Drugs Act, 1976. This claim was rejected by the assessing officer, whose assessment was upheld by this Court in earlier constitutional proceedings. Subsequently, the petitioner applied for amendment of the Goods Declaration to revert classification to PCT 9938 and sought provisional release of goods pending appeal. These applications were declined, leading to the present petition.
- Issue:** Whether, after an assessment for home consumption has been finalized under section 80 of the Customs Act, 1969 and unsuccessfully challenged, an importer is entitled to amend the Goods Declaration to change tariff classification under section 29 of the Customs Act and Rule 434 of the Customs Rules, 2001, and whether such amendment could justify provisional release of goods?
- Rule:** The Court applied section 29 of the Customs Act, 1969, which bars amendment of a Goods Declaration relating to value, quantity, or description once the goods have been assessed or assigned a Customs Reference Number, except as provided under section 88. Section 205 of the Act permits amendment of documents at the discretion of customs authorities, but expressly excludes cases governed by section 29. Rule 434 of the Customs Rules, 2001 further restricts amendment of import declarations once checking has commenced, allowing only cancellation of a Goods Declaration in limited circumstances warranting filing of a fresh declaration, subject to discretion of senior customs authorities. The law does not permit amendment merely to revisit classification after a finalized assessment.
- Application:** Applying these provisions, the Court observed that the subject Goods Declaration had been assessed for home consumption as early as 27.08.2025. That assessment was unsuccessfully challenged by the petitioner through constitutional proceedings, thereby attaining finality. Consequently, the declaration had crossed the statutory stage at which amendment is permissible. Section 205 could not be invoked as it stands excluded where section 29 applies. The Court further held that proviso (iii) to Rule 434(1) does not permit amendment but only cancellation of a Goods Declaration where circumstances beyond the importer’s control necessitate filing a fresh declaration, which was not the case here. The petitioner had consciously elected to classify the goods under PCT 3006.1090 due to an ongoing dispute over PCT 9938, and the attempt to amend the declaration was found

to be solely aimed at securing provisional release rather than correcting any genuine error. Such use of amendment provisions was held to be impermissible under the statutory framework.

**Conclusion:** The Court concluded that the petitioner's applications for amendment of the Goods Declaration were barred by section 29 of the Customs Act, 1969 and Rule 434 of the Customs Rules, 2001. Since the assessment had already attained finality and no statutory basis existed for amendment or provisional release, the constitutional petition was held to be devoid of merit and was accordingly dismissed.

## 10. SINDH HIGH COURT

Rabnawaz Khuhro & Dhani Bux v/s. The State  
Cr. Accountability Appeal Nos. D-21 of 2017 & D-23 of 2017

**Present:** Mr Justice Amjad Ali Bohio and Mr Justice Khalid Hussain Shahani

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzAwMjg0Y2Ztcy1kYzgz>  
[Sindh High Court Citation \(2025 SHC SUK 3559\) \(2025 SHC SUK 3560\)](#)

**Facts:** The appellants, Dhani Bux and his brother Rabnawaz, were convicted by the Accountability Court, Sukkur in Reference No.08/2015 under section 10 of the National Accountability Ordinance, 1999 on the allegation that Dhani Bux, after his appointment as Senior Auditor in the Federal Board of Revenue in 1999, accumulated assets disproportionate to his known sources of income by purchasing agricultural land, a residential flat, and other properties in his own name as well as in the names of his father Ameer Bux and brother Rabnawaz. The prosecution alleged that these assets were acquired through corrupt practices and concealed through benami arrangements, supported by bank deposits and alleged undervaluation of properties. Both accused denied the charges, asserting that the properties were acquired through legitimate sources including salary, agricultural income, loans, and independent income of the father and brother, and challenged the legality of the investigation, valuation, and prosecution evidence.

**Issue:** Whether the conviction of Dhani Bux and Rabnawaz under section 10 of the National Accountability Ordinance, 1999 for possessing assets disproportionate to their known sources of income, along with the recovery and forfeiture order, could be sustained in law in view of alleged procedural illegality in the investigation, defective valuation of assets, and improper appreciation of defense evidence, and whether the burden under section 14(c) NAO was lawfully discharged by the accused.

**Rule:** Under section 10 NAO, the prosecution must first establish through lawful and reliable evidence that the accused accumulated assets beyond known sources of income. Section 14(c) NAO shifts the burden to the accused only after a valid prima facie case is made

out by the prosecution. Settled principles of criminal law require that an investigation must be duly authorized, valuations must be conducted by competent authorities following prescribed procedures, and conviction must be based on proof beyond reasonable doubt, free from misreading or non-reading of evidence.

**Application:** The High Court, after examining the entire record, held that the prosecution case was fundamentally flawed because the investigation itself was conducted prior to lawful authorization, rendering the evidence collected therein legally suspect. The Court found that the allegation of disproportionate assets rested almost entirely on arbitrary and non-scientific valuations, as the prosecution witnesses admitted that they did not follow the Board of Revenue valuation tables, failed to consult competent authorities such as the Sub-Registrar or KDA, relied on hearsay from local estate agents, and in some instances did not even measure the properties; this was further exposed by glaring inconsistencies where the same land was valued differently in the same year. The Court observed that bank evidence did not establish the source of deposits, much of the documentary material was only photocopied, and the complainants were admittedly interested and embroiled in prior disputes with the accused, seriously undermining their credibility. In contrast, the accused produced documentary evidence explaining the assets through salary, allowances, prize bond winnings, bank loans, agricultural income, and, in the case of Rabnawaz, substantial sugarcane income supported by official sugar mill records and tax returns, which the trial court ignored through misreading and non-reading of evidence. The Court further noted that the father of the accused had independent sources of income, no legal heir challenged the gift deed, and the reliance on lifestyle indicators such as private school fees was insufficient to establish corruption, leading to the conclusion that the prosecution failed to prove its case beyond reasonable doubt and that the burden under section 14(c) NAO stood duly discharged.

**Conclusion:** The High Court held that the prosecution failed to prove the charge beyond reasonable doubt due to illegal investigation, arbitrary valuation, unreliable witnesses, and misreading and non-reading of material evidence. The accused had adequately explained their assets through known sources of income, thereby discharging the burden under section 14(c) NAO. The appeals were allowed, the conviction and recovery order were set aside, and the appellants were acquitted. The ratio decidendi of the judgment is that a conviction under section 10 NAO cannot be sustained where the prosecution's case is founded on an unauthorized investigation and speculative valuation, and where the accused provides a reasonable and documented explanation of assets. Observations regarding gradual acquisition of property, ordinary lifestyle, and absence of family disputes over the gift deed were treated as obiter dicta.

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11. **SINDH HIGH COURT**  
Akbar Hussain Afridi & another v/s. The State  
Special Cr. Appeal No. D-41 of 2024

**Present:** **Mr Justice Amjad Ali Bohio and Mr Justice Khalid Hussain Shahani**

**Source:** [https://caselaw.shc.gov.pk/caselaw/view-file/MzAwMTAzY2Ztcy1kYzgZSindh High Court Citation \(2025 SHC LAR 3554\)](https://caselaw.shc.gov.pk/caselaw/view-file/MzAwMTAzY2Ztcy1kYzgZSindh%20High%20Court%20Citation%20(2025%20SHC%20LAR%203554))

**Facts:** The prosecution case was that on 01.01.2023, excise officials at a check post near Arore University, Rohri, stopped an oil tanker allegedly driven by Akbar Hussain with Sirajuddin as cleaner, and upon searching a wooden cavity behind the driver's seat, recovered 100 kilograms of charas packed in plastic packets. Both appellants were arrested on the spot, the charas was sealed, samples were sent for chemical analysis, and an FIR was registered at Excise Police Station Rohri Circle under section 9(3)(e) of the Control of Narcotic Substances Act, 1997. After trial, the appellants were convicted and sentenced to life imprisonment with fine, which conviction was challenged before the High Court on the ground that the recovery was false and the case was fabricated.

**Issue:** Whether the conviction of the appellants under section 9(3)(e) of the Control of Narcotic Substances Act, 1997, for alleged possession and trafficking of 100 kilograms of charas, was sustainable in law when serious doubts existed regarding the manner of recovery, the place and time of arrest, safe custody and transmission of the case property, and denial of a fair trial.

**Rule:** The Court reiterated that in cases under the CNSA, despite the gravity of the offence and severity of punishment, the prosecution must prove its case beyond reasonable doubt. Any reasonable doubt must be resolved in favour of the accused. The prosecution is required to establish an unbroken chain of custody of the recovered contraband and safe transmission of samples to the chemical examiner. Evidence produced through modern devices is admissible under Article 164 of the Qanun-e-Shahadat, and failure to follow Supreme Court guidance on transparency in search and seizure may weaken the prosecution case.

**Application:** On appraisal of the record, the Court found that the prosecution case rested only on two excise officials, one of whom was also the complainant, investigating officer and malkhana incharge, requiring strict scrutiny and independent corroboration which was absent. The alleged recovery was shown to have taken place at a busy public place, yet no private witness was associated, and no video recording or photographs were made despite availability of mobile phones. A material discrepancy emerged when only 88 kilograms of charas were produced before the trial court against the claimed recovery of 100 kilograms, and this shortfall remained unexplained, breaking the chain of custody. The malkhana record and road certificate did not clearly show the time of deposit and dispatch, while the chemical examiner received the sample on the following day without any explanation of interim custody, rendering the chemical report unreliable. The prosecution also failed to examine a material witness who allegedly prepared the memo of arrest and recovery, further weakening the evidentiary foundation. In contrast, the defence produced tracker data and independent witnesses supporting the plea that the appellants were apprehended earlier from a different location, contradicting the prosecution timeline. The trial court's delay in deciding applications for summoning CCTV footage and official tracker records was held to have frustrated the appellants' right to a fair trial. Collectively, these circumstances created serious and reasonable doubt

in the prosecution case.

**Conclusion:** The High Court held that the prosecution failed to prove the charge beyond reasonable doubt. By applying the settled principle that benefit of doubt must go to the accused, the Court allowed the appeal, set aside the conviction and sentence, and acquitted the appellants. The legal basis for acquittal constituted the ratio decidendi, while the Court's general observations regarding recording of recoveries, treatment of electronic evidence, and trial court duties were in the nature of obiter dicta.

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## 12. SINDH HIGH COURT

M/S Soofi and Sons vs Memon Motors (Pvt.) Ltd  
1st Appeals No.17 and 18 of 2021

**Present:** Mr. Justice Jawad Akbar Sarwana

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjk5MDUzY2Ztcy1kYzgZ>

**SHC Citation:** 2025 SHC HYD 3534

**Facts:** Memon Motors (Pvt.) Ltd. filed two summary suits under Order XXXVII CPC against M/s Soofi and Sons through Muhammad Junaid and Muhammad Imran Patel on two cheques of Rs.25 million each issued by Muhammad Imran Patel in 2018 and 2019, both dishonoured on presentation. The defendants failed to file leave to defend within time, so the trial court passed ex parte decrees. In appeal, they claimed Muhammad Imran Patel was merely a guarantor and a stranger to Soofi and Sons, that the cheques were obtained under duress, that an eight-day delay deserved condonation, and that a separate civil suit for declaration and accounts defeated the summary suits.

**Issue:** Whether the appellants disclosed any substantial defence to justify leave to defend in summary proceedings, and whether Muhammad Imran Patel could deny liability by asserting he had no nexus with M/s Soofi and Sons despite issuing the cheques.

**Rule:** Summary suits under Order XXXVII CPC are special proceedings requiring timely leave to defend based on a substantial and bona fide defence. Special law prevails over general law, so summary proceedings based on dishonoured cheques cannot be defeated by a separate civil suit. A person acting with apparent authority for a business concern and issuing cheques on its behalf cannot later deny such nexus, and pleas not raised before the trial court cannot be taken in appeal.

**Analysis:** The Court held that both appellants acted together as proprietors of Soofi and Sons, even describing themselves as such in their own civil suit, which confirmed that the cheques were issued on behalf of the firm. No application for condonation of delay was filed, so the ex parte decrees were justified. The pending civil suit could not operate as a defence



in special summary proceedings, and the plea that Muhammad Imran Patel was a stranger did not inspire confidence.

**Conclusion:** The Sindh High Court dismissed both appeals and upheld the decrees, holding that the appellants were not entitled to leave to defend, that Muhammad Imran Patel was liable for the dishonoured cheques as having acted on behalf of M/s Soofi and Sons, and that the pendency of a separate civil suit could not bar or dilute the summary proceedings.

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**13. SINDH HIGH COURT**  
CR. BAIL APPLICATION NO.1515 OF 2025  
Muhammad Asadullah Rana Versus The State

**Present:** JUSTICE MUHAMMAD HASAN (AKBER)  
**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjk5NTc1Y2Ztcy1kYzgZ>  
2025 SHC KHI 3543

**Facts:** The case arises out of Crime No.730/2024 registered at Police Station Saeedabad, Karachi, in which the applicant, Muhammad Asadullah Rana, was accused of abducting a girl alleged to be about 15 years of age with the intent to compel her into marriage and commit illicit acts, attracting section 365-B PPC read with the Child Marriage Restraint Act, 2013. It was alleged that the applicant knowingly contracted marriage with the alleged abductee despite her minority, and she was recovered from the applicant's family after a period of more than three months. The applicant's plea for pre-arrest bail was earlier declined by the learned Additional Sessions Judge, Karachi West. During proceedings before the High Court, the alleged abductee and complainant appeared in person; documentary material including the Nikahnama, Free-Will affidavit, and statement under section 164 Cr.PC revealed conflicting versions regarding her age, while it was also disclosed that a family suit for dissolution of marriage by way of khula was pending before the Family Court.

**Issue:** Whether the applicant was entitled to pre-arrest bail in a case registered under section 365-B PPC read with section 3(2) of the Child Marriage Restraint Act, 2013, particularly where the alleged abductee's age was disputed and the prosecution material showed inconsistencies requiring further inquiry.?

**Rule:** Section 365-B PPC criminalizes abduction or kidnapping of a woman with intent to compel marriage and generally attracts the prohibitory clause of section 497 Cr.PC. However, under section 497(2) Cr.PC, bail may be granted if the case calls for further inquiry. Section 4 of the Child Marriage Restraint Act, 2013 prescribes a maximum punishment of three years, which does not fall within the prohibitory clause. At the bail

stage, the Court is required to conduct only a tentative assessment without delving into the merits of the case.

**Analysis:** The Court heard the alleged abductee in person and examined the Nikahnama, the Free-Will affidavit, and her statement recorded under section 164 Cr.PC. These documents reflected different ages of the alleged abductee, creating serious doubt regarding the prosecution's claim of minority. The Court also noted that the alleged abductee had lived for more than three months at the applicant's house along with his entire family, without any immediate allegation of force or coercion. There was no conclusive material showing that the applicant or his family had definite knowledge of her age at the time of marriage. The pendency of a family suit for dissolution of marriage by way of khula further indicated that the dispute had civil and personal dimensions. On a tentative appraisal of the available material, the Court found that the allegations under section 365-B PPC and the allied provisions required further inquiry, while the offence under the Child Marriage Restraint Act did not attract the prohibitory clause of section 497 Cr.PC. The Court expressly clarified that its observations were tentative and would not prejudice the trial.

**Conclusion:** The High Court allowed the pre-arrest bail application and confirmed the earlier interim bail order.

#### 14. LAHORE HIGH COURT

C.R No.178/2018, Lahore High Court, Bahawalpur Bench.

**Parties:** Rana Muhammad Iqbal versus Rao Khalil-ur-Rehman etc

**Present:** Mr. Justice Anwaar Hussain,

**Source:** <https://sys.lhc.gov.pk/appjudgments/2025LHC8107.pdf>  
2025LHC8107

**Facts:** The dispute involves plot No.386, Block-E in the Government Employees Cooperative Housing Society Limited, Bahawalpur, allotted to Muhammad Irshad Ali (deceased). His legal heirs (respondents 1-6) filed a declaratory suit claiming entitlement to transfer as heirs. The petitioner (brother-in-law of deceased) claimed the deceased sold the plot to him, executing a General Power of Attorney (GPA) dated 06.02.1995, agreement to sell dated 29.03.1995, and nomination dated 17.09.1995. Petitioner sought transfer under Section 27 of the Co-operative Societies Act, 1925 via application under Section 54, which Deputy Registrar (respondent 7) allowed on 06.05.2009. Trial Court decreed the suit in favor of heirs on 07.06.2016; Appellate Court upheld it on 17.01.2018. Petitioner filed civil revision.

**Issues:** Whether an unchallenged order under Section 54 of the Act binds Civil Courts and precludes examining validity of alleged agreement to sell. Scope of Section 54, especially

its proviso for disputes involving complicated questions of law and fact. Legal effect of nomination under Section 27 – whether it confers proprietary rights against heirs or merely facilitates administrative transfer.

**Rules:** **Co-operative Societies Act, 1925, Section 54:** Mandates referral of disputes touching society's business to Registrar; proviso allows suspension if complicated questions of law/fact, requiring regular suit. **Section 27:** Allows society to transfer deceased member's share to nominee or heir; nominee must distribute among heirs; protects society from claims if acting in good faith. **Oaths Act, 1873, Section 9:** No party compelled to take special oath offered by other; refusal not adverse. Precedents emphasize nomination under Section 27 is administrative, not vesting absolute title overriding heirs; Registrar's orders not conclusive if bypassing proviso.

**Application:** The court analyzed Sections 54 and 27: Section 54's proviso requires suspension for complex disputes needing evidence (e.g., validity of sale, payment proof). Deputy Registrar erred in not suspending, wrongly relying on unproven agreement to sell and GPA (not transferring title), and improperly using oath refusal adversely. Order dated 06.05.2009 not binding on Civil Courts for title determination. Nomination under Section 27 administrative, not conferring ownership against heirs. Discrepancies in dates (GPA before agreement/nomination) and lack of witnesses'/payment proof undermine petitioner's claim. Concurrent findings upheld as no misreading.

**Conclusion:** Civil revision dismissed without costs; judgments of lower courts upheld. Approved for reporting.

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## SELECTED ARTICLES

### **Silent Suffering: Why Corporal Punishment Still Haunts Pakistani Children!?**

**Imran ul Haq Agha**

Senior Civil Judge & Assistant Sessions Judge, Malir Karachi

<https://academia.edu/resource/work/145845292>

The article, titled "Silent Suffering: Why Corporal Punishment Still Haunts Pakistani Children!?" by Imran ul Haq Agha, explores the persistent issue of corporal punishment in Pakistan, particularly in homes, schools, and religious institutions. It defines corporal punishment as physical force or humiliating treatment intended to discipline children, encompassing actions like slapping, beating, verbal abuse, and threats, which cause both physical and psychological harm. The author highlights its historical acceptance rooted in traditional social norms, outdated educational practices, and misinterpreted religious teachings, emphasizing its detrimental effects on children's self-esteem, mental health, and relationships with adults. The paper underscores the

importance of addressing this for child rights and societal justice, aiming to review laws, enforcement challenges, and pathways to non-violent alternatives.

Legally, Pakistan's Constitution protects dignity and prohibits degrading treatment, extending to children, while specific laws like the Sindh Prohibition of Corporal Punishment Act, 2016, and Islamabad Capital Territory Rules, 2022, ban such practices in various settings with penalties for violations. The Pakistan Penal Code addresses assault, though past justifications under Section 89 have been curtailed by modern child protection frameworks. Internationally, Pakistan's commitment to the UN Convention on the Rights of the Child obligates it to prevent violence against children. However, enforcement faces significant hurdles, including weak implementation due to resource shortages, underreporting from fear and lack of awareness, cultural impunity, and limited accountability. The article also details forms of punishment—physical, emotional, and degrading—and societal factors like traditional attitudes, inadequate teacher training, religious misconceptions, and media portrayals that perpetuate the practice.

Drawing lessons from countries like Sweden and Germany that have successfully banned corporal punishment through education and support systems, the author recommends strengthening enforcement with inspections and penalties, promoting positive discipline via training for parents and educators, and launching awareness campaigns for stakeholders. It calls for media to advocate child rights and legal refinements to close loopholes. In conclusion, the paper asserts that while legal progress exists, true eradication requires cultural shifts toward respect and non-violence to foster healthier child development and a humane society, supported by references from legal, psychological, and international sources.

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