



HIGH COURT OF SINDH

Case Law Review



Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(01-08-2025 to 15-08-2025)

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

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16	Sindh High Court	The core issue in this civil revision petition is whether the Appellate Court's judgment dated 15.01.2018, which allowed the respondents' appeal and dismissed the applicant's pre-emption suit (Haq-e-Shuffa) by setting aside the Trial Court's decree dated 07.11.2016, suffers from material irregularity or jurisdictional error under Section 115 CPC. Sub-issues include: (1) whether the Appellate Court complied with the mandatory requirements of Order XLI Rule 31 CPC by properly framing points for determination, deciding them, and providing reasons; (2) whether the applicant's right of pre-emption was lost by acquiescence or compromise under Section 229 of Muhammadan Law due to a joint statement filed during the suit; and (3) whether the Appellate Court erred in holding that the applicant failed to prove the requisite Talbs (Talb-e-Muwasibat and Talb-e-Ishhad) and discharged her burden under Articles 117 and 118 of the Qanun-e-Shahadat Order, 1984.	Civil Law	28
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19		Whether the petitioner, Abdul Ghaffar Khaskheli, a retired bailiff with 37 years of service in the District Judiciary, is entitled to immediate release of his pension, leave encashment (LPR), and other pensionary benefits, which were withheld by the respondents due to alleged deficiencies in his service record verification, particularly a 1996 domicile and Permanent Residence Certificate (PRC) describing him as "jobless," and whether such withholding violates his rights under the Sindh Civil Servants Act, 1973, and Sindh Judicial Staff Service Rules, 1994	Sindh Civil Servants Act, 1973, and Sindh Judicial Staff Service Rules, 1994	33
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21	Sindh High Court	Whether the appellant's conviction in the second trial of 2024 could be sustained despite unexplained delay in FIR, contradictions in witness testimony, non-production of medical evidence, and procedural irregularities affecting the right to fair trial.	Criminal Law	37
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22	<p align="center">SELECTED ARTICLES</p> <p align="center">1. THE ROLE OF TAX EVASION AND TAX FRAUD IN FUELING CONOMIC STABILITY</p> <p align="center">By Dr. Ambreen Aslam District and Sessions Judge, Ex-Judicial Member Appellate Tribunal Inland Revenue, Visiting Faculty Sindh Judicial Academy Karachi, Pakistan. ambreenaslam8@gmail.com</p>	38
23	<p align="center">2. TOOL FOR CURTAILING FRIVOLOUS LITIGATION AND PROMOTING EXPEDITIOUS JUSTICE.</p> <p align="center">By. Sheeraz Ahmed (Senior Civil Judge)</p>	39
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1. SUPREME COURT OF PAKISTAN

Civil Petition No.2768-L of 2022 (Against the judgment dated 24.01.2022 passed by the Punjab Service Tribunal, Lahore in Appeal No.1698/2018)

Malik Muhammad Ramzan Versus Commissioner Sargodha Division etc

Present: Justice Musarrat Hilali,
Justice Aqeel Ahmed Abbasi,
Justice Miangul Hassan Aurangzeb

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 2768 1 2022.pdf

Facts: Malik Muhammad Ramzan, a civil servant, was dismissed from service on 29.02.2016 by the District Coordination Officer, Mianwali under the PEEDA Act, 2006 on charges of fraud and embezzlement by allegedly altering cheque amounts after obtaining signatures from authorities. His departmental appeal and revision were rejected, and the Punjab Service Tribunal dismissed his service appeal on 24.01.2022. Ramzan contended before the Supreme Court that he was never served a show cause notice, no regular inquiry was conducted, and he was in custody from 19.01.2016 to 30.06.2016 during the alleged inquiry period. He also highlighted that the inquiry officer, who was also the complainant in the connected criminal case (in which he was acquitted), was biased. The respondents maintained that notices were served and due process followed, but could produce no proof of such service.

Issue: Whether the imposition of the major penalty of dismissal from service upon the petitioner under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (“PEEDA Act, 2006”)—without serving a show cause notice, conducting a regular inquiry, or providing the petitioner an opportunity of being heard—was lawful, valid, and sustainable in view of the principles of natural justice and relevant statutory provisions?

Rule: Article 212(3) of the Constitution of Pakistan, 1973, confers appellate jurisdiction to the Supreme Court over service matters decided by the Service Tribunals. The PEEDA Act, 2006, under Sections 9 and 10, mandates the proper service of a show-cause notice, conduct of a regular inquiry in cases involving major penalties, and the provision of an opportunity for defence and personal hearing for the accused civil servant. Section 24-A of the General Clauses Act further obliges administrative authorities to act fairly and justly, aligning with the principles of natural justice, particularly the rule of audi alteram partem (hear the other side). Case law such as *Naseeb Khan v. Divisional Superintendent, Pakistan Railways* (2008 SCMR 1369), *Pakistan International Airlines Corp. v. Ms. Shaista Naheed* (2004 SCMR 316), *Inspector General of Police, Karachi v. Shafqat Mehmood* (2003 SCMR 2007), *Raja Muhammad Shahid v. IGP & others* (2023 SCMR 1135), and *Federation of Pakistan v. Zahid Malik* (2023 SCMR 603) emphasizes that a major penalty, such as dismissal

from service, cannot be imposed without due process, which includes issuing a show-cause notice, conducting a regular inquiry, confronting the accused with allegations and evidence, and granting an opportunity for defence.

Application: In this case, the petitioner denied all allegations of fraud and embezzlement, claiming that no show-cause notice was served, and no inquiry was conducted. He argued that he was in custody during the purported inquiry period (19.01.2016–30.06.2016) and thus unable to attend the proceedings. Furthermore, he pointed out the bias of the inquiry officer, who was also the complainant in the criminal case related to the same allegations, and highlighted his acquittal in the criminal case. On the other hand, the respondents contended that the petitioner was served with notices and given an opportunity to be heard, asserting that acquittal in a criminal case does not automatically affect departmental proceedings, and claimed that procedural requirements were met. The Supreme Court found that no documentary evidence was produced to show that any show-cause notice was served to the petitioner. The petitioner’s claim of being in jail during the inquiry period remained unrefuted. The inquiry officer admitted that no inquiry was conducted, and no notices were issued. Additionally, the cheques allegedly altered were not proven to have been authored by the petitioner, nor were they verified by a handwriting expert. The Court also found that the inquiry officer, who was also the complainant, had a conflict of interest. The Court concluded that the departmental proceedings violated Sections 9 and 10 of the PEEDA Act, 2006, and the principles of natural justice, establishing that dismissal without due inquiry is illegal.

Conclusion: The Supreme Court held that the dismissal order was unlawful as it was based on a defective process without following mandatory procedural requirements. The petition was allowed, the Tribunal’s judgment was set aside, and the petitioner was ordered to be reinstated into service. However, the matter was remanded for a de novo inquiry within three months, ensuring compliance with Sections 9 & 10 of the PEEDA Act, 2006 and principles of natural justice.

2. SUPREME COURT OF PAKISTAN
Case: Abdul Salam Khan v. Bank Al-Habib Ltd.
C.P.L.A. No. 88-P of 2022

Present: Mr. Justice Syed Mansoor Ali Shah
 Mrs. Justice Ayesha A. Malik

Source: https://www.supremecourt.gov.pk/downloads_judgements/c.p. 88 p 2022.pdf

Facts: In this case, the petitioner, Abdul Salam Khan, challenged the auction of an immovable property conducted by M/s Bank Al-Habib Ltd. in execution of a money decree dated April 26, 2010. The auction took place in 2011, and the petitioner raised objections promptly the same year, but these objections were dismissed. The petitioner then filed an appeal in the Peshawar High Court, which remained pending for an extraordinary

period of 10 years and was decided in 2021. The matter reached the Supreme Court in 2022, and after three more years of delay, it was heard in 2025. The petitioner did not appear before the Court during the hearing, and the Court ultimately dismissed the petition both on merits and for non-prosecution, citing the lengthy delay and the erosion of the petitioner's claim over time.

Issue: Whether the petitioner could obtain relief against the auction of immovable property conducted in 2011 (in execution of a 2010 money decree), when the case remained pending for over 14 years, and if prolonged judicial delay nullifies the enforceability of a right or remedy.?

Rule: Access to justice is a fundamental right under the Constitution of Pakistan, guaranteed by Articles 4, 9, and 10A, which ensure fair trial and due process. These rights inherently encompass the timeliness of justice, as delayed justice can extinguish rights, rendering remedies illusory. The concurrent findings of the lower courts are generally not interfered with by the Supreme Court unless there is evidence of perversity or illegality. Judicial delay remains a constitutional and institutional concern, with courts being constitutionally obliged to ensure timely adjudication. Protracted delays in the judicial process undermine public trust, weaken the rule of law, and negatively impact socio-economic stability, thus highlighting the importance of timely justice in upholding the integrity of the legal system.

Application: The petitioner raised objections to the auction in 2011, but the matter remained unresolved for 14 years, with 10 years spent in the High Court and an additional 3 years before the Supreme Court. During this period, the petitioner failed to diligently pursue the case, notably missing a hearing at the Supreme Court, which reflected non-prosecution. Even assuming merit in the objections, the delay, compounded by the passage of time, rendered any practical relief unattainable. The property was auctioned, third-party rights were established, and the system's inaction extinguished the claim. The Court emphasized that justice delayed is justice extinguished, effectively turning the petitioner's right into a hollow shell. The judgment also used this case to highlight broader systemic issues, noting the backlog of 2.2 million pending cases, including 55,941 in the Supreme Court alone. The delay's consequences include deterring investment, undermining contract enforcement, and eroding institutional legitimacy. Drawing from the experiences of other countries like Singapore, the UK, Brazil, Estonia, Canada, China, Denmark, and Australia, which have transformed judicial management with AI tools, e-filing, automated scheduling, and digital oversight, the judgment stressed the need for reform. The Pakistani judiciary must evolve from passive docket-keepers to proactive managers of justice delivery to address these challenges effectively..

Conclusion: Petition dismissed:

On merits – objections to auction proceedings were untenable.

For non-prosecution – petitioner failed to appear.

3. SINDH HIGH COURT

**M/S Karachi Port Trust vs The Commissioner Inland Revenue
Income Tax Reference Application No. 182 of 2018 along with ITRA Nos. 588,
589 of 2010 65, 66 of 2011, 03 & 04 of 2013**

Present: Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Agha Faisal

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3MzMxY2Ztcy1kYzgZ>
Sindh High Court Citation (2025 SHC KHI 2022)

Facts: The Karachi Port Trust (KPT), a State-Owned Enterprise (SOE), filed several Income Tax Reference Applications against adverse orders of the Appellate Tribunal, while the Commissioner of Income Tax also filed references against KPT. During the pendency of these cases, Section 134A of the Income Tax Ordinance, 2001 was amended in 2024, making it mandatory for SOEs to refer disputes to Alternate Dispute Resolution (ADR) Committees without any monetary threshold. KPT opposed the referral of its cases to ADR on the ground that the amendment could not be applied retrospectively, that it curtailed vested rights of appeal, and that the disputes should be decided on their own merits.

Issue: Whether the 2024 amendment to Section 134A, making ADR mandatory for SOEs, applies retrospectively to pending cases; whether such amendment withdraws or affects any vested right of appeal of SOEs; and whether the High Court, once seized of references under Section 133, can still direct referral to ADR.

Rule: Under Section 134A of the Income Tax Ordinance, as amended by the Tax Laws (Amendment) Act, 2024, all disputes of SOEs are to be mandatorily referred to ADR Committees irrespective of monetary limits. Procedural laws apply retrospectively unless they extinguish substantive rights. The Supreme Court and High Courts, in earlier cases such as IESCO, State Life Insurance, and Civil Aviation Authority, have consistently held that SOE disputes must be referred to ADR, treating such provisions as procedural in nature. Additionally, penalties must be proportionate to the gravity of the offence.

Application: The Court held that the amendment to Section 134A is procedural and does not take away any vested right of KPT, since it had already availed two forums of appeal. The referral to ADR only changes the method of resolution and does not deprive KPT of remedies, as further legal recourse remains available after the ADR decision. The Court stressed that SOE disputes essentially involve the Federal Government on both

sides, amounting to movement of funds from “one pocket to another,” and prolonging such litigation wastes judicial time and public resources. Consistent judicial precedent supports mandatory ADR for SOEs, even for pending disputes, and thus the objections raised by KPT were found unconvincing.

Conclusion: The Court disposed of the reference applications by directing that the matters be referred to the ADR Committee under Section 134A. Until ADR reaches a decision, no coercive measures can be taken against KPT, and if aggrieved, KPT may pursue remedies under law. The ratio decidendi is that Section 134A is procedural, applies retrospectively, and mandates ADR for all SOE disputes. The obiter dicta include observations that government litigation unnecessarily burdens courts, ADR promotes efficiency, and judicial policy now favors settlement over prolonged adversarial proceedings.

4. SINDH HIGH COURT

M/s New Allied Electronics Industries (Pvt.) Ltd. & another v. F.O Pak & others
Constitutional Petition No. D-2780 of 2013

Present: MR. JUSTICE MUHAMMAD IQBAL KALHORO,
 MR. JUSTICE MUHAMMAD OSMAN ALI HADI

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3MTgzY2Ztcy1kYzgZ>

Facts: The dispute concerns a property in Karachi (Survey Nos. S-32/2 and 32/3, measuring 4408 sq. yards with construction) originally owned by *Narain Das & Co.* who entered into a sale agreement in 1948 with *Pak Autos Ltd. (PAL)*. After partition, Narain Das migrated to India, and in 1959 the High Court decreed specific performance, leading to a registered sale deed in favour of PAL in 1960. PAL later sold the property to *Haroon Industries Ltd. (HIL)* in 1961. In 1972, HIL was nationalized and renamed *Republic Motors Ltd. (RML)*, bringing the property under Federal Government ownership. In 2002, under the *Privatization Commission Ordinance, 2000*, the Government auctioned the property, and the petitioners (New Allied Electronics Industries Pvt. Ltd. and its CEO) lawfully purchased it for Rs. 110 million, obtained a conveyance deed, and remained in peaceful possession. In 2009, however, the *Evacuee Trust Property Board (ETPB)* claimed the property as evacuee trust property based on a 1963 Gazette notification. The ETPB declared it evacuee trust property in 2011, and the Federal Government upheld this in 2013. Aggrieved, the petitioners challenged the orders before the High Court.

Issue: The main issue was whether the property—lawfully transferred through court decree, nationalization, and privatization—could still be declared evacuee trust property decades later by the ETPB on the basis of a Gazette notification of 1963.

Rule: Under Section 3 of the Pakistan Administrator of Evacuee Property Act, 1957, no property could be declared as evacuee after 01.01.1957, thereby creating a statutory bar against belated declarations. Similarly, Section 8 of the Evacuee Trust Properties (Management & Disposal) Act, 1975 empowers the Evacuee Trust Property Board (ETPB) to declare a property as evacuee trust property, but only when it is demonstrably attached to a charitable, religious, or educational trust, and not otherwise. In addition, Section 28 of the Privatization Commission Ordinance, 2000 confers

exclusive jurisdiction upon the High Court to adjudicate disputes connected with privatization, thus ousting other forums from interfering in privatization matters.

Judicial precedents further reinforced these principles. In *Govt. of Pakistan v. Nizamuddin* (1994 SCMR 1908), the Supreme Court held that a property cannot be declared evacuee trust property without concrete evidence proving its charitable or religious character. In *Federal Government v. Khurshid Zaman Khan* (1999 SCMR 1007), it was emphasized that individual ownership cannot be converted into trust property in the absence of a valid dedication. Likewise, in *Muhammad Raqeeb v. Government of KPK* (2023 SCMR 992), the apex Court stressed the importance of finality of judgments, cautioning that settled matters should not be reopened endlessly, as doing so undermines the integrity of the judicial process.

Application: The Court noted that in 1958, the Custodian had referred the matter to the civil court instead of treating the property as evacuee, which confirmed it was not evacuee in nature. In 1959, the High Court decreed specific performance in favour of PAL, and all transfers thereafter were valid. Under Section 3 of the 1957 Act, no property could be declared evacuee after 01.01.1957, rendering the 1963 Gazette notification invalid. ETPB failed to produce credible evidence proving the property was linked to a charitable/religious trust. The property had lawfully changed hands multiple times, including privatization in 2002, with no objections raised for over five decades. The Court held that ETPB's attempt in 2009 to reclaim the property was time-barred, contrary to the principle of finality, and violated fundamental rights to property under Articles 4, 23, 24, and 25 of the Constitution. Moreover, the ETPB bypassed the *Privatization Ordinance, 2000*, by failing to challenge the privatization before the High Court, and instead acted unilaterally, exceeding its jurisdiction.

Conclusion: The Court allowed the petition, set aside the ETPB's 2011 judgment and the Federal Government's 2013 order, and restored the petitioners' lawful ownership. The Court held that the property was never evacuee trust property, and its privatization was valid.

5. SINDH HIGH COURT

Abdul Qadeer Khan v. Federation of Pakistan & Others
Constitutional Petition No. D-763 of 2022

Present: Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Source: [https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2OTM1Y2Ztcy1kYzg2025 SHC KHI 2009](https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2OTM1Y2Ztcy1kYzg2025%20SHC%20KHI%202009)

Facts: The petitioner, Abdul Qadeer Khan, was appointed on 03.06.1990 as a temporary Upper Division Clerk (UDC) against a leave vacancy. He continued in this role for more than 29 years, during which a permanent vacancy arose in 1996 after the retirement of another UDC. His service was verified by the AGPR, and his performance was satisfactory. In 2017, the Establishment Division inquired about the non-regularization of his service, and in 2018, the Estate Office recommended that his services be made permanent. Despite this, no regularization occurred.

The petitioner alleged that the refusal to regularize was illegal, discriminatory, and in violation of his fundamental rights under Articles 9 and 25 of the Constitution. He filed a departmental appeal on 20 October 2021 but received no reply, prompting this constitutional petition. The respondents argued that ad-hoc, temporary, contractual, or daily-wage employees have no vested right to regularization and that his name was not included in the list prepared by the Ministry of Housing & Works for such cases.

- Issue:** Whether a government employee serving on a temporary or contract basis for an extended period acquires a vested right to be regularized in service under constitutional and legal principles.
- Rule:** The Supreme Court in *Mohsin Raza Gondal v. Sardar Mehmood* (2025 SCMR 104) held that regularization of employees must either be mandated by law or carried out under a clear and comprehensive policy of the institution, which should set out criteria and procedures for regularization. The process must include performance evaluation, assessment of qualifications, and verification that there is an available post matching the employee's skills and experience. Financial feasibility must also be considered before granting permanent employment. Similar principles have been reaffirmed in *Federation of Pakistan v. Fazal-e-Subhan* (PLD 2024 SC 515), *Government of Khyber Pakhtunkhwa v. Sher Aman* (2022 SCMR 406), and *State Oil Company Ltd. v. Bakht Siddique* (2018 SCMR 1181), which emphasize that contractual or project employees do not automatically acquire the right to be made permanent merely due to long service.
- Application:** Applying the above principles, the court found that although the petitioner had served for an unusually long period and had received recommendations for regularization, this did not by itself create a legal right to permanent status. Regularization could only be granted if there was a legal or policy framework supporting it, and it had to be based on merit, available posts, and budgetary considerations. The court noted that the Federal Government had formulated policies for the regularization of contractual employees, and therefore, the petitioner's case must be examined under that policy. The competent authority was directed to conduct this review in line with the criteria set by the Supreme Court in *Mohsin Raza Gondal* and decide the matter within three months.
- Conclusion** The petition was disposed of with directions to the competent authority to assess the petitioner's case under the Federal Government's policy on regularization and the Supreme Court's criteria. The ratio decidendi is that long service in a contractual capacity does not itself confer a vested right to regularization; such regularization must be rooted in law or a policy framework, with performance, merit, post availability, and financial feasibility assessed. The obiter dicta is that, despite the absence of an automatic right, the petitioner's long and verified service, coupled with previous recommendations, makes his case deserving of serious consideration under the existing policy.
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6. SINDH HIGH COURT
Matco Rice (Pvt.) Limited v. Syed Aley Sadquain Naqvi & others
II-Appeal No.157 of 2018

Present: Mr. Justice Faisal Kamal Alam
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2NjI1Y2Ztcy1kYzgZ>

Facts: The case concerns 10 acres of land in Deh Taiser, Karachi, leased in 1982 to the Respondent's predecessor for 30 years. The lease expired in 2011 with only a one-month extension, while the land had already been resumed by the Government in 1996 and partly allotted to SITE, which leased it to the Appellant, Matco Rice (Pvt.) Ltd. The Respondent and his predecessor filed three successive suits over the same property. The first two suits (2009 and 2011) were rejected and appeals dismissed, holding that the lease had expired and no cause of action existed. Despite this, a third suit in 2015 was filed claiming damages and mesne profits. The Trial Court rejected the plaint, the Appellate Court restored it, but in Second Appeal the High Court held the third suit barred by res judicata and CPC provisions, reaffirming that no valid leasehold rights subsisted.

Issues: Whether the third suit (Suit No.2141 of 2015) filed by the Respondent was maintainable in light of earlier litigation over the same land, where previous suits and appeals had already been dismissed.
 Whether the plaint was liable to rejection under Order VII Rule 11 CPC on the grounds that it disclosed no cause of action and was barred by law.
 Whether the principle of res judicata applied to bar fresh litigation when earlier judgments had attained finality regarding the same subject matter and parties.
 Whether Order II Rule 2 CPC barred the claim for damages and mesne profits since such relief was available but not sought in earlier proceedings.
 Whether the Respondent retained any enforceable leasehold rights after expiry of the original thirty-year lease and resumption of the land by the Provincial Government.

Rule: Order VII Rule 11 CPC – A plaint shall be rejected where it does not disclose a cause of action, is barred by law, or fails to comply with legal requirements.
 Order II Rule 2 CPC – A plaintiff must claim all reliefs arising from the same cause of action in one suit; omission to claim a relief bars subsequent suits for that relief.
 Section 11, CPC (Res Judicata) – No court shall try any suit or issue already directly and substantially in issue in a former suit between the same parties, where such matter has been finally decided.
 Leasehold vs. Ownership Rights Principle – Leasehold rights are limited and extinguish upon expiry unless validly extended; they cannot be equated with ownership.
 Finality of Litigation – Once a competent court adjudicates a matter and the judgment attains finality, the same cannot be re-agitated under a fresh guise.

Application: The first and second suits filed by the Respondent's predecessor and later by the Respondent himself had already been rejected, with appellate courts holding that the

thirty-year lease expired in 2011 and only a one-month extension was granted. The application for further extension was still pending, so no fresh cause of action had arisen. These judgments attained finality.

Despite this, the Respondent filed a third suit in 2015 (Suit No.2141/2015), now including a claim for damages and mesne profits. However, under Order II Rule 2 CPC, since such relief was available in the earlier suits but not sought, it was barred from being claimed later.

Under Section 11 CPC (res judicata), the matter regarding rights over the land had already been conclusively adjudicated in the previous rounds. Thus, the fresh suit was an impermissible attempt to reopen a settled issue.

The plaint disclosed no valid cause of action since the Respondent's leasehold rights had lapsed long ago and the Government had resumed the land, subsequently leasing it to SITE and through SITE to Matco Rice. This squarely attracted Order VII Rule 11 CPC.

Although generally, suits seeking damages raise triable issues, the Court clarified that in this case, the claim was barred because the relief was consciously omitted earlier and could not be resurrected later.

Conclusion: The High Court of Sindh held that the third suit (Suit No.2141 of 2015) filed by the Respondent was not maintainable. The plaint was rightly rejected under Order VII Rule 11 CPC, as it disclosed no fresh cause of action, was barred by res judicata, and violated Order II Rule 2 CPC since the relief of damages and mesne profits could have been claimed in earlier suits but was omitted. The Respondent's leasehold rights had already expired in 2011, with the land lawfully resumed by the Government and leased to the Appellant. Accordingly, the High Court allowed the Second Appeal, set aside the Appellate Court's judgment, and finally rejected the plaint in Suit No.2141 of 2015.

7. SINDH HIGH COURT
Const. Petition No.D-704 of 2025
Muhammad Amin v. Province of Sindh & Others

Present: Mr. Justice Muhammad Saleem Jessar. Mr. Justice Nisar Ahmed Bhanbhro
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3MTI5Y2Ztcy1kYzgZ>
 2025 SHC LAR 2016

Facts: Muhammad Amin filed a constitutional petition seeking appointment on the deceased quota for the post of Chowkidar (BS-01) or another suitable position in the Health Department, Government of Sindh, following the death of his father, Peeral Solangi, a Chowkidar (BPS-05), on 24.09.2021. The petitioner applied to respondents (Province of Sindh and Health Department officials), and his application was approved by the Secretary, Health Department, and sent to the Deputy Commissioner for scrutiny by the District Recruitment Committee (DRC). Despite repeated follow-ups, no appointment order was issued. The respondents argued that Rules 10-A and 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, allowing

deceased quota appointments, were omitted following the Supreme Court's decision in *General Post Office v. Muhammad Jalal* (PLD 2024 SC 1276), barring such appointments. The petitioner claimed his application, filed when the rules were in force, warranted appointment due to departmental delays.

Issue: Whether the petitioner, Muhammad Amin, is entitled to appointment on the deceased quota for the post of Chowkidar (BS-01) or another suitable position in the Health Department, Government of Sindh, following his father's death during service in 2021, despite the omission of Rules 10-A and 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, pursuant to a Supreme Court decision in 2024, and whether the respondents' delay in processing his application violates his statutory and constitutional rights.

Rule: Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974 (APT Rules), Rules 10-A and 11-A (inserted 02.09.2002, omitted post-2024): Previously allowed appointment of children of deceased civil servants on a quota basis to support bereaved families, a beneficial subordinate legislation. Article 199, Constitution of Pakistan, 1973: Grants High Courts writ jurisdiction to enforce statutory and fundamental rights (e.g., Articles 4, 9, and 25 for lawful treatment, security of person, and equality) when administrative actions are arbitrary or negligent, per *Abdul Ghafoor v. Province of Sindh* (2020 SCMR 121). Precedent: *General Post Office, Islamabad v. Muhammad Jalal* (PLD 2024 SC 1276): Declared deceased quota policies unconstitutional as discriminatory, leading to the omission of Rules 10-A and 11-A; however, rights accrued before omission remain enforceable if applications were pending, per *Muhammad Yousuf v. Province of Sindh* (2022 SCMR 155). Legal Principle: Beneficial legislation, like deceased quota rules, must be interpreted liberally to protect accrued rights, especially for bereaved families, unless explicitly barred by law, per *Province of Punjab v. Muhammad Hussain* (2018 SCMR 1194). Article 9, Constitution: Protects the right to livelihood; arbitrary denial of accrued employment benefits violates this right, per *Muhammad Ramzan v. Government of Punjab* (2019 PLD 231 Lahore).

Application: Petitioner's Claim: Muhammad Amin, son of Peeral Solangi (a Chowkidar, BPS-05, who died in service on 24.09.2021), applied for appointment on the deceased quota in the Health Department. His application was processed, approved by the Secretary, Health Department, and sent to the Deputy Commissioner for scrutiny by the District Recruitment Committee (DRC), but no appointment order was issued despite repeated follow-ups, prompting this petition. The respondents argued that Rules 10-A and 11-A were omitted following *General Post Office v. Muhammad Jalal* (PLD 2024 SC 1276), rendering deceased quota appointments invalid. They claimed the petitioner has no entitlement post-omission. Rules 10-A and 11-A, in force at the time of the petitioner's father's death (2021) and application, created a vested right for consideration under the deceased quota. The petitioner applied promptly, and the department's approval and referral to the DRC confirm his eligibility before the rules' omission. Muhammad Yousuf supports enforcing accrued rights for pending applications, as the Supreme Court's ruling does not retroactively nullify such rights. The respondents' failure to decide the petitioner's case since 2021, despite approval

and DRC referral, constitutes gross negligence. The department's duty to inform and process bereaved families' benefits in a timely manner, per Muhammad Hussain, was breached, violating the petitioner's right to livelihood (Article 9) and equal treatment (Article 25). The petitioner, a layman from a low-income family, cannot be penalized for administrative delays. The petition is maintainable under Article 199, as it seeks enforcement of a vested statutory right (pre-omission deceased quota) and fundamental rights against arbitrary delay, per *Abdul Ghafoor*. No factual controversy exists, as the respondents do not dispute the petitioner's application or initial approval, only citing the post-2024 legal change. The court emphasized that Rules 10-A and 11-A were beneficial legislation aimed at supporting bereaved families. The petitioner's case, pending for years, warrants a liberal interpretation to prevent injustice, especially given the department's laxity and the petitioner's socio-economic vulnerability.

Conclusion: The High Court allowed Const. Petition No.D-704 of 2025 on August 7, 2025. The court directed the respondents (Province of Sindh and Health Department officials) to issue an appointment order for Muhammad Amin on the deceased quota for the post of Chowkidar (BS-01) or another suitable position in the Health Department, within 30 days, subject to verification of his qualifications and documents, as his right accrued under Rules 10-A and 11-A before their omission. The respondents' delay was deemed arbitrary and violative of Articles 4, 9, and 25, given the petitioner's timely application and the department's negligence. The petition was granted, ensuring prompt issuance of the appointment order.

8. SINDH HIGH COURT
Imran S/o Arwan vs. SHO Azizabad and others
Cr. Misc. Application No.554 of 2025

Present: Mr. Justice Jawad Akbar Sarwana

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3NjMxY2Ztcy1kYzgZ>
(2025 SHC KHI 2039)

Facts: The applicant, Imran s/o Arwan, filed an application under Sections 22(A) and 22(B) of the CrPC seeking the registration of an FIR against two private respondents, Ali Jan and Aftab. The application was dismissed by the Ex-Officio Justice of Peace on 03.06.2025, who concluded that the dispute was of a civil nature rather than criminal. Although the FIR was not ordered, the police were directed to provide legal protection to the applicant to prevent any untoward incidents between the parties. The applicant challenged the decision, claiming the dispute warranted criminal action and that the Ex-Officio Justice of Peace's comments about the respondents being "innocent persons" were legally inappropriate. The applicant's dispute involved false allegations, circulation of defamatory messages, and damage to the reputation of the applicant and his community's cooperative society.

Issue: Whether the Ex-Officio Justice of Peace erred in dismissing the applicant's request for

the registration of an FIR and whether the dispute was civil or criminal in nature?

Rule: Under Section 22-A of the CrPC, the Ex-Officio Justice of Peace can order the registration of an FIR if there is a reasonable ground to believe that a cognizable offense has occurred. Under Section 22-B, if the Justice of Peace refuses to order the registration of an FIR, the applicant can approach the High Court. The Court must assess whether the dispute is civil or criminal and whether it justifies the registration of an FIR.

Analysis: The Ex-Officio Justice of Peace considered the dispute to be civil, as it primarily involved false allegations and reputation damage through WhatsApp messages, which could be resolved through civil remedies. The applicant's evidence, including screenshots of messages, did not provide conclusive proof of a criminal offense, such as defamation or harassment, warranting an FIR. The applicant's plea about the "innocent persons" comment was found to be a general remark rather than a specific legal finding. The applicant's reliance on mediation by the community and the failure of prior mediation attempts were acknowledged. The High Court pointed out that mediation services are available and could still be pursued.

Conclusion: The High Court upheld the Ex-Officio Justice of Peace's decision, confirming that the dispute was civil in nature and did not justify the registration of an FIR. The application was dismissed, and the court reiterated the possibility of mediation through court-annexed services. The ratio decidendi of the judgment was that legal remedies for civil disputes, such as mediation, are more appropriate than criminal actions in this case. The reference to the respondents being "innocent persons" was obiter dicta and did not affect the ruling.

9. SINDH HIGH COURT
Second Appeal No.S-11 of 2025
Ghulam Ali v. Tahir Hussain and 06 others

Present: Mr. Justice Arbab Ali Hakro.
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2Nzg3Y2Ztcy1kYzg3>
 2025 SHC HYD 2003

Facts: Ghulam Ali filed a second appeal challenging the judgment and decree (22.01.2025) of the Additional District Judge-II, Sanghar, dismissing his appeal (No.215/2024) and affirming the trial court's dismissal (02.10.2024) of his suit (F.C. Suit No.70/2021) for declaration, cancellation, specific performance, and injunctions. He alleged that Respondent No. 1, Tahir Hussain, owner of 3 acres of agricultural land (Survey No. 183/02, Deh and Tapo Jhol, Sinjhor, Sanghar), entered a sale agreement on 14.02.2020 for Rs.2,800,000, receiving Rs.200,000 earnest money and possession

transfer. Ghulam Ali paid an additional Rs.740,000, totaling Rs.940,000, but Tahir failed to provide required documents (Form VII, sale certificate) or execute the sale deed by 15.01.2021, even after a one-month extension. Tahir allegedly threatened to sell to third parties. During the suit, Respondent No. 2, in collusion with Tahir, executed a fraudulent sale deed (24.11.2022) for 3.04 acres to Respondent No. 3, facilitated by Respondent No. 5 and revenue authorities (Respondent No. 4), based on a false private partition claim. Tahir admitted ownership but claimed the agreement covered only 2 acres. The trial and appellate courts dismissed the suit, prompting the appeal.

Issue:

Whether the appellant, Ghulam Ali, is entitled to specific performance of a sale agreement dated 14.02.2020 for 3 acres of agricultural land, cancellation of a subsequent sale deed dated 24.11.2022 executed during *lis pendens*, and related injunctive reliefs, given the concurrent dismissal of his suit and appeal by the trial and appellate courts for failure to prove the agreement's contents (allegedly 3 acres versus 2 acres) and non-compliance with evidentiary requirements under the Qanun-e-Shahadat Order, 1984.

Rule:

Section 100, Civil Procedure Code (CPC), 1908: Limits second appeals to substantial questions of law; concurrent findings of fact cannot be disturbed unless perverse or misapplied legally, as per *Faqir Syed Anwar ud Din v. Syed Raza Haider (PLD 2025 SC31)*. Qanun-e-Shahadat Order, 1984: Article 72: Documents creating/transferring rights in immovable property require rigorous evidentiary scrutiny. Article 76(a) and 77: Secondary evidence is admissible only if the original is in the adversary's possession and not produced after notice, with exceptions (e.g., fraud, loss) requiring proof. Article 79: Admitted facts need no proof, but disputed contents of admitted documents must be substantiated. Section 52, Transfer of Property Act, 1882: Prohibits transfers of disputed property during pendency of litigation (*lis pendens*), rendering such transactions void if affecting plaintiff's rights. Order XI Rule 12, CPC: Allows discovery of documents in the adversary's possession, a prerequisite for invoking secondary evidence. Precedents (2024 SCMR 1496, 2021 SCMR 1270, 2006 SCMR 688): Specific performance is discretionary, requiring clear evidence; failure to follow procedural mandates (e.g., notice under Article 77) bars relief; fraudulent tampering invalidates claims. Legal Maxim: *Vigilantibus non dormientibus jura subveniunt* (law aids the vigilant, not those who slumber on their rights).

Application:

Agreement's Contents: The appellant claimed a sale agreement with Respondent No. 1 (Tahir Hussain) for 3 acres at Rs.2,800,000, with Rs.940,000 paid (Rs.200,000 earnest money, Rs.740,000 additional). Respondent No. 1 admitted the agreement but insisted it covered only 2 acres at Rs.1,400,000 per acre, alleging tampering of the document to reflect 3 acres. The trial and appellate courts found the appellant failed to prove the 3-acre claim, supported by PW Dileep Kumar's testimony (stamp vendor) that the original draft was for 2 acres, corroborated by a hard copy and unchallenged under cross-examination. Evidentiary Failures: The appellant claimed the original agreement was with Respondent No. 1 but neither pleaded this in the plaint nor sought

discovery under Order XI Rule 12, CPC. No notice under Article 77 was served to produce the original, and no statutory exceptions (fraud, loss) were proven, rendering secondary evidence inadmissible per Article 76(a). The courts below correctly dismissed the appellant's Article 74 application for non-compliance, as upheld in *Faqir Syed Anwar ud Din*. Lis Pendens: The appellant argued that the sale deed (24.11.2022) from Respondent No. 2 to Respondent No. 3 (3.04 acres) during litigation violated Section 52. However, failure to prove the agreement's scope (3 acres) weakened this claim, as the courts found no clear evidence of the appellant's possessory or contractual rights over the disputed land. Concurrent Findings: Both courts' dismissal rested on the appellant's inability to discharge the burden of proof (Article 72) and procedural lapses. The appellant's reliance on Respondent No. 1's admissions (Article 79) was limited to the agreement's existence, not its disputed contents. PW testimonies (Abdul Razak, Dileep Kumar) did not support the 3-acre claim, and hostile witness declarations yielded no contradictions. The courts' findings were neither perverse nor legally misapplied, limiting Section 100 interference, per *2024 SCMR 1496*. Respondents' Defense: Respondent No. 1's cancellation of the agreement due to non-payment of the balance by the extended deadline (10.04.2021) and Respondent No. 3's lawful purchase with possession were upheld. The appellant's failure to implead co-sharers and the unusual purchase of stamp paper by the buyer further discredited his claim. Equitable Relief: Specific performance, being discretionary, was denied due to the appellant's failure to provide convincing evidence, as required by *2021 SCMR 1270*. Procedural negligence (no discovery, no notice) invoked the maxim *Vigilantibus non dormientibus*, barring relief.

Conclusion: The High Court dismissed Second Appeal No.S-11 of 2025 on August 4, 2025. The appellant failed to prove the sale agreement covered 3 acres, relying on inadmissible secondary evidence without complying with Articles 76(a) and 77 of the Qanun-e-Shahadat Order or Order XI Rule 12, CPC. Concurrent findings by the trial court (02.10.2024) and appellate court (22.01.2025) were upheld as non-perverse, with no substantial question of law under Section 100, CPC. The subsequent sale deed to Respondent No. 3, though during lis pendens, was not void due to the appellant's unproven rights. The appellant's claims for specific performance, cancellation, and injunctions were rejected, affirming the lower courts' judgments.

10. SINDH HIGH COURT

C.P No.D-583, 584, 587 of 2016

Mst. Shazia and others v. The Province of Sindh & others

Present: Mr. Justice Arbab Ali Hakro, Mr. Justice Riazat Ali Sahar.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3MTQzY2Ztcv1kYzgZ>
2025 SHC HYD 2017

Facts: Three petitioners Mst. Shazia, Mst. Tahira Mukhtiar, and Mst. Noureen were appointed as Headmistresses (BPS-11) on a three-year contractual basis in 2011 at various Government Girls Community Model Schools in District Shaheed Benazirabad, Sindh, under the Girls Primary Education Development Project/Middle School Project. They

assumed charge on 22.10.2011, 23.09.2011, and 24.08.2011, respectively, after fulfilling codal formalities including advertisements, credential verification, and physical fitness certificates. Their contracts expired in 2014, but they continued discharging duties with unblemished records, receiving salaries until July 2015, when payments were abruptly stopped without justification. They alleged verbal threats of termination, causing distress, and claimed entitlement to regularization from initial appointment dates under the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013, citing continuous service against permanent sanctioned posts, government policy against unemployment, and constitutional rights to equality and fair treatment. Respondents contended the appointments were project-specific, non-extendable, and post-expiry, petitioners were no longer employees; they also raised objections on petition maintainability under Article 212 of the Constitution.

Issue: Whether the petitioners, appointed as Headmistresses (BPS-11) on a contractual basis in 2011 under the Education and Literacy Department, are entitled to regularization of their services under the Sindh (Regularization of Adhoc and Contract Employees) Act, 2013, release of withheld salaries (stopped after July 2015), and protection against termination, given their continued service beyond the contractual period against sanctioned posts, and whether the petitions are maintainable under Article 199 of the Constitution despite respondents' objections under Article 212.

Rule: Sindh (Regularization of Adhoc and Contract Employees) Act, 2013, Section 3: Deems employees appointed on adhoc or contract basis (BS-1 to BS-18), excluding daily-wage or work-charged employees, serving in a government department or its project in connection with provincial affairs immediately before March 25, 2013, to be validly appointed on a regular basis, provided they are otherwise eligible and appointed per codal formalities. Constitutional Provisions: Articles 4 (right to lawful treatment), 9 (security of person), and 25 (equality) guarantee fair and non-discriminatory treatment. Article 199 grants High Courts jurisdiction to enforce fundamental rights, while Article 212 restricts jurisdiction over civil service matters, directing them to the Sindh Service Tribunal. Sindh Civil Servants (Appeal) Rules, 1980: Require appeals within 30 days for civil servants aggrieved by service-related orders, but inapplicable to contractual employees seeking statutory enforcement.

Application: Eligibility under Act of 2013: The petitioners (Mst. Shazia, Mst. Tahira Mukhtiar, Mst. Noreen) were appointed in 2011 after codal formalities (advertisements, verification) against sanctioned Headmistress posts (BPS-11) in the Education and Literacy Department, a provincial affair. They were serving before and after March 25, 2013, meeting Section 3 criteria. The respondents' claim that project-based employees (under GPEDP/Middle School Project) are excluded is unsupported by the Act's text, which explicitly includes project employees and excludes only daily-wage/work-charged workers. Evidence of Continued Service: Salary slips (up to July 2015), attendance certificates, and service books, unrebutted by respondents, confirm petitioners' service beyond contract expiry (2014), implying departmental acknowledgment and creating legitimate expectation of regularization, as per Ahmad Hussain and Atif Hussain. Maintainability: Respondents' Article 212 objection

(directing petitioners to Sindh Service Tribunal) fails due to their contradictory stance—disowning petitioners as employees post-contract while treating them as civil servants for procedural bars. As contractual employees seeking statutory (Act of 2013) and constitutional (Articles 4, 9, 25) enforcement, petitioners rightly invoked Article 199 jurisdiction. Abdullah Jumani supports this, emphasizing the Act’s beneficial intent and the court’s role in protecting fundamental rights. Respondents’ Conduct: Failure to refer cases to Scrutiny Committees (notified September 16, 2014), despite court orders, and continued salary payments post-expiry indicate mala fide and discriminatory treatment, violating constitutional guarantees. The respondents’ claim that petitioners should have applied through IBA/NTS recruitments ignores the Act’s automatic regularization for eligible employees. Precedent Application: Ahmad Hussain and Atif Hussain establish that long service against permanent posts warrants regularization, strengthened here by the Act’s statutory mandate. Abdullah Jumani affirms the Act’s validity and petitioners’ entitlement, especially with unrebutted evidence of service and eligibility.

Conclusion: The court allowed the petitions, directing: (A) Scrutiny Committee review within 30 days per Section 3 of the Act of 2013; (B) regularization from March 25, 2013, upon verification; (C) immediate release of withheld salaries; (D) no adverse actions (termination/transfer) until regularization; (E) completion within 60 days, with compliance report. The petitioners’ continuous service, statutory eligibility, and constitutional protections override contractual limitations, and respondents’ arbitrary inaction violates fairness and equality principles.

11. SINDH HIGH COURT

Ali Asghar Shah and Others VS SHO PS Radhan Station and Others Criminal Miscellaneous 171/2025

Present: Hon’ble Mr. Justice Khalid Hussain Shahani

Source: [https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2NTgzY2Ztcy1kYzg2025 SHC LAR 1980](https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2NTgzY2Ztcy1kYzg2025%20SHC%20LAR%201980)

Facts: On 09.05.2025, respondent Mst. Rani alleged that police officials raided her home, assaulted her family, and shot her minor son. The applicants claimed they were lawfully arresting murder suspects and that the injury resulted from crossfire by the respondent’s side. FIR No.52/2025 was registered against the respondent’s family for obstructing police duty, followed by FIR No.136/2025 concerning an attack on a police station. Later, the Justice of Peace directed registration of a second FIR on Rani’s complaint, which was challenged by the applicants before the High Court.

Issue: Whether a Justice of Peace could lawfully direct registration of a second FIR when FIR No.52/2025 was already registered about the same incident.

Rule: The Supreme Court in Mst. Sughran Bibi v. The State (PLD 2018 SC 595) held that only one FIR may be lodged for a single occurrence; divergent versions must be recorded under Section 161 Cr.P.C. and investigated within the same case. In Syed

Qamber Ali Shah v. Province of Sindh (2024 SCMR 1123), the Court clarified that a Justice of Peace may order registration of an FIR only where no FIR exists at all.

Analysis: The High Court held that the Justice of Peace erred in directing a second FIR, since FIR No.52/2025 was already registered. Reliance on Qamber Ali Shah was misplaced, as that case involved refusal to register any FIR. Under Sughran Bibi, the respondent's remedy was either to record her statement during investigation or file a private complaint under Section 200 Cr.P.C., particularly suitable where allegations are against police officials. Given the applicants' non-compliance with earlier directions and the sensitivity of allegations, the Court transferred the investigation from local police to an independent senior officer from SIU/CTD to ensure impartiality.

Conclusion: The High Court set aside the order for a second FIR as contrary to law but safeguarded the complainant's rights by transferring investigation to an independent officer and reminding her of the remedy of private complaint under Section 200 Cr.P.C.

12. SINDH HIGH COURT

Muhammad Mansoor Awan & Danish Raza v. The State Cr. Bail Applications No. S-375 & S-487 of 2025

Present: Hon'ble Mr. Justice Khalid Hussain Shahani

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3NDI5Y2Ztcy1kYzgZ>
2025 SHC SUK 2030

Facts: The complainant alleged that his cousin, Allah Dino @ A.D. Shar, was lured by Niaz Badami on 09.04.2025 and later murdered with sharp weapons by Niaz and associates. Applicant Muhammad Mansoor Awan was accused of instigating the murder, while applicant Danish Raza was alleged to be present armed with a pistol but without inflicting injuries. Both sought bail after dismissal by the trial court.

Issue: Whether, in light of weak digital evidence and absence of direct involvement, the applicants were entitled to bail despite the offence falling within the prohibitory clause.

Rule: Under Section 497(2) Cr.P.C., bail may be granted if the case requires further inquiry. The Supreme Court has held that untested or unverified digital evidence, including USBs, cannot be relied upon without forensic authentication (PLD 2019 SC 675; 2016 YLR 62). At the bail stage, only tentative assessment is required (PLD 1972 SC 81).

Analysis: The only evidence of instigation against Mansoor Awan was a USB containing alleged threatening messages, which was neither forensically analyzed nor made part of the record, rendering it unreliable. He was not present at the scene, and the link between instigation and the murder remained doubtful. Against Danish Raza, the allegation of presence with a pistol was undermined by the post-mortem report confirming no firearm injuries, reducing his liability to one of further inquiry. Both cases rested on tentative evidence insufficient for denying liberty at the bail stage.

Conclusion: The Court allowed both bail applications, confirming pre-arrest bail for Mansoor Awan and granting post-arrest bail to Danish Raza, holding that the prosecution evidence was weak and the case required further inquiry.

13. SINDH HIGH COURT

Syed Asadullah Ali Shah & Others v. The State
(Cr. Bail Applications No. S-189 & S-190 of 2025)

Present: Hon'ble Mr. Justice Khalid Hussain Shahani

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3NDIzY2Ztcy1kYzgZ>
2025 SHC SUK 2027

Facts: The complainant reported the death of her nine-year-old daughter, Fatima, employed as a domestic worker at the applicants' residence. She alleged that the child was abused by Syed Asadullah and his wife. The FIR was lodged after viewing CCTV footage showing maltreatment. Applicants sought bail during trial.

Issue: Whether the applicants were entitled to post-arrest bail in view of delayed FIR, medical findings, and hostile prosecution witnesses.

Rule: Unexplained delay in FIR registration weakens prosecution credibility (PLD 2002 SC 1038). Medical evidence excluding the gravest allegations must be considered in bail matters. Benefit of doubt at the bail stage must be extended where the case requires further inquiry (PLD 1995 SC 34; 2016 SCMR 18).

Analysis: The FIR was delayed by two days, suggesting deliberation. The post-mortem confirmed "cardiac arrest secondary to trauma" but ruled out sexual assault, undermining the gravest charges. Several material witnesses, including the complainant, retracted their earlier statements, while legal heirs filed No-Objection Affidavits. The case rested on circumstantial evidence with clear contradictions. Prolonged pre-trial detention without likelihood of early conclusion would amount to punishment before conviction.

Conclusion: The Court granted post-arrest bail to all applicants, holding that the case was one of further inquiry under Section 497(2) Cr.P.C., and liberty could not be curtailed when material doubts persisted

14. SINDH HIGH COURT

Civil Revision No. S-17 of 2025:

Yar Muhammad son of Gul Hassan Arbani versus Wazir son of Sardar Bux Arbani

Present: Mr, Justice Abdul Hamid Bhurguri.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2NjkzY2Ztcy1kYzgZ>
2025 SHC SUK 1996

- Facts:** The applicant, Yar Muhammad, challenges the judgment and decree dated 24.12.2024 by the Additional District Judge, Ghotki, which set aside the Senior Civil Judge, Ghotki's order (08.06.2024) rejecting respondent No. 1, Wazir Ali's, plaint under Order VII Rule 11, CPC, in F.C. Suit No.10/2024. Wazir Ali sought a declaration, cancellation, and permanent injunction regarding estate land (Survey Nos. 691, 692, 642) in Deh Sangi Ghotki, claiming 60 years of continuous possession based on a 1960–61 Yak-Sala lease granted to his ancestor. He alleged that Yar Muhammad, with political influence, illegally obtained Form "A" and a Transfer Order, leading to mutation entry No.81 (02.06.2012) in his favor without procedural compliance under the Gudu Barrage Land Grant Policy, 1989. Wazir Ali claimed a prior suit (No.182/2017) on similar grounds was withdrawn in 2021 after assurances of resolution by Chief Sardar Mir Abid Khan Sundrani, which were not fulfilled. On 15.01.2024, Yar Muhammad, allegedly with police support (SHOs of Ghotki and Sarhad), attempted to forcibly dispossess Wazir Ali, prompting the suit. The applicant seeks restoration of the trial court's rejection order, arguing the appellate court's decision was legally flawed.
- Issue:** The primary issue in this civil revision petition is whether the second family civil suit (F.C. Suit No. 10/2024) filed by Respondent No. 1 (plaintiff) against the Applicant (defendant No. 1) and others, seeking declaration, cancellation, and permanent injunction regarding certain agricultural land in Deh Sangi Ghotki, is maintainable under the Code of Civil Procedure (CPC). Specifically, the question is whether the suit is barred under Order XXIII Rule 1(3) CPC, as the plaintiff had previously filed and unconditionally withdrawn an identical suit (F.C. Suit No. 182/2017) without obtaining the court's permission to institute a fresh suit on the same cause of action. Ancillary issues include whether a new cause of action arose from alleged subsequent attempts to dispossess the plaintiff, the applicability of cited case laws, and the government's claim over the land as state property.
- Rule:** Under Order XXIII Rule 1 CPC: Sub-rule (1) allows a plaintiff to withdraw a suit or abandon part of a claim at any time. Sub-rule (2) permits the court to grant permission to withdraw with liberty to file a fresh suit if the suit would fail due to a formal defect or other sufficient grounds. Sub-rule (3) bars the plaintiff from instituting a fresh suit on the same subject matter or cause of action if the withdrawal occurs without such permission, and imposes liability for costs. This rule prevents abuse of judicial process, repetitive litigation, and harassment of defendants. Relevant precedents include: *Muhammad Yar v. Muhammad Amin* (2013 SCMR 464): The bar under sub-rule (3) is absolute if withdrawal is without permission. *Azhar Hayat v. Karachi Port Trust* (2016 SCMR 1916): A suit withdrawn without permission precludes a fresh suit on the same matter. *Ghulam Abbas v. Mohammad Shafi* (2016 SCMR 1403): Withdrawal based on oral compromise signifies abandonment of the claim. *Khawaja Bashir Ahmed and Sons Pvt. Ltd. v. Messrs Martrade Shipping* (PLD 2021 SC 373): Plaintiffs cannot withdraw and re-file at will without sufficient grounds under sub-rule (2). Exceptions in cases like *Muhammad Anwar v. Mst. Surraya Begum* (2003 SCMR 1704) (estoppel where defendant's conduct frustrates the first suit) and *Feroze Khan v. Zaman Ali* (1993 CLC 1478) (new cause of action against non-parties) do not apply if facts are distinguishable. Additionally, under Order VII Rule 11(d) CPC, a plaint may be

rejected if the suit appears barred by law. The government retains authority over state land allotments, which must follow due process.

Analysis: The court examined the complaints, prayers, and cause of action paragraphs from both suits (F.C. Suit No. 182/2017 and F.C. Suit No. 10/2024). The subject matter (land in Survey Nos. 691, 692, and 642), parties, and reliefs (declaration of possession based on Yak-Sala lease, cancellation of Form "A" and Transfer Order, injunctions) were identical. The cause of action in both stemmed from the defendant's alleged illegal allotment and mutation entry dated 02.06.2012, with the first suit's withdrawal on 09.01.2021 based on an unproven oral assurance from a tribal chief (Sardar Mir Abid Khan Sundrani) for amicable settlement, without seeking court permission under Order XXIII Rule 1(2). The plaintiff's claim of a "fresh" cause of action from a 15.01.2024 dispossession attempt (involving police) was deemed artificial and consequential to the original dispute, not sufficient to bypass the bar. No formal defect or sufficient grounds justified withdrawal with liberty to re-file; the statement was unconditional and signed only by the plaintiff.

Cited case laws were distinguished: Muhammad Anwar (2003 SCMR 1704): Involved preemption where defendant's objection to the first suit's prematurity estopped them; here, no such estoppel as withdrawal was voluntary. Feroze Khan (1993 CLC 1478): Allowed suit against a new party with a distinct cause; here, parties and cause were the same. The Appellate Court misapplied these precedents and overlooked the mandatory bar, mechanically allowing the appeal. The Trial Court correctly rejected the plaint under Order VII Rule 11(d). The Assistant Advocate General's argument that the land is government property was noted, affirming the government's right to resume possession via due process, but it did not alter the bar against the plaintiff's suit.

Conclusion: The civil revision is allowed. The Appellate Court's judgment dated 24.12.2024 is set aside as erroneous and materially irregular under Section 115 CPC. The Trial Court's order dated 08.06.2024 rejecting the plaint is restored, as the suit is barred under Order XXIII Rule 1(3) CPC. No costs awarded. The government may proceed against unauthorized occupations per law.

15. SINDH HIGH COURT

Civil Revision No.S-163 of 2024

Ghulam Shabir son of Darhoon Khan Phulpoto VERSUS Province of Sindh (P.O Sindh) and 9 others (including government officials like Executive Engineer Roads Khairpur).

Present: Justice Abdul Hamid Bhurguri.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2Njg5Y2Ztcy1kYzgz>
2025 SHC SUK 1994

Facts: The applicant, Ghulam Shabir, filed Civil Revision No.S-163/2024 challenging the judgment (19.03.2024) and decree (22.03.2024) of the III-Additional District Judge, Khairpur, dismissing his appeal (No.180/2023), and the judgment (02.11.2023) and

decree (03.11.2023) of the I-Senior Civil Judge, Khairpur, dismissing his suit for recovery of Rs.100 crores. The suit claimed unpaid dues for construction work on three culverts and a bridge under tenders dated 02.02.1995 and 16.08.1995, alleging completion of work worth Rs.37,500,000 and extra repair work of Rs.45,00,00,000, with only Rs.150,017 paid. The applicant deposited Rs.1,50,000 as security. Defendant No.6 (Executive Engineer) denied the claims, asserting full payment and lack of documentary proof. The trial court initially rejected the plaint under Order VII Rule 11, CPC (13.06.2022), but this was set aside on appeal (18.02.2023), and the case was remanded for evidence. After framing issues and recording evidence (applicant and two witnesses; defendant No.6), the trial court dismissed the suit, upheld by the appellate court. The applicant argues both courts ignored legal and factual aspects, seeking revision of their decisions.

Issue: The central issue in this civil revision petition is whether the Trial Court's dismissal of the plaintiff's suit for recovery of Rs. 100 Crores (alleged unpaid dues from construction contracts completed in 1995) and the Appellate Court's upholding of that dismissal were correct, particularly on grounds of limitation under the Limitation Act, 1908. Sub-issues include whether the suit was time-barred under Article 56 (three-year limitation for recovery of work price), the applicability of Sections 3 (mandatory dismissal of time-barred suits) and 14 (exclusion of time for bona fide prosecution in another forum), and whether the plaintiff proved his contractual claims on merits despite the limitation bar.

Rule: Under the Limitation Act, 1908: Article 56 prescribes a three-year limitation period for suits seeking the price of work done by the plaintiff for the defendant at the latter's request, commencing from when the work is completed. Section 3 imposes a mandatory duty on the court to dismiss any suit instituted after the prescribed limitation period, even if limitation is not pleaded as a defense; this is a jurisdictional obligation, and courts must examine it suo motu. Section 14 allows exclusion of time spent bona fide prosecuting a civil proceeding in a court lacking jurisdiction, but only if diligence is shown, and it does not extend indefinitely. Established precedents emphasize that limitation is substantive, not merely procedural, aimed at preventing stale claims. Courts cannot waive or ignore it, and suits barred on the face of the record must be dismissed at the threshold without delving into merits unless limitation is resolved first. Additionally, in contractual recovery suits, the plaintiff bears the burden to prove the contract, performance, and entitlement via documentary evidence. Under Section 115 CPC, revisionary jurisdiction is limited to cases of jurisdictional error, material irregularity, or illegality, not for re-appreciating evidence.

Analysis: The plaintiff claimed recovery for construction work on culverts, bridges, and roads completed in 1995 under tenders, alleging partial payment (Rs. 150,017/- received) and outstanding dues including extras (totaling Rs. 100 Crores). He filed a constitutional petition (No. D-1271/2013) dismissed in 2014 with liberty to pursue alternate remedies, but instituted the civil suit only in 2021—26 years after the cause of action arose upon work completion. No formal acknowledgment of liability by defendants extended limitation, and repeated representations did not revive it. The court held the suit ex facie time-barred under Article 56, as the three-year period lapsed

in 1998. Section 3 required dismissal suo motu, regardless of defendants' pleas; both lower courts erred by not framing limitation as a preliminary issue but proceeded to merits, yet correctly dismissed the suit. Even applying Section 14 liberally (excluding time for the 2013-2014 petition), the plaintiff showed no diligence, delaying another seven years post-2014, rendering the suit still barred. On merits, the plaintiff failed to discharge his burden: no contract documents, work orders, or verifiable proof of extras were produced; only self-serving affidavits from himself and witnesses were offered, contrasted by Defendant No. 6's evidence denying dues. Concurrent findings of the Trial Court (Judgment dated 02.11.2023) and Appellate Court (Judgment dated 19.03.2024) were based on proper evidence appreciation, showing no jurisdictional error under Section 115 CPC warranting interference.

Conclusion: The civil revision is dismissed with no order as to costs. The impugned judgments and decrees of the Trial Court (dismissing the suit) and Appellate Court (dismissing the appeal) are upheld as correct in result, though the suit should have been dismissed solely on limitation without merits adjudication. The suit is hopelessly time-barred and unsubstantiated on evidence, precluding any recovery.

16. SINDH HIGH COURT

Civil Revision No. S-54 of 2018

Mst. Ishrat Gul d/o Abdul Ghafoor versus: Nigar Ali and others

Present: Mr. Justice Abdul Hamid Bhurguri.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2NjkxY2Ztey1kYzgZ>
2025 SHC SUK 1995

Facts: Mst. Ishrat Gul filed Civil Revision No.S-54/2018 challenging the judgment and decree dated 15.01.2018 by the Additional District Judge (Hudood), Sukkur, which allowed Civil Appeal No.142/2016 and dismissed her pre-emption suit by setting aside the trial court's judgment (07.11.2016) and decree (10.11.2016) in F.C. Suit No.218/2006 (renumbered 84/2015). The suit, filed on 20.03.2006, sought pre-emption of property (C.S. No. 227/1, Neem Ki Chari, Sukkur) sold to respondent No.1, Nigar Ali, claiming her right as a co-owner of adjacent property (C.S. No. 227) and Shafi-e-Jar. Upon learning of the sale on 03.03.2006, she performed Talb-e-Muwasibat and Talb-e-Ishhad, offering Rs.80,000, but was denied. Respondents claimed the properties were partitioned, Talbs were invalid, and the suit was baseless, alleging a 2010 compromise where the applicant agreed to buy at market value. The trial court decreed the suit after respondents failed to produce evidence. The appellate court reversed this, citing the compromise and failure to prove valid Talbs, prompting the revision to restore the trial court's decision.

Issue: The core issue in this civil revision petition is whether the Appellate Court's judgment dated 15.01.2018, which allowed the respondents' appeal and dismissed the applicant's pre-emption suit (Haq-e-Shuffa) by setting aside the Trial Court's decree dated 07.11.2016, suffers from material irregularity or jurisdictional error under Section 115 CPC. Sub-issues include: (1) whether the Appellate Court complied with the

mandatory requirements of Order XLI Rule 31 CPC by properly framing points for determination, deciding them, and providing reasons; (2) whether the applicant's right of pre-emption was lost by acquiescence or compromise under Section 229 of Muhammadan Law due to a joint statement filed during the suit; and (3) whether the Appellate Court erred in holding that the applicant failed to prove the requisite Talbs (Talb-e-Muwasibat and Talb-e-Ishhad) and discharged her burden under Articles 117 and 118 of the Qanun-e-Shahadat Order, 1984.

Rule: Under Order XLI Rule 31 CPC, an appellate judgment must clearly state the points for determination, the decision on each point, and the reasons for those decisions; this provision is mandatory, particularly for the first appellate court as the final arbiter of facts, and non-compliance constitutes a material irregularity warranting revisionary interference under Section 115 CPC. Relevant Supreme Court precedents include *Raja Humayoon Sarfraz Khan v. Noor Muhammad* (2007 SCMR 307), *Gul Rehman v. Gul Nawaz Khan* (2009 SCMR 589), and *Pakistan Refinery Ltd. v. Barrett Hodgson Pakistan (Pvt.) Ltd.* (2019 SCMR 1726), which emphasize that appellate judgments lacking reasoned analysis or failing to address evidence are unsustainable and must be set aside for remand. Under Section 229 of Muhammadan Law (Chapter XIII), the right of pre-emption (Haq-e-Shuffa) is lost only by clear acquiescence or a binding compromise, not mere negotiations or unmaterialized settlements; waiver requires unequivocal, intentional conduct inconsistent with asserting the right. Articles 117 and 118 of the Qanun-e-Shahadat Order, 1984 place the burden on the plaintiff to prove pleaded facts, but this must be evaluated through proper evidence appreciation, not summarily dismissed without reasons.

Analysis: The applicant filed a pre-emption suit claiming adjacency rights (Shafi-e-Jar) over property C.S. No. 227/1 sold to Respondent No. 1, asserting prompt Talbs upon learning of the sale on 03.03.2006. The Trial Court decreed the suit after the respondents failed to lead evidence. The Appellate Court allowed the appeal on grounds of acquiescence via a 16.09.2010 joint statement (agreeing to purchase at market value, which did not materialize) and alleged failure to prove Talbs, but framed interrelated points collectively without individual decisions or detailed reasons, merely summarizing without analyzing evidence or addressing the Trial Court's findings. This violated Order XLI Rule 31 CPC, as the judgment was non-speaking and lacked conscious application of mind, rendering it unsustainable per cited Supreme Court cases. On acquiescence, the Appellate Court erred in applying Section 229, as mere negotiations do not extinguish pre-emption rights under Muhammadan Law; no binding compromise or unequivocal waiver occurred. The finding on burden of proof was speculative and ignored the respondents' default in evidence, with the applicant's witnesses unshaken in cross-examination. The Appellate Court's reversal without remand for cross-examination (as requested) or evidential evaluation constituted material irregularity.

Conclusion: The civil revision is allowed with no order as to costs. The Appellate Court's judgment and decree dated 15.01.2018 are set aside as legally untenable and materially irregular. The matter is remanded to the Appellate Court for fresh adjudication in accordance

with law, including proper compliance with Order XLI Rule 31 CPC, evaluation of evidence, and reasoned decisions on all issues.

17. SINDH HIGH COURT

**Ali Ahmed son of Ghulam Rasool Vs Aqeel Ahmed s/o Ghulam Rasool & Shabana w/o Aqeel Ahmed
Criminal Revision Application No.150 of 2023**

Present: Hon'ble Mr. Justice Syed Fiaz ul Hassan Shah

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3NDYzY2Ztcy1kYzgZ>
2025 SHC KHI 2033

Facts: The applicant, Ali Ahmed, is the lawful owner of immovable property, specifically Plot No. 140, Street No. 14-D, Orangi Town, Karachi. He was in peaceful and bona fide possession of the property, with it being listed under his name in utility bills such as Water & Sewerage, Gas, and Electricity bills. In July 2022, the respondents, Aqeel Ahmed (his brother) and Shabana (his sister-in-law), requested Ali Ahmed to vacate the property for renovation works. Shortly thereafter, a group of 8-10 individuals arrived at the property, informing Ali Ahmed that they were instructed by the respondents to begin renovation work. On July 19, 2022, the respondents, along with a few workers, forcefully dispossessed Ali Ahmed and his family from the property, shifting their belongings out and reoccupying the premises. Despite the complainant's request for protection and legal action from the relevant authorities, no action was taken. As a result, Ali Ahmed filed a complaint under Section 3 of the Illegal Dispossession Act, 2005, seeking legal remedy. However, the trial court dismissed his complaint on 11.7.2023, leading Ali Ahmed to file the current Criminal Revision Application.

Issue: Whether the complaint filed under Section 3 of the Illegal Dispossession Act, 2005, by Ali Ahmed against his brother and sister-in-law for forceful dispossession from immovable property should be maintained, given the dismissal of the earlier complaint and the respondents' claim to ancestral ownership of the property.

Rule: The **Illegal Dispossession Act, 2005 (Section 3)** safeguards lawful owners and occupiers of immovable property from illegal dispossession or unlawful occupation. It establishes the legal basis for criminal action when such dispossession occurs, regardless of the dispossessor's background or character. The **Criminal Procedure Code, 1898** includes several provisions pertinent to complaint handling: **Section 248** permits a complainant to withdraw their complaint before a final order, resulting in the accused's acquittal; **Section 203** allows the court to dismiss a complaint if no sufficient grounds are found after an investigation; and **Section 247** addresses the rejection of complaints before charge framing and summons issuance. Additionally, the **Doctrine of Double Jeopardy** permits the filing of a second complaint after the dismissal of the first, as long as the matter has not reached acquittal or conviction, as established in *Azmat Bibi v. Asifa Riaz* (PLD 2002 SC 687).

Analysis: Ali Ahmed, the applicant, claims to be the lawful owner of Plot No. 140, Orangi Town, Karachi, which he was forcibly dispossessed of by his brother, Aqeel Ahmed, and sister-in-law, Shabana, in July 2022. The respondents, Aqeel and Shabana, argue that the property has been in their family since 1974, and that Ali Ahmed had obtained leasehold rights without their consent. Ali Ahmed initially filed a complaint under Section 3 of the Illegal Dispossession Act, 2005 in December 2022, but withdrew it. He later filed a subsequent complaint in 2023, which was dismissed by the trial court. The applicant now seeks to revive the case through a criminal revision. Legal Issues: The key legal questions are whether the second complaint is maintainable after the withdrawal of the first and whether the Illegal Dispossession Act, 2005 applies to the respondents' claim of ancestral ownership. Court's Examination: The court clarified that a second complaint can be filed after the dismissal or withdrawal of an earlier one, as long as the case has not reached the stage of cognizance or acquittal. It noted that dismissal under Section 248 Cr.P.C. does not bar a fresh complaint if the prior proceedings did not result in an acquittal. The court also distinguished between dismissal under preliminary proceedings (Section 203 Cr.P.C.) and dismissal after cognizance, stating that a complaint dismissed before cognizance allows for a fresh filing, which applies in this case.

Conclusion: The **High Court** upheld Ali Ahmed's right to file a second complaint, ruling that it was maintainable since the first complaint had been withdrawn without charges being framed or evidence recorded, and the proceedings had not reached the point of acquittal or conviction. Regarding the **Illegal Dispossession Act, 2005**, the court emphasized that the Act applies broadly to unlawful dispossession, irrespective of the dispossessor's background. The respondents' claim of ancestral ownership did not exempt them from the Act's application. The court directed the **trial court** to first determine whether the Act applies, especially in light of the respondents' assertion that the property had been in their family since 1974. Ultimately, the **impugned order** was set aside, and the case was remanded back to the trial court for further consideration of the Act's applicability and for proceeding with the complaint according to the law.

18. SINDH HIGH COURT
Const. Petition No. D-1983 of 2024
Mst. Naseem Akhtar v. Province of Sindh & others

Present: Mr. Justice Muhammad Saleem Jessar, Mr. Justice Nisar Ahmed Bhanbhro.
Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3MTI3Y2Ztcv1kYzgZ>
 2025 SHC SUK 2015

Facts: Mst. Naseem Akhtar, widow of deceased pensioner Syed Mukhtiar Hussain Shah, filed a constitutional petition seeking a court order to determine and release increased pension arrears from 2019, alleging non-payment of supplementary pension bills by the Sukkur Municipal Corporation. She previously filed C.P No.587/2021 for the same relief, where her claim was settled at Rs.15,81,068, paid in three installments (Rs.5,00,000 on 28.07.2021, Rs.5,00,000 on 20.10.2021, Rs.5,81,068 on 11.11.2021). She received an additional Rs.5,00,000 on 07.03.2025, totaling Rs.20,81,068,

exceeding the settled amount. The respondents argued the excess payment (Rs.5,00,000) should be refunded and the petition is barred due to prior settlement. The petitioner's counsel could not specify outstanding dues, requesting the court to direct respondents to calculate them.

Issue: Whether the petitioner, Mst. Naseem Akhtar, is entitled to a court-directed determination and release of increased pension arrears from 2019 by the Sukkur Municipal Corporation, and whether her constitutional petition is maintainable given a prior petition (C.P No.587/2021) addressing the same pension claim, raising issues of res judicata, estoppel, and laches.

Rule: Article 199, Constitution of Pakistan, 1973: Grants High Courts writ jurisdiction to enforce fundamental rights or address illegal/unlawful administrative actions, but factual controversies requiring evidence cannot be adjudicated in writ jurisdiction, as per *Chairman NAB v. Muhammad Usman* (2021 SCMR 473). Section 11, Code of Civil Procedure, 1908 (Res Judicata): Bars re-litigation of issues already adjudicated between the same parties in a competent court. Doctrine of Estoppel: Precludes a party from reasserting a claim after accepting a settlement or acting inconsistently with prior conduct, as per *Province of Punjab v. Muhammad Hussain* (2018 SCMR 1194). Laches: Unreasonable delay in pursuing a claim may bar relief if it prejudices the respondent, per *Syed Muhammad Shah v. Province of Sindh* (2022 PLD 345 Sindh). Rule 1.8, West Pakistan Pension Rules, 1963: Empowers authorities to recover excess pension payments from a pensioner through due legal process. Precedent: *Abdul Ghafoor v. Province of Sindh* (2020 SCMR 121) emphasizes that writ jurisdiction is inappropriate for unresolved factual disputes or re-litigation of settled claims.

Application: Petitioner's Claim: Mst. Naseem Akhtar, widow of deceased pensioner Syed Mukhtiar Hussain Shah, sought a court order directing respondents (Sukkur Municipal Corporation and others) to calculate and release increased pension arrears from 2019, claiming non-payment of supplementary pension bills. Her counsel could not specify the outstanding amount, requesting the court to direct respondents to determine it. Prior Petition (C.P No.587/2021): The petitioner had previously filed a petition for the same pension arrears, settled at Rs.15,81,068 by Sukkur Municipal Corporation and Local Fund Audit Department. She received this amount in three installments (Rs.5,00,000 on 28.07.2021, Rs.5,00,000 on 20.10.2021, Rs.5,81,068 on 11.11.2021) and an additional Rs.5,00,000 on 07.03.2025, totaling Rs.20,81,068—exceeding the settled claim. The petitioner did not object to the settled amount and sought disposal of the earlier petition, accepting the payment. Res Judicata and Estoppel: The current petition seeks the same relief (pension arrears from 2019) against the same parties, barred by res judicata (Section 11, CPC) as the issue was adjudicated in C.P No.587/2021. Her acceptance of the settled amount and disposal of the prior petition estops her from re-litigating, per *Muhammad Hussain*. The court deemed the petition a malicious attempt to recover undue amounts. Laches: Filing in 2025 for a claim accruing in 2019 constitutes a six-year delay, prejudicial to respondents, barring relief under laches, as per *Syed Muhammad Shah*. Writ Jurisdiction: The petitioner's request for adjudication of an unspecified claim involves factual disputes (amount owed vs. paid), unsuitable

for writ jurisdiction under Article 199, per Chairman NAB. The respondents' claim of excess payment (Rs.5,00,000) requires separate legal action under Rule 1.8, West Pakistan Pension Rules, not adjudication here. Court's Discretion: Considering the petitioner's status as an elderly widow, the court refrained from imposing costs but issued a warning against future frivolous filings.

Conclusion: The High Court dismissed Const. Petition No.D-1983 of 2024 on August 5, 2025. The petition was barred by res judicata, estoppel, and laches, as the petitioner sought re-litigation of a pension arrears claim settled in C.P No.587/2021, where she received Rs.20,81,068, exceeding the adjudicated amount. The factual controversy over outstanding dues was inappropriate for writ jurisdiction. The court permitted Sukkur Municipal Corporation to pursue recovery of excess payments under Rule 1.8, West Pakistan Pension Rules, via due legal process, disposing of the petition without costs due to the petitioner's age.

19. SINDH HIGH COURT

Const. Petition No.D-507 of 2025

Abdul Ghaffar Khaskheli v. District Judge Kamber-Shahdadkot & others

Present: Mr. Justice Muhammad Saleem Jessar, Mr. Justice Nisar Ahmed Bhanbhro

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3MTgxY2Ztcy1kYzgZ>
2025 SHC LAR 2018

Facts: Abdul Ghaffar Khaskheli, appointed as a Peon in the District Judiciary, Larkana on 06.07.1982 and re-appointed as Bailiff on 04.01.1988, retired on 19.05.2025 upon reaching superannuation, as notified by the District & Sessions Judge, Kamber-Shahdadkot (Respondent No. 1) on 17.05.2025. He sought release of his Leave Preparatory to Retirement (LPR), pension, and other pensionary benefits, alleging that his pension case was stalled despite his 37 years of unblemished service. Respondent No. 1 withheld processing due to unverified documents, specifically a 1996 domicile and PRC listing him as "jobless," despite requesting submissions on 23.04.2025, which the petitioner provided on 29.04.2025. The respondents claimed further verification was needed, promising processing upon completion, but no action was taken, prompting the petition for immediate release of benefits.

Issue: Whether the petitioner, Abdul Ghaffar Khaskheli, a retired bailiff with 37 years of service in the District Judiciary, is entitled to immediate release of his pension, leave encashment (LPR), and other pensionary benefits, which were withheld by the respondents due to alleged deficiencies in his service record verification, particularly a 1996 domicile and Permanent Residence Certificate (PRC) describing him as "jobless," and whether such withholding violates his rights under the Sindh Civil Servants Act, 1973, and Sindh Judicial Staff Service Rules, 1994.

Rule: Sindh Civil Servants Act, 1973, and Sindh Judicial Staff Service Rules (SJSS Rules), 1994: Govern judicial staff appointments and benefits. Rule 4 of SJSS Rules designates the District Judge as the appointing authority, applying Sindh Civil Servants

(Appointment, Promotion and Transfer) Rules, 1974, unless inconsistent. Rule 8 requires a PRC and medical fitness certificate for initial appointments. Civil Service Rules (CSR), Chapter X (Rules 166–180): Mandate heads of offices to maintain, verify, and attest service books annually (Rule 166, 177). Rule 178 obligates inspecting officers to ensure proper verification of service records. Article 199, Constitution of Pakistan, 1973: Grants High Courts writ jurisdiction to enforce statutory and fundamental rights (e.g., Articles 4 and 9 for lawful treatment and security of person) when administrative actions are arbitrary or unlawful, per *Abdul Ghafoor v. Province of Sindh* (2020 SCMR 121). Precedents: *Province of Sindh v. Muhammad Yousuf* (2022 SCMR 155) emphasizes that long, unblemished service and verified records establish entitlement to pensionary benefits; withholding benefits without valid grounds is arbitrary and violates Article 9. Legal Principle: Clerical errors in documentation (e.g., domicile status) do not negate established service records, especially after decades of unchallenged service, as per *Muhammad Ramzan v. Government of Punjab* (2019 PLD 231 Lahore).

Application: Petitioner's Service Record: Abdul Ghaffar Khaskheli served 37 years (1982–2025) in the District Judiciary (Larkana, later Kamber-Shahdadkot), initially as a peon (06.07.1982) and then as a bailiff (04.01.1988). His retirement on 19.05.2025 was acknowledged by Respondent No. 1 (District & Sessions Judge). His service book, verified until 2005 by multiple judicial officers and countersigned by District Accounts Officers, confirmed his service, including a 2014 upgradation (BPS-01 to BPS-05) effective from 2002, with no discrepancies raised during employment. Withholding of Benefits: Respondents withheld pensionary benefits citing unverified documents, specifically a 1996 domicile/PRC labeling the petitioner as "jobless," issued 14 years after his initial appointment. The petitioner submitted these documents on 29.04.2025 following a request on 23.04.2025. The court found this reason baseless, as the "jobless" notation was likely a clerical error, irrelevant given his verified 37-year service, regular salary payments, and unchallenged eligibility during employment, per *Muhammad Ramzan*. Legal Obligations: Under CSR Rules 166–178, Respondent No. 1 was responsible for maintaining and verifying the petitioner's service record annually. No anomalies were reported during 37 years, and verified entries (up to 2005 and post-transfer to Kamber-Shahdadkot) supported his entitlement. Withholding benefits post-retirement for a clerical error in a 1996 document, not raised during service, was deemed arbitrary and a violation of Article 9, per *Muhammad Yousuf*. Respondents' Defense: Respondent No. 1 admitted retirement but claimed verification delays due to missing documents. The court rejected this, noting the petitioner's compliance with document submission and the respondents' failure to identify issues during service. The Additional Advocate General's claim of prematurity was dismissed, as 37 years of verified service and retirement triggered immediate entitlement under SJSS Rules and CSR. Writ Jurisdiction: The petitioner's claim for pensionary benefits, grounded in statutory rights (*Sindh Civil Servants Act*, SJSS Rules) and fundamental rights (Articles 4, 9), was maintainable under Article 199. No factual controversy required adjudication, as the service record was undisputed, distinguishing this from cases like *Chairman NAB v. Muhammad Usman* (2021 SCMR 473).

Conclusion: The High Court allowed Const. Petition No.D-507 of 2025 on August 8, 2025. The court directed Respondent No. 1 (District & Sessions Judge, Kamber-Shahdadkot) to immediately process and release the petitioner's LPR, pension, and other pensionary benefits, and Respondent No. 2 (District Accounts Officer) to issue payments without delay, in accordance with the Sindh Civil Servants Act, 1973, and SJSS Rules, 1994. The withholding of benefits due to a clerical error in a 1996 domicile/PRC was arbitrary, given the petitioner's 37-year verified service record, violating his statutory and constitutional rights. The petition was granted, ensuring prompt disbursement of benefits.

20. SINDH HIGH COURT
C.P No. D-78 of 2022 & Others,
(Multiple Petitioners v. Province of Sindh & Others)

Present: Mr. Justice Muhammad Saleem Jessar , Mr. Justice Nisar Ahmed Bhanbhro.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc3NDMzY2Ztcy1kYzgZ>
 2025 SHC SUK 2032, 2025 SHC SUK 2034, 2025 SHC SUK 2035, 2025 SHC SUK 2036

Facts: Multiple petitioners, certified as Persons With Disabilities (PWDs) with valid Disability Certificates from the Department for Empowerment of Persons With Disabilities (DEPWD), filed constitutional petitions seeking induction into government service under the 5% PWD quota as per the Sindh Persons with Disabilities (Empowerment) Act, 2018. They applied for ministerial, teaching, and non-teaching positions in various departments (e.g., Education, Agriculture, Public Health Engineering) following advertisements. The respondents, including the Province of Sindh and departmental officers, allegedly denied their applications without justification, despite the petitioners' qualifications and certifications. The respondents claimed all quota vacancies were filled through merit-based recruitment, with assurances of future accommodation, but provided no evidence of vacancy status. The petitions, involving common legal and factual issues, were consolidated for a common order.

Issue: Whether the petitioners, certified as Persons with Disabilities (PWDs), are entitled to immediate induction into government service against the 5% quota reserved for PWDs under the Sindh Persons with Disabilities (Empowerment) Act, 2018, and whether the respondents' refusal to accommodate them due to filled vacancies violates their statutory and constitutional rights, given the petitioners' applications pursuant to advertised vacancies and possession of valid Disability Certificates.

Rule: Sindh Persons with Disabilities (Empowerment) Act, 2018, Section 8: Mandates a 5% quota for PWDs in public sector employment, requiring government establishments to prioritize their induction for suitable posts, subject to merit-based selection and verification of disability certificates issued by the Department for Empowerment of Persons With Disabilities (DEPWD). Article 199, Constitution of Pakistan, 1973: Grants High Courts writ jurisdiction to enforce statutory and fundamental rights (e.g.,

Articles 4, 9, and 25 for lawful treatment, security, and equality) when administrative actions are arbitrary or discriminatory, per *Abdul Ghafoor v. Province of Sindh* (2020 SCMR 121). Disabled Persons (Employment and Rehabilitation) Ordinance, 1981: Reinforces employment rights for PWDs, emphasizing non-discrimination and accommodation in suitable roles. International Labour Organization (ILO) Standards: Advocate for equal employment opportunities for PWDs, noting high unemployment rates (up to 80% in some countries) due to employer biases, reinforcing the need for statutory quotas.

Application: Petitioners' Claims: The petitioners, certified as PWDs by DEPWD-issued Disability Certificates, applied for ministerial, teaching, and non-teaching positions in various government departments (e.g., Education, Agriculture, Public Health Engineering) pursuant to advertisements for the 5% PWD quota. They alleged that respondents (Province of Sindh and departmental officers) arbitrarily denied their applications without reasons, failing to accommodate them despite their qualifications and certifications. Respondents' Defense: Respondents confirmed that applications were received and processed, filling all available 5% quota vacancies through merit-based recruitment. They argued no vacancies remained but assured future accommodation when new recruitment processes commence, subject to merit and availability. Statutory Compliance: Section 8 of the Sindh Persons with Disabilities (Empowerment) Act, 2018, mandates prioritizing PWDs for the 5% quota. The petitioners' valid Disability Certificates and applications establish prima facie eligibility. The respondents' claim of filled vacancies lacks specificity (e.g., no evidence of vacancy counts or recruitment records), rendering their refusal potentially arbitrary, per *Muhammad Yousuf*. The assurance of future accommodation does not address immediate statutory entitlements, especially given the petitioners' repeated, unanswered efforts to secure employment. Constitutional Rights: Denial of quota-based employment without transparent justification violates Articles 4 (lawful treatment), 9 (security of person), and 25 (equality), as PWDs face systemic discrimination, per *Pakistan Disabled Foundation*. The court noted global statistics (1.3 billion PWDs, 80% unemployment in some regions) and Islamic principles against discrimination (Quran, An-Nur 24:61), reinforcing the state's duty to ensure equal opportunities. Writ Jurisdiction: The petitioners' claims involve enforcement of a clear statutory right (5% quota) and fundamental rights, suitable for Article 199 jurisdiction. No factual controversy requiring evidence exists, as respondents do not dispute the petitioners' certifications or applications, only vacancy availability, which lacks substantiation, per *Abdul Ghafoor*. Court's Analysis: The respondents' failure to provide evidence of filled quotas or transparent recruitment processes undermines their defense. The petitioners' long-standing efforts and valid certifications entitle them to priority consideration. Delays in accommodation, without valid grounds, breach the 2018 Act and constitutional guarantees, warranting court intervention.

Conclusion: The High Court allowed C.P No.D-78 of 2022 and 74 connected petitions on August 5, 2025. The court directed the respondents (Province of Sindh and departmental officers) to process the petitioners' applications for induction into government service against the 5% PWD quota within 60 days, prioritizing them for suitable posts per the

Sindh Persons with Disabilities (Empowerment) Act, 2018, subject to merit and verification. The respondents were ordered to submit a compliance report, ensuring no further delays or denials without lawful justification. The decision upheld the petitioners' statutory and constitutional rights, addressing systemic barriers to PWD employment.

21. SINDH HIGH COURT
Abdul Majeed vs The State
Cr. Appeal No. S-81 of 2024

Present: Hon'ble Mr. Justice Ali Haider 'Ada.

Source: <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc2ODQ1Y2Ztcy1kYzgZ>
 2025 SHC LAR 2006

Facts: On 17.09.2022, a quarrel between children escalated into violence when Muhammad Nawaz fired upon the complainant's brother and Abdul Majeed (the appellant), along with others armed with lathis, allegedly injured members of the complainant's family. The injured were treated the same day, but the FIR was registered after a 17-day delay. Four co-accused were tried earlier and convicted, while the appellant was later arrested and subjected to a separate second trial in 2024, which ended in his conviction under various provisions of the PPC. He challenged the conviction before the High Court on grounds of delayed FIR, lack of medical evidence, and denial of fair trial.

Issue: Whether the appellant's conviction in the second trial of 2024 could be sustained despite unexplained delay in FIR, contradictions in witness testimony, non-production of medical evidence, and procedural irregularities affecting the right to fair trial.

Rule: Under Article 10-A of the Constitution, every accused is entitled to a fair trial and due process. Article 47 of the Qanun-e-Shahadat Order, 1984 allows reliance on prior evidence only where the witness is unavailable and the accused had a chance to cross-examine. Section 353, Cr.P.C. mandates evidence to be recorded in the presence of the accused. The Supreme Court has consistently held that criminal conviction must rest on proof beyond reasonable doubt, not suspicion or probabilities (PLD 2021 SC 600; 2023 SCMR 781).

Analysis: The High Court found that the trial court committed illegality by relying on evidence from the earlier trial without re-exhibiting documents or examining the medical officer afresh, contrary to Article 47 QSO and Section 353 Cr.P.C. The claim that prior medical evidence was adopted was unsupported by the record, showing clear procedural defects. Further, the trial was concluded hastily, with cross-examination, recording of the accused's statement, and judgment delivered on the same day, violating Article 10-A. Apart from these errors, the prosecution case suffered from substantive weaknesses: an unexplained 17-day delay in lodging the FIR (2024 SCMR 1490), contradictions in witness accounts regarding injuries (2017 SCMR 2007; 2023 PCrLJ 896), and absence of reliable medical corroboration. These deficiencies created reasonable doubt, which settled law requires to be extended to the accused (2023

SCMR 781).

Conclusion: The High Court held that the trial court's reliance on inadmissible prior evidence, procedural haste, unexplained delay in FIR, contradictions in testimony, and lack of medical proof rendered the conviction unsafe. The appellant's conviction was therefore set aside, and he was acquitted.

SELECTED ARTICLES

1.THE ROLE OF TAX EVASION AND TAX FRAUD IN FUELING CONOMIC INSTABILITY

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By Dr. Ambreen Aslam

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The article by Dr. Ambreen Aslam highlights the pervasive issue of tax evasion and tax fraud in Pakistan, emphasizing their role in undermining economic stability. It begins by distinguishing between tax evasion, illegal underreporting of income or concealment of assets and tax fraud, which entails deliberate deceit through falsified documents and fictitious transactions. Both practices drain state revenues, weaken institutions, and perpetuate inequality. The paper also situates taxation historically, explaining its role as a civic duty and the backbone of governance, while outlining Pakistan's tax laws, including the Income Tax Ordinance 2001 and Sales Tax Act 1990. Despite comprehensive legal frameworks, weak enforcement, political interference, corruption, and public mistrust fuel widespread non-compliance.

The study identifies key mechanisms through which tax fraud and evasion operate in Pakistan. These include underreporting of sales, fake invoices, shell companies, transfer pricing abuses, and smuggling at customs. Other practices involve misuse of tax exemptions, inflated expenses, bogus input tax credits, non-filing of returns, and collusion between taxpayers and corrupt officials. The informal economy particularly unregistered small businesses exacerbate the problem by keeping significant income outside the tax net. Low tax morale, shaped by distrust in state institutions and the perception that taxes are misused, further encourages evasion. Collectively, these practices diminish revenues, increase fiscal deficits, fuel capital outflows, and create an unjust burden on honest taxpayers.

In addressing these challenges, the paper calls for a multi-faceted reform strategy. Recommendations include strengthening the autonomy of the Federal Board of Revenue (FBR), enhancing prosecution mechanisms, introducing specialized tax courts, and mandating public asset disclosures. Other reforms proposed are whistleblower protection laws, digitalization of the tax system using AI and machine learning, fostering a culture of tax compliance through awareness campaigns, and providing formal training for judges handling tax cases. Additionally, the article stresses the need for accountability within tax administration and the introduction of cashless transactions to curb undocumented economic activities. Ultimately, the study concludes that only through strong political will, transparent enforcement, and a fair tax system can Pakistan achieve fiscal self-sufficiency, reduce foreign debt reliance, and restore public trust in state institutions

2. Tool for Curtailing Frivolous Litigation and Promoting Expeditious Justice.

By. Sheeraz Ahmed (Senior Civil Judge)

[https://www.academia.edu/129420040/A Tool for Curtailing Frivolous Litigation and Promoting Expeditious Justice](https://www.academia.edu/129420040/A_Tool_for_Curtailing_Frivolous_Litigation_and_Promoting_Expeditious_Justice)

The article addresses the pressing issue of frivolous and dilatory litigation in Pakistan's civil justice system, which has led to systemic delays, docket congestion, and declining public trust in courts. It emphasizes that abuse of procedural laws through repeated adjournments, late filing of documents, and misuse of objections, burdens genuine litigants and wastes public resources.

A central argument is that judicial imposition of costs under Sections 35, 35A, 35B of the Code of Civil Procedure, 1908, can serve as a powerful tool to enforce discipline. Costs not only compensate the innocent party but also deter abuse, promote timely compliance, and restore equity in proceedings. Comparative insights from countries like the UK, Canada, and Germany highlight how strong cost regimes reduce litigation abuse and encourage settlements.

The article further connects cost imposition with broader judicial goals:

- **Curtailing frivolous litigation:** Costs discourage baseless suits, vexatious defenses, and delay tactics.
- **Ensuring expeditious disposal:** Penalizing adjournments, defaults, and late filings creates procedural seriousness and efficiency.
- **Promoting ADR:** Costs make prolonged litigation financially unattractive, nudging parties toward mediation or conciliation.
- **Strengthening judicial credibility:** Consistent cost orders enhance fairness, authority, and public confidence in courts.

- **Trickle-down societal effects:** Responsible litigation culture, reduced taxpayer burden, early settlements, and legal literacy.

The author cautions, however, that costs must be imposed fairly, proportionately, and with recorded reasons to avoid arbitrariness or barriers to justice. The article concludes that systematic and judicious cost imposition is not a luxury but a necessity for ensuring meaningful justice in an overburdened legal system

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