



# HIGH COURT OF SINDH

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## Case Law Review



## Fortnightly Bench Update



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## FORTNIGHTLY BENCH UPDATE

(16-4-2026 to 30-04-2026)

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

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**Federal Constitutional Court of Pakistan**

**1. C.P.L.A. No. 229-Q/2024 (Against the judgment dated 31.07.2024 passed by High Court of Balochistan in CP No. 458/2024)**

**Present: MR. JUSTICE AAMER FAROOQ  
MR. JUSTICE ROZI KHAN BARRECH**

<https://www.fccp.gov.pk/download/eyJpdil6IjJKYzgva1JrZTlVd3gzcG9adllDekE9PSIsInZhbHVlIjoiriRmhDWEo5WStoUWk3WDVlOFdJWwNzZz09IiwibWFjIjoizmYyZGQxNGVkyTQyN2I5MTc3MmVhOTFhNzUwMWUwNDJlZDUwMjA2NzExODgzODEyNDg4NDkzYzliMDg5ZTliNiIsInRhZyI6IiJ9>

**Facts:** The petitioner, Ghulam Ali Khan, claiming to be the Chieftain/Sardar (Turban Holder) of the Kharoti tribe, asserted that his tribesmen face significant difficulties in obtaining identity documents such as CNICs, domicile certificates, and local certificates due to stringent verification requirements imposed by authorities. He requested that his attestation as tribal head be accepted as sufficient proof for issuance of such documents. The authorities refused this request.

The petitioner filed a writ petition before the High Court of Balochistan, which was dismissed. He then approached the Federal Constitutional Court seeking (i) recognition as an aggrieved person under Article 199 of the Constitution, and (ii) a declaration recognizing him as Chieftain/Sardar with authority to facilitate issuance of official documents based on his attestation.

**Issue:** Whether the petitioner, in his capacity as Chieftain/Sardar, qualifies as an aggrieved person under Article 199 of the Constitution to invoke constitutional jurisdiction?

Whether the petitioner is entitled to a declaration recognizing him as Chieftain/Sardar under customary law, and whether such recognition carries legal authority or binding effect for issuance of CNICs, domicile, and local certificates on the basis of his attestation?

**Rule:** The Court reiterated that only an “aggrieved person” whose legal or fundamental rights have been infringed can invoke constitutional jurisdiction under Article 199 of the Constitution of Pakistan. Mere general allegations without specific instances of rights violation are insufficient.

The Court further held that constitutional supremacy, rule of law, and equality (Articles 4, 8, 25, and 2A of the Constitution) override customary practices. Any custom or usage inconsistent with fundamental rights is void under Article 8. While Article 28 protects cultural identity, it is subject to law and cannot override statutory provisions. The issuance of identity documents is governed strictly by

statutory frameworks and administrative rules, not private attestations.

Importantly, the Sardari system stands abolished under the System of Sardari (Abolition) Ordinance, 1976, and no legal recognition or authority can flow from a status that has been statutorily extinguished. Judicial precedents (PLD 2006 Quetta 1; PLD 2013 Balochistan 13) affirm that claims based on Sardari status are incompatible with constitutional principles of equality.

**Application:** Applying the above principles, the Court found that the petitioner failed to establish himself as an aggrieved person. He did not demonstrate any direct or indirect infringement of his own fundamental rights, nor did he provide concrete instances of violations affecting identifiable members of his tribe. His claims were general and lacked evidentiary support.

Regarding the second issue, the Court examined the claim of Sardari recognition within the constitutional framework. It held that even if the petitioner is socially recognized as a tribal head, such recognition does not carry legal authority. The Constitution mandates equality before law and does not permit parallel systems of authority based on custom.

The Court emphasized that statutory mechanisms regulate issuance of CNICs and related documents, and such processes cannot be replaced by private attestations unless expressly authorized by law. Furthermore, since the Sardari system has been abolished by statute, any claim seeking its revival or legal recognition is untenable. Thus, the petitioner's reliance on customary law and Article 28 was misplaced, as cultural rights are subject to statutory limitations and cannot override constitutional mandates or revive abolished systems.

**Conclusion:** The Court dismissed the petition, holding that the petitioner is not an aggrieved person under Article 199 of the Constitution and therefore lacks locus standi to invoke constitutional jurisdiction. It further held that recognition as Chieftain/Sardar under customary law does not confer any legal authority or binding effect, particularly in light of the abolition of the Sardari system under the 1976 Ordinance.

The ratio decidendi of the case is that constitutional jurisdiction can only be invoked by an aggrieved person with demonstrable infringement of rights, and that customary or tribal authority has no legal enforceability where it conflicts with constitutional principles, statutory law, and the abolition of feudal structures. The observations regarding the constitutional supremacy over customary practices and the detailed exposition of Articles 4, 8, 25, and 28 constitute important obiter dicta, reinforcing that cultural recognition cannot translate into legal authority absent statutory backing.

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## **Government of the Punjab, Lahore, and another**

**Present:** MR. JUSTICE YAHYA AFRIDI, CJ  
MR. JUSTICE MUHAMMAD ALI MAZHAR

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 3153 1 2019.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 3153 1 2019.pdf)

**Facts:** The petitioner, Muhammad Javed Iqbal, was proceeded against departmentally while serving as Assistant Director (Admin) in the School Education Department, Punjab. A show cause notice dated 12.04.2016 alleged that he violated the administrative hierarchy by directly submitting transfer proposals to the District Coordination Officer, managed hundreds of transfers during a government-imposed transfer ban, transferred IT teachers to schools lacking IT labs, transferred female teachers to male institutions, transferred newly recruited educators before completion of mandatory service, and unlawfully transferred one Maryam Arshad in violation of policy.

A regular inquiry was conducted under the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (PEEDA Act). The inquiry officer found the petitioner guilty and recommended dismissal from service. The competent authority imposed the major penalty of dismissal. His departmental appeal remained undecided within time, whereafter he approached the Punjab Service Tribunal. The Tribunal dismissed his service appeal. He then filed the present petition before the Supreme Court.

**Issue:** Whether the departmental inquiry and disciplinary proceedings were conducted in accordance with law and principles of fair opportunity under the PEEDA Act?

Whether the penalty of dismissal from service was proportionate to the misconduct proved against the petitioner, or whether it required modification?

**Rule:** The Court held that under the PEEDA Act, the inquiry officer must conduct proceedings fairly, examine evidence, hear the accused, and submit findings with recommendations. However, such recommendations are not binding on the competent authority. The competent authority independently determines guilt and penalty after examining the inquiry report, relevant material, and hearing the accused. The Court reaffirmed that determination of punishment is primarily within the exclusive domain of the employer/competent authority. Nevertheless, the Service Tribunal and Supreme Court, while exercising constitutional jurisdiction under Article 212, may judicially review the quantum of punishment on the

principles of proportionality, reasonableness, and legality. The Court referred to earlier precedents including *Postmaster General Balochistan v. Amanat Ali* (2024 SCMR 1484), *Secretary to Government of Punjab v. Ali Ahmad Khan* (2025 SCMR 489), and *Ijaz Badshah v. Secretary Establishment Division* (2023 SCMR 407), holding that punishment may be interfered with where it is disproportionate or irrational relative to the misconduct.

**Application:** Applying these principles, the Court found no material irregularity in the inquiry process. The petitioner had been afforded reasonable opportunity to defend himself, and the inquiry officer considered both oral and documentary evidence before concluding that he had committed misconduct by issuing unauthorized transfers during a ban. The Tribunal had also rightly upheld the finding of guilt. However, on the question of punishment, the Court closely examined the surrounding circumstances. It noted that the allegations did not involve corruption, bribery, embezzlement, prolonged absence, criminal misconduct, or moral turpitude. Rather, the petitioner was guilty of administrative inefficiency and acting beyond authority by making transfers without sanction.

The Court further observed that the impugned transfer orders were issued openly on various dates and were not immediately challenged or withdrawn by the department. Surprisingly, disciplinary action was initiated after almost one year, without explanation and without accountability of any other officers allegedly connected with the process. Most importantly, the petitioner had rendered 31 years of service, and no previous misconduct or blemished service record was shown. Considering his long untainted service and the comparatively lesser nature of misconduct, the Court concluded that dismissal from service was excessively harsh and disproportionate.

**Conclusion:** The Supreme Court converted the petition into an appeal and partly allowed it. The penalty of dismissal from service was modified to the lesser major penalty of compulsory retirement. The ratio decidendi of the case is that although punishment in service matters primarily lies within the authority of the employer, superior courts and service tribunals may interfere where the penalty is disproportionate to the gravity of proven misconduct. Long, previously clean service and absence of corruption or criminal conduct are relevant mitigating considerations. The broader discussion distinguishing the powers of inquiry officers, hearing officers, and competent authorities under the PEEDA Act, along with the doctrine of proportionality in service jurisprudence, constitutes important obiter dicta for future disciplinary cases

**Civil Appeal No.125 of 2025**  
**Connected with CPLA Nos.559 & 2624 of 2025**

**Present:** **MR. JUSTICE SHAHID WAHEED**  
**MR. JUSTICE NAEEM AKHTER AFGHAN**  
**MR. JUSTICE MALIK SHAHZAD AHMAD KHAN**  
**MR. JUSTICE AQEEL AHMED ABBASI**  
**MR. SHAKEEL AHMED**

**Source:** [https://www.supremecourt.gov.pk/downloads\\_judgements/c.a. 125\\_2025.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.a. 125_2025.pdf)

**Facts:** The appellants/petitioners had filed petitions before the Lahore High Court under Section 126 of the Companies Act, 2017 seeking rectification of the register of members of companies. The High Court dismissed the petitions as barred by limitation, applying Article 181 of the Limitation Act, 1908. The petitioners challenged those judgments before the Supreme Court. The disputes also involved allegations of fraud in entries or omissions from company registers.

**Issue** Whether proceedings for rectification of register under Section 126 of the Companies Act, 2017 are governed by any statutory limitation period under the Limitation Act, 1908, particularly Article 181, and whether such petitions can be dismissed as time-barred.

**Rule** Under Section 126 of the Companies Act, 2017, the Court has jurisdiction to rectify the register of members or debenture-holders where a person's name has been fraudulently or without sufficient cause entered or omitted, or where there has been default or unnecessary delay in recording membership changes. The Supreme Court held that such proceedings are a special statutory remedy under company law and are not ordinary civil suits or routine applications under the Code of Civil Procedure. Therefore, Article 181 of the Limitation Act, 1908 does not automatically apply to petitions filed under Section 126. In the absence of a specific statutory limitation period, delay is to be examined through equitable principles such as laches, acquiescence, prejudice to other parties, and fraudulent concealment, with the guiding principle that fraud should not be permitted to succeed merely because it remained undiscovered for a period of time.

**Application:** The Supreme Court held that the High Court wrongly applied Article 181 to petitions under Section 126. A rectification petition is a special statutory remedy under company law and cannot automatically be treated as an ordinary application governed by the Limitation Act. Company registers determine ownership, voting rights, and corporate control; therefore, their accuracy is essential. The Court observed that allegations of fraud often surface after considerable time, and a rigid limitation bar could protect wrongdoers. Instead of dismissing such petitions solely

on limitation, Courts should examine whether the claimant was guilty of unreasonable delay, whether innocent third-party rights accrued, whether prejudice was caused, and whether the respondent concealed material facts. Since the High Court dismissed the cases primarily on limitation without proper adjudication of the fraud allegations, the matters required reconsideration on merits.

**Conclusion:** The Supreme Court of Pakistan allowed Civil Appeal No.125 of 2025 and connected petitions, set aside the judgments of the Lahore High Court, and remanded the matters for fresh decision on merits after hearing all parties. It was held that Article 181 does not automatically bar petitions under Section 126 of the Companies Act, 2017; delay is to be assessed through equitable principles rather than rigid statutory limitation.

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**4. SINDH HIGH COURT**  
**Irfan Taj and another v. Mst. Zareena Shabbir and others**  
**Constitutional Petition No.D-1638 of 2026**

**Present:** MR. JUSTICE MUHAMMAD SALEEM JESSAR

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEwNjI1Y2Ztcv1kYzgz>  
2026 SHC KHI 850

**Facts:** The petitioners, Irfan Taj and Taj Muhammad, challenged concurrent orders of the trial Court and Revisional Court whereby their applications under Order VII Rule 11 CPC for rejection of plaint were dismissed. The underlying suit was filed by respondent No.1, Mst. Zareena Shabbir, seeking cancellation of a lease deed allegedly obtained fraudulently by petitioner No.1, along with relief of partition, mesne profits, and injunction regarding a residential property claimed to be inherited from her deceased father, Ali Sher. The petitioners contended that the property was not inherited but purchased by petitioner No.2 in 1990 from a third party, thereby denying co-ownership. They argued that the suit was not maintainable without a declaratory relief and was barred by law. The trial Court dismissed their application, and the Revisional Court maintained the same, leading to the present constitutional petition.

**Issue:** Whether a plaint can be rejected under Order VII Rule 11 CPC when the ownership of the property and allegations of fraud are disputed questions of fact, particularly after framing of issues and partial recording of evidence; and whether the suit was barred for want of declaratory relief?

**Rule:** The settled principle of law is that while deciding an application under Order VII Rule 11 CPC, only the averments contained in the plaint are to be considered, and those averments must be presumed to be true. The Court cannot examine the defense or disputed questions of fact at this stage. Rejection of plaint is permissible only where the plaint on its face discloses no cause of action or is barred by law. Furthermore, where issues have been framed and evidence has commenced, the scope for rejection of plaint becomes extremely limited. Questions involving title, fraud, or ownership require full trial and cannot be decided summarily without recording evidence.

**Application:** In the present case, the plaintiff clearly pleaded that the suit property was owned by her deceased father and that the lease deed in favor of petitioner No.1 was obtained through fraud and misrepresentation. These averments disclosed a valid cause of action. The petitioners' contention regarding independent ownership based on a sale transaction raised disputed questions of fact which could not be adjudicated without evidence. Moreover, issues had already been framed, and the plaintiff had led evidence, while the defendants were yet to produce theirs. At such an advanced stage, entertaining an application for rejection of plaint would be contrary to settled law. Additionally, the petitioners had already filed a similar application earlier which was dismissed and attained finality, making the second application unwarranted. The argument regarding absence of declaratory relief was also found misconceived, as the plaintiff had sought cancellation of lease deed along with partition and mesne profits, distinguishing the case from precedents cited by the petitioners.

**Conclusion:** The Court held that the plaint disclosed a cause of action and involved disputed questions requiring trial. The concurrent findings of the Courts below were in accordance with law, and no illegality or jurisdictional defect was found warranting interference under constitutional jurisdiction. Consequently, the petition was dismissed, and the trial Court was directed to expedite the proceedings and conclude the trial preferably within six months.

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**5. SINDH HIGH COURT  
Muhammad Umair v. Province of Sindh and others  
Constitutional Petition No.D-617 of 2026**

**Present: MR. JUSTICE MUHAMMAD SALEEM JESSAR  
MR. JUSTICE NISAR AHMED BHANBHRO**

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEwNjY1Y2Ztcy1kYzgZ>  
**2026 SHC KHI 863**

**Facts:** The petitioner, Muhammad Umair, approached the High Court seeking enforcement of his appointment under the deceased quota after the death of his father, who was serving as a Workshop Attendant in the Education Department and passed away on 21.03.2020. The petitioner applied within the prescribed time, and his case was duly considered by the Departmental Recruitment Committee (DRC), which recommended him for appointment as Junior Clerk (BPS-11). Consequently, an offer letter dated 14.10.2024 was issued, and the petitioner fulfilled all codal formalities, including submission of medical and character certificates. However, before he could join, the department withdrew all such appointments en bloc on the basis of the Supreme Court's judgment in *General Post Office, Islamabad v. Muhammad Jalal (PLD 2024 SC 1276)*, which had struck down Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974. Aggrieved by the refusal to allow him to join, the petitioner invoked the constitutional jurisdiction of the High Court.

**Issue:** Whether the petitioner, whose right to appointment under Rule 11-A had accrued prior to its omission pursuant to the Supreme Court judgment, could be denied appointment on the ground that the said rule had subsequently been struck down, and whether such judgment would apply retrospectively to extinguish accrued rights?

**Rule:** The Court relied on Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, which provided employment to one eligible family member of a deceased civil servant. Although this rule was struck down in *PLD 2024 SC 1276*, the Court applied the principle that judicial decisions generally operate prospectively unless expressly stated otherwise. Further reliance was placed on the binding effect of judgments under Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973. The Court particularly followed the ruling of the Federal Constitutional Court in *Province of Sindh v. Muhammad Rizwan Khan*, wherein it was held that the right to appointment accrues at the time of death of the employee and such accrued rights are not affected by subsequent judicial pronouncements invalidating the rule.

**Application:** Applying the above principles, the Court observed that the petitioner's father died in 2020, and thus the petitioner's right to be considered for appointment under Rule 11-A accrued at that time. The subsequent recommendation by the DRC and issuance of the offer letter further strengthened his vested right. The withdrawal of appointments by the department solely on the basis of the Supreme Court judgment was found to be legally untenable because the said judgment did not operate retrospectively to nullify accrued rights. The Court also noted that the interpretation of prospective application had already been affirmed by the Federal Constitutional Court, which is binding under

Article 189. Therefore, the department's refusal to allow the petitioner to join was held to be unlawful and in defiance of settled legal principles.

**Conclusion:** The High Court concluded that the petitioner had a vested and accrued right to appointment under the deceased quota, which could not be extinguished by the subsequent omission of Rule 11-A. Accordingly, the petition was allowed, and the respondents were directed to issue the appointment letter to the petitioner within fifteen days, thereby enforcing his right and ensuring compliance with the law as interpreted by the superior courts.

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**6. SINDH HIGH COURT**  
**Amaan Ali and others v. Federation of Pakistan and others**  
**Constitutional Petition No.D-1698 of 2026**

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

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEwODY3Y2Ztcy1kYzgz>

**2026 SHC KHI 910**

**Facts:** The petitioners, Aman Ali and others, were aspiring medical students who secured over 50% marks in the Medical and Dental College Admission Test (MDCAT) for the 2025–26 academic session. However, they were rendered ineligible for admission because the Pakistan Medical & Dental Council (PMDC) had set a minimum passing threshold of 55% for MBBS and 50% for BDS programs. The petitioners argued that these requirements were arbitrary and led to hundreds of seats remaining vacant in private medical colleges—specifically 284 vacant seats in Sindh—despite there being thousands of candidates who scored above 50% but below the 55% cutoff. They contended that the PMDC's refusal to lower the threshold, as it had done in previous years, was discriminatory and violated their constitutional right to education.

**Issue:** Whether the PMDC should be compelled to reduce the minimum eligibility criteria for MDCAT marks to fill vacant seats in private medical colleges, and whether the existing policy violated the fundamental rights of candidates under Articles 25 and 37(c) of the Constitution of Pakistan?

**Rule:** The Court relied on Section 17 and Section 47 of the PMDC Act, 2022, which empowers the Council to regulate admissions and maintain educational standards with federal approval. Centrally, the Court invoked Article 37(c) of the Constitution, which mandates the State to make technical and professional education equally accessible to all "on the basis of merit". Furthermore, the Court cited Rule 13 of the Sindh Private

Educational Institutions (Regulation & Control) Rules, 2005, which requires private institutions to provide "full free-ship" (free education) to at least 10% of their total student strength. The Court also referenced Supreme Court precedent (*Muhammad Zubair Choudhry v. PMDC*), which strictly prohibits lowering merit thresholds just to fill vacant seats.

**Application:** The Court observed that while vacant seats existed, they were not due to a lack of eligible candidates—over 10,000 students had passed the 55% threshold but could not afford the "exorbitant fees" of private colleges. The Court found that lowering the passing marks would "assassinate the future of medical education" by allowing less meritorious students to enter the profession simply to help private colleges make money. It noted that the PMDC had actually succumbed to pressure by slightly lowering the marks to 53% during the litigation, an action the Court disapproved of as being without statutory backing. The Court reasoned that instead of lowering standards, private colleges and the government should apply Rule 13 to offer free seats to the top-scoring students who were currently excluded due to financial constraints.

**Conclusion:** The Court dismissed the petition, refusing to lower the eligibility criteria, and held that merit must remain the sole policy for medical admissions. It directed the PMDC to set fixed deadlines and criteria in advance that cannot be altered subsequently. Most significantly, the Court ordered the Sindh Health Department and PMDC to ensure that all private medical colleges comply with the law by granting 10% free-ship to meritorious but needy students, thereby filling vacant seats without compromising academic standards.

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**7. SINDH HIGH COURT**  
**Aurangzaib Khan Bungush v. Province of Sindh and others**  
**Constitutional Petition No.D-1723 of 2026**

**Present:** MR. JUSTICE ADNAN-UL-KARIM MEMON  
MR. JUSTICE ZULIFQAR ALI SANGI

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMzI1Y2Ztcv1kYzgz>

**2026 SHC KHI 962**

**Facts:** The petitioners, who are long-route transport operators, filed a constitutional petition challenging the sealing of their booking offices located near Al-Asif Square on the

Super Highway, Karachi. They contended that they had been operating their transport business for decades from these locations, which constituted their primary source of livelihood. They argued that the Government of Sindh had earlier assured the establishment of a government bus terminal but failed to do so, and instead unlawfully sealed their offices without notice or due process. The petitioners alleged mala fide actions, discrimination, and facilitation of a private terminal operator, compelling them to shift operations under coercive conditions. Conversely, the respondents asserted that the petitioners were illegally occupying public land for commercial purposes, violating statutory provisions and prior judicial directions, particularly in C.P. No. D-5460 of 2025, where similar claims had already been dismissed.

**Issue:** Whether the petitioners have any lawful or enforceable right to operate booking offices and bus stands on public land, and whether the sealing of such premises by the authorities constitutes an illegal and unconstitutional act in violation of their fundamental rights?

**Rule:**

The Court reiterated the settled legal position that no individual or association can claim any vested or proprietary right to occupy or commercially use public roads, service lanes, or state land unless such use is expressly authorized by law. Under the Motor Vehicles Ordinance, 1965 and the Motor Vehicles Rules, 1969, transport vehicles are required to operate only from duly notified and approved terminals, and route permits merely regulate movement of vehicles, not the establishment of booking offices or bus stands. The right to trade or business under Article 18 of the Constitution is not absolute and is subject to reasonable restrictions imposed in the interest of public order, safety, and regulation of traffic. It is further a settled principle that public land is held by the State in trust for the general public and cannot be encroached upon for private commercial gain. The doctrine of **res judicata** bars re-litigation of issues already adjudicated between the same parties on the same subject matter, while the principle of “no equity against statute” precludes the Court from extending protection to illegal acts or unauthorized use of property.

**Application:** Applying these principles, the Court held that the petitioners’ claim of a right to operate from roadside locations was legally untenable, as such use of public land for commercial activity is inherently unauthorized. Their reliance on past government assurances regarding a future terminal did not create any enforceable legal right to continue illegal operations. The Court found that the actions of the authorities, including sealing of booking offices, were taken within statutory powers as part of a lawful enforcement drive aimed at removing encroachments and regulating traffic. The allegations of mala fide, discrimination, and collusion were unsupported by evidence and insufficient to rebut the presumption of legality of official acts. Moreover, the matter had already been conclusively decided in an earlier petition involving the same

issue, thereby attracting the bar of res judicata. The Court also clarified that ownership or possession of premises does not authorize their use in violation of law, and regulatory measures such as sealing do not amount to unlawful deprivation of property.

**Conclusion:** The Court concluded that the petition was devoid of merit, legally barred, and an attempt to seek protection for an unlawful activity. It upheld the actions of the respondents as lawful, justified, and in the public interest, and dismissed the petition along with pending applications. However, the petitioners were permitted to continue their transport business strictly from lawfully designated terminals in accordance with the applicable legal framework.

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**8. SINDH HIGH COURT**  
**Mst. Shaista Khan and another v. Federation of Pakistan and others**  
**Constitutional Petition No.D-5060 of 2021**

**Present:** MR. JUSTICE ADNAN-UL-KARIM MEMON  
MR. JUSTICE ZULIFQAR ALI SANGI

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMzgZy2Ztcy1kYzgz>  
**2026 SHC KHI 971**

**Facts:** The petitioners, husband and wife, approached the High Court under Article 199 of the Constitution seeking issuance of a Pakistan Origin Card (POC) to Petitioner No.2, who is a U.S. national of Afghan origin and married to Petitioner No.1, a Pakistani citizen. Their marriage was validly solemnized and registered in Karachi. Petitioner No.2 applied for a POC under the NADRA Ordinance, 2000 and POC Rules, 2002, claiming eligibility as a foreign spouse. Despite fulfilling all documentary requirements, paying the prescribed fee, and undergoing scrutiny, the application was refused on the ground that the Ministry of Interior did not grant the required NOC due to an adverse security report. The petitioners contended that the refusal was arbitrary, lacked reasons, and violated principles of natural justice, particularly as no opportunity of hearing was provided.

**Issue:** Whether the refusal to issue a Pakistan Origin Card (POC) to Petitioner No.2, based solely on an undisclosed adverse security report without providing reasons or an opportunity of hearing, is lawful and in accordance with the Constitution and the POC Rules, 2002?

**Rule:** Under Rule 4(5) of the POC Rules, 2002, a foreign spouse of a Pakistani citizen

qualifies as an eligible person unless disqualified under the Rules. Rules 9 and 13 empower the authorities to conduct inquiries and refuse issuance of a POC on grounds of security or public interest. However, such discretion must be exercised fairly, transparently, and in accordance with due process. Article 4 of the Constitution guarantees the right to be treated in accordance with law, which includes the right to a fair hearing and protection against arbitrary action. Additionally, Article 35 obligates the State to protect the family institution. It is a settled principle that administrative decisions must be reasoned, non-arbitrary, and consistent with principles of natural justice, including the right to be heard.

**Application:** In the present case, although the respondents were legally justified in seeking security clearance and considering intelligence reports, the manner in which the petitioner’s application was handled was deficient. The refusal was communicated in a vague and non-speaking manner, merely stating lack of support from an agency without disclosing reasons. This deprived the petitioners of the opportunity to understand or challenge the basis of refusal. Furthermore, no opportunity of hearing was afforded, which is implicit in the inquiry process under the Rules and mandated by constitutional guarantees of due process. The Court noted that while national security considerations are significant and beyond judicial substitution, any adverse decision must still meet minimum standards of fairness, transparency, and reasoned justification. The failure to provide reasons and hearing rendered the decision arbitrary and legally unsustainable, especially given the impact on the petitioners’ marital and family life.

**Conclusion:** The Court held that although security clearance requirements are lawful, the refusal of the POC in the present case was not sustainable due to lack of reasons and denial of due process. Accordingly, the petition was disposed of with directions to the competent authority to reconsider the case of Petitioner No.2 strictly in accordance with law, after providing an opportunity of hearing and issuing a reasoned (speaking) order. The process was directed to be completed within sixty days.

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**9. SINDH HIGH COURT  
Syed Wamiq Abrar Bukhari v. Federation of Pakistan and others  
Constitutional Petition No.D-2025 of 2026**

**Present:** MR. JUSTICE ADNAN-UL-KARIM MEMON  
MR. JUSTICE ZULIFQAR ALI SANGI

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMzE5Y2Ztcy1kYzgz>  
**2026 SHC KHI 959**

**Facts:** The petitioner, Syed Wamiq Abrar Bukhari, filed a constitutional petition under Article 199 of the Constitution challenging the placement of his name on the Exit

Control List (ECL) through a memorandum dated 23.06.2023. He contended that he is a respected citizen and former Managing Director of Pakistan Petroleum Limited, who was implicated in FIRs No. 47 and 48 of 2022 while he was abroad. His name was subsequently placed on the ECL and his bank accounts were frozen. After returning to Pakistan on protective bail, he faced trial and was acquitted along with other accused persons through judgments that attained finality. Despite acquittal and repeated representations, his name remained on the ECL. The Federal Investigation Agency (FIA) itself recommended removal of his name, yet no action was taken by the competent authority.

**Issue:** Whether the continued placement of the petitioner’s name on the Exit Control List (ECL) after his acquittal, and despite recommendations by the FIA for removal, is lawful and consistent with the fundamental rights guaranteed under the Constitution?

**Rule:** Placement on the ECL is governed by the Exit from Pakistan (Control) Ordinance, 1981 and relevant rules, and it constitutes a restriction on fundamental rights, particularly the right to movement and equality under Articles 15 and 25 of the Constitution. Such restriction must meet the requirements of legality, necessity, proportionality, and reasonableness. It is a settled principle that mere involvement in criminal proceedings, especially after acquittal, cannot justify continued placement on the ECL. Additionally, any administrative action affecting fundamental rights must be supported by a speaking order, proper application of mind, and lawful justification.

**Application:** In the present case, the Court observed that the petitioner had been acquitted in all relevant criminal cases and that such acquittal had attained finality. The FIA, being the investigating agency, had itself recommended removal of the petitioner’s name from the ECL through official correspondence. Despite this, the respondents failed to produce any speaking order or lawful justification to continue restricting the petitioner’s right to travel. The Court found that the impugned memorandum was issued mechanically without independent application of mind and without affording due process. The continued placement of the petitioner’s name on the ECL, despite acquittal and favorable recommendations, was held to be arbitrary, lacking legal basis, and violative of constitutional safeguards.

**Conclusion:** The Court concluded that the continued inclusion of the petitioner’s name on the ECL was unlawful, arbitrary, and violative of his fundamental rights. Accordingly, the impugned memorandum dated 23.06.2023 was set aside, and the competent authority was directed to forthwith remove the petitioner’s name from the ECL and grant all consequential relief in accordance with law. All pending applications were also disposed of.

**10. HIGH COURT OF SINDH,**

**C.P NO. S-421 of 2025**

**Muhammad Ishaque through LRs & others v. Anwer Ali & others**

**Present: MR JUSTICE RIAZAT ALI SAHAR**

**Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMjQ5Y2Ztcy1kYzgZ>  
2026 SHC HYD 949**

**Facts:** The petitioners assailed the Trial Court and Revisional Court orders, arguing that the dispute over agricultural land, survey numbers, demarcation, and possession fell exclusively within Revenue authorities' jurisdiction, while their Section 12(2) CPC application alleging fraud and want of jurisdiction had been wrongly dismissed.

**Issue:** Whether constitutional jurisdiction could be invoked to interfere with concurrent orders dismissing a Section 12(2) CPC application in a land dispute alleged to be within exclusive revenue jurisdiction.

**Rule:** Civil Courts have jurisdiction where the dispute involves title, possession, validity of entries, or rival civil rights; Revenue authorities deal with demarcation and administrative record matters. Section 12(2) CPC applies only where fraud, misrepresentation, or inherent lack of jurisdiction is specifically pleaded and strictly proved.

**Analysis:** The Court held that the case was not merely about demarcation, but involved rival claims of ownership, possession, survey identity, and revenue entries, making it a civil dispute. The petitioners failed to prove fraud or inherent lack of jurisdiction and were mainly seeking reappraisal of factual findings, which is not permissible in constitutional jurisdiction after concurrent findings.

**Conclusion:** The petition was dismissed; the Court held that Civil Court jurisdiction is not excluded where the dispute concerns title and possession beyond mere demarcation, and Section 12(2) CPC cannot be used as a disguised appeal without strict proof of fraud, misrepresentation, or jurisdictional defect.

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**11. HIGH COURT OF SINDH**

**Civil Revision Application No. 336 of 2024**

**Muhammad Tayyab v. Province of Sindh and 04 others**

**Present: MR. JUSTICE ARBAB ALI HAKRO.**

**Source: <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMTA5Y2Ztcy1kYzgZ>**

## 2026 SHC MPK 936

- Facts:** The applicant filed a suit for possession, mesne profits and injunction against his brothers, claiming that he retained possession over part of ancestral land, but the Trial Court dismissed the suit on maintainability after evidence had already been recorded, and the Appellate Court affirmed that dismissal.
- Issue:** Whether the Courts below could dismiss the suit on maintainability after framing factual issues and recording full evidence, without deciding all issues on merits.
- Rule:** Once issues of law and fact are framed and evidence is recorded, the Court must decide all issues with reasons; a suit under Section 8 of the Specific Relief Act is a title-based remedy for possession, and separate declaration under Section 42 is not necessary where entitlement is inherent in the possession claim.
- Analysis:** The High Court held that the Trial Court committed material irregularity by treating maintainability as a preliminary issue after full trial, while the Appellate Court wrongly affirmed the same approach. The Court found that Orders XIV, XV and XX CPC required findings on all issues, and that the suit involved entitlement to possession under Section 8 rather than a simple technical bar under Section 42.
- Conclusion:** The revision was allowed; the Court held that after evidence is recorded, the Trial Court must decide all issues on merits, and a possession suit under Section 8 of the Specific Relief Act cannot be dismissed merely for want of separate declaratory relief where title and entitlement are already in issue.
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12. **HIGH COURT OF SINDH**  
**Constitutional Petition No.S-104 of 2026**  
**Sofi Sajjad vs. Ayaz Ali**

**Present:** Mr. Justice Arbab Ali Hakro.

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMTAzY2Ztcy1kYzgz>  
**2026 SHC MPK 935**

- Facts:** The applicant filed a suit for possession, mesne profits and injunction against his brothers, claiming retained possession over certain ancestral land, but the Trial Court dismissed the suit on maintainability and the Appellate Court affirmed it, holding that declaration and partition proceedings were necessary.
- Issue:** Whether the Courts below were justified in dismissing the suit on maintainability after framing factual issues and recording full evidence, without deciding all issues on merits.
- Rule:** Once factual and legal issues are framed and evidence is recorded, the Court must decide all issues with reasons; a suit under Section 8 of the Specific Relief Act is a

title-based remedy for possession, and separate declaration under Section 42 is not always required where entitlement is inherent in the relief of possession.

**Analysis:** The High Court held that both Courts below committed material irregularity by treating maintainability as a preliminary issue after full trial, misapplying Section 42 of the Specific Relief Act, and failing to follow Orders XIV, XV and XX CPC. The dispute involved entitlement to possession under Section 8, requiring appraisal of evidence and findings on all issues.

**Conclusion:** The revision was allowed; the Court held that after evidence is recorded, the Trial Court must decide all issues on merits, and a possession suit under Section 8 of the Specific Relief Act cannot be dismissed merely for want of separate declaratory relief where title and entitlement are already in issue.

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**13. HIGH COURT OF SINDH,**

**Revision Application No.S-147 of 2025**

**S.M. Imran Alvi vs. General Manager Master Changan Motor LTD & another**

**Present:** MR. JUSTICE MOHAMMAD ABDUR RAHMAN.

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMjg1Y2Ztcy1kYzgZ>  
**2026 SHC HYD 951**

**Facts:** The applicant challenged a District Judge’s appellate judgment which had set aside a Consumer Protection Court order in a complaint under the Sindh Consumer Protection Act, 2014. The core dispute before the High Court was whether a revision under Section 115 CPC was maintainable against an appellate order passed under the special statute.

**Issue:** Whether a revision application under Section 115 of the Code of Civil Procedure, 1908 is maintainable against an appellate order passed by the District and Sessions Court under the Sindh Consumer Protection Act, 2014.

**Rule:** CPC applies to civil proceedings unless expressly or impliedly excluded; where a special statute provides appeal to a court (not persona designata), the appellate order remains subject to High Court’s revisional jurisdiction, even if the statute limits CPC application at the trial stage or declares certain orders “final.”

**Analysis:** The Court distinguished between limited CPC application to Consumer Courts under Section 31(3) and the absence of such limitation for appellate proceedings. Since Section 34 (as amended) provides appeal to the District and Sessions Court, which is a regular court subordinate to the High Court, CPC principles fill procedural gaps. Precedent confirms that finality clauses restrict further appeal but do not bar revision against orders of subordinate courts.

**Conclusion:** The revision was held maintainable; the appellate orders of a District Court under a special statute remain revisable when the forum is a court and CPC is not expressly excluded.

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**14. SINDH HIGH COURT**  
**Hamza son of Farooq v. The State and another**  
**Criminal Bail Application No.3276 of 2025**

**Present:** MR. JUSTICE JAN ALI JUNEJO

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEwMzkzY2Ztcy1kYzgZ>

2026 SHC KHI 838

**Facts:** The applicant sought post-arrest bail in FIR No.488/2025 registered under Sections 302, 324 and 34 PPC at Police Station Gizri, Karachi South. The prosecution case was that eight armed persons intercepted the complainant and his cousin Khalid Aziz, whereafter nominated accused allegedly fired upon Khalid, who later died, while another passerby also sustained firearm injury. The applicant was not nominated in the FIR. His involvement surfaced later during investigation through an identification parade. The applicant argued that he had no specific role, was known to the complainant, was allegedly arrested on the complainant's pointation, and the identification parade was delayed. The complainant and State opposed bail on the ground that the applicant was identified and was allegedly part of an armed unlawful assembly.

**Issue:** Whether the applicant, who was not nominated in the FIR and against whom no specific overt act was attributed, was entitled to post-arrest bail on the ground that his case required further inquiry under Section 497(2) Cr.P.C.?

**Rule:** At bail stage, the Court makes only a tentative assessment of the material. Where an accused is not nominated in the FIR, no specific injury or overt act is attributed to him, and the prosecution relies mainly upon an identification parade whose evidentiary value is doubtful, the case may fall within further inquiry under Section 497(2) Cr.P.C. The Court relied upon Usman Ahmed and another v. The State through Advocate General, Islamabad (2025 SCMR 1442) for the principle that identification proceedings lose evidentiary worth where the accused had already been seen by the identifying witness before the test identification parade. The Court also relied upon Bashir Ahmed and others v. The State and another (2022 SCMR 1187) for the rule that mere presence with the principal accused does not by itself establish common intention under Section 34 PPC unless supported by evidence of a criminal act in furtherance of common intention.

**Application:** The Court noted that the applicant's name did not appear in the FIR, whereas specific firing roles had been assigned to nominated co-accused. His involvement was based on a delayed identification parade conducted about thirteen days after arrest. Since the applicant was allegedly arrested on the complainant's pointation,

the complainant had already seen him before the identification parade, which substantially impaired its evidentiary value. The Court further observed that no specific overt act or injury-causing role was attributed to the applicant. The question whether his alleged presence amounted to common intention required deeper appreciation of evidence at trial, not at bail stage.

**Conclusion:** The bail application was allowed. The applicant was admitted to bail subject to solvent surety of Rs.500,000 and P.R. bond in the like amount. The Court clarified that its observations were tentative and would not prejudice the trial. Doubtful identification after prior exposure to the complainant, non-nomination in FIR, and absence of specific role brought the case within further inquiry under Section 497(2) Cr.P.C. The Court's broader observations on the tentative nature of bail assessment and caution against treating mere presence as common intention support the conclusion but are not the sole operative basis of relief.

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**15. SINDH HIGH COURT**  
**Anushey Tariq and another v. The State and others**  
**Criminal Misc. Application No.1060 of 2025**

**Present:** MR. JUSTICE JAN ALI JUNEJO

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEwOTY5Y2Ztcy1kYzgZ>

2026 SHC KHI 930

**Facts:** The applicants challenged an order passed by the learned Vth Additional Sessions Judge/Ex-Officio Justice of Peace, Karachi South, whereby the SHO was directed to record the statement of the complainant or mother of the deceased and, if a cognizable offence was made out, to register FIR. The incident occurred during a recreational outing at Do Darya, Karachi. The deceased Sultan Zafar and another friend sat on the rear trunk of a moving vehicle driven by applicant No.1 and fell, resulting in fatal head injuries to the deceased. The applicants asserted that the incident was purely accidental and that police inquiries had already found no criminal intent. Respondent No.4, however, sought criminal action under Sections 22-A and 22-B Cr.P.C.

**Issue:** Whether the Justice of Peace validly directed the police to record the complainant's statement and proceed in accordance with law, despite prior police inquiries suggesting that the death was accidental?

**Rule:** The jurisdiction of an Ex-Officio Justice of Peace under Sections 22-A and 22-B Cr.P.C. is supervisory. The Justice of Peace is not required to decide guilt or innocence or conduct a roving factual inquiry. Where information discloses a cognizable offence, the police machinery may be set in motion. A police inquiry does not replace statutory investigation after registration of FIR if the facts prima facie disclose a cognizable offence.

**Application:** The Court found that the deceased suffered fatal head injuries after falling from the trunk of a moving vehicle. Even though earlier inquiry reports treated the occurrence as accidental, they also showed that applicant No.1 was driving without a valid driving license and that persons were allowed to sit on the trunk of a moving vehicle, which was inherently unsafe and prima facie negligent. The inquiry officer's finding of contributory negligence itself showed that the matter was not free from possible penal consequences. The Justice of Peace had not mechanically ordered direct registration of FIR, but only directed the SHO to record the statement and proceed if a cognizable offence was made out.

**Conclusion:** The Criminal Miscellaneous Application was dismissed and the impugned order was maintained. However, to protect the applicants' liberty, the Court directed that if FIR was registered, the applicants should not be arrested unless tangible incriminating evidence surfaced during investigation. Where facts prima facie disclose negligent conduct resulting in death, prior police inquiry cannot prevent the statutory process from being set in motion under Sections 22-A and 22-B Cr.P.C. The protective direction against arrest unless tangible incriminating evidence surfaces is a liberty-protecting observation ancillary to the main holding.

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**16. SINDH HIGH COURT**  
**Muhammad Paryal v. Muhammad Arif and another**  
**Criminal Revision Application No.224 of 2025**

**Present:** MR. JUSTICE JAN ALI JUNEJO

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMTI1Y2Ztcy1kYzgz>

2026 SHC KHI 939

**Facts:** The applicant challenged orders dated 31.07.2025 and 02.09.2025 passed by the learned 1st Additional District & Sessions Judge, Malir, Karachi in I.D. Complaint No.22 of 2024. Respondent No.1 had filed a complaint under the Illegal Dispossession Act, 2005, claiming ownership and prior possession of about four acres of land in Deh Khar Kharo, Tappo Konkar, Gadap Town, Malir, and alleging forcible dispossession of his chowkidar. The trial Court allowed an application under Section 7 of the Act and directed restoration of possession to Respondent No.1. Later, the applicant claimed that he was the lawful owner and possessor on the basis of revenue record and that he had not been impleaded or heard. His recall application was disposed of without substantive relief on the ground that he was not a party.

**Issue:** Whether the trial Court could grant restoration of possession under Section 7 of the Illegal Dispossession Act, 2005 before commencement of trial and without hearing a person claiming possession and proprietary interest in the subject property?

**Rule:** Section 7 of the Illegal Dispossession Act, 2005 provides interim relief "during trial." A criminal trial commences only after framing of charge, not merely upon

cognizance. Therefore, eviction or restoration powers under Section 7 can be exercised only after the trial has formally begun. The Court relied upon Niaz Ahmed and another v. Aijaz Ahmed and others (PLD 2024 Supreme Court 1152). Further, no adverse order affecting a person's proprietary or possessory rights can be passed without affording hearing, consistent with the principle of audi alteram partem. Proceedings under the Illegal Dispossession Act are not meant to finally decide complicated disputes of title where rival documentary claims exist.

**Application:** The Court observed that there was no material showing that charge had been framed or trial had commenced when the trial Court passed the order under Section 7. Therefore, the order was premature and without lawful authority. The Court also found that the applicant, who claimed ownership and possession, had not been impleaded or heard, even though his alleged rights were directly affected. The Nazir's report was ambiguous regarding who was in possession when possession was transferred. The recall application was also not decided on merits despite revenue documents produced by the applicant. This reflected non-exercise of jurisdiction and lack of proper judicial application of mind.

**Conclusion:** The revision was allowed. The impugned orders dated 31.07.2025 and 02.09.2025 were set aside. The matter was remanded to the trial Court for fresh decision after hearing all concerned parties. Possession was directed to be restored to the applicant meanwhile, subject to the condition that he would not create third-party interest or change the nature of the property. Section 7 relief under the Illegal Dispossession Act cannot be granted before commencement of trial and cannot be passed against an affected person without hearing him. The direction to restore possession temporarily and decide the matter preferably within 90 days was case-management and equitable relief, not the core legal ratio.

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**17. SINDH HIGH COURT**  
**Muhammad Ali Unar and another v. The State and another**  
**Criminal Revision Application No.265 of 2022**

**Present:** MR. JUSTICE JAN ALI JUNEJO

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzEwOTcxY2Ztcy1kYzgZ>

2026 SHC KHI 931

**Facts:** The applicants challenged an order dated 08.11.2022 passed by the learned IInd Additional Sessions Judge, Thatta in a private complaint under Sections 3, 4 read with Section 8 of the Illegal Dispossession Act, 2005. The complainant alleged unlawful dispossession from five acres of forest land. During the proceedings, the trial Court called for reports from the SHO and the Divisional Forest Officer. On the premise that the Forest Officer failed to submit a report, the trial Court directed suspension of the applicants, initiation of departmental proceedings, and inquiry by the Anti-Corruption Establishment, without issuing show cause notice or giving them an opportunity of hearing.

**Issue:** Whether a criminal Court, while dealing with a complaint under the Illegal Dispossession Act, 2005, can direct suspension of civil servants and initiation of departmental or anti-corruption proceedings against them without hearing them?

**Rule:** The power to suspend a civil servant belongs to the competent authority under the relevant service laws. A criminal Court cannot, in collateral criminal proceedings, step into the shoes of the competent authority and order suspension or mandatory disciplinary action. Service matters fall within the domain of the competent service forum, and jurisdiction of other courts is barred by Article 212(3) of the Constitution in relation to terms and conditions of service. The Court relied upon *Imdad Ali Khawaja v. The State and others* (2016 SCMR 2057). Further, no adverse order can be passed without notice and hearing.

**Application:** The applicants were neither accused in the private complaint nor directly alleged to have committed illegal dispossession. Yet the trial Court passed directions affecting their service rights. The High Court held that this violated natural justice because no show cause notice was issued and no hearing was given. The order was also premature, as the applicants had sought time to file a report and the Court passed adverse directions on the same date. The trial Court's assumption that non-submission of report implied collusion was held to be premature and unsupported by inquiry.

**Conclusion:** The revision was allowed. The impugned order was set aside to the extent of directions for suspension and initiation of departmental or anti-corruption proceedings. The competent authority was left free to proceed independently in accordance with law. The trial Court was directed to proceed with the complaint after hearing all concerned. A criminal Court has no jurisdiction to order suspension of civil servants or mandate disciplinary proceedings in collateral criminal proceedings, particularly without notice and hearing. The observation that the competent authority may proceed independently, if appropriate, is permissive guidance and not the operative ratio.

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**18. SINDH HIGH COURT**  
**Fareedullah Khan v. Muhammad Rizwan Dossul and another**  
**Criminal Revision Application No.302 of 2025**

**Present:** MR. JUSTICE JAN ALI JUNEJO

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMzkxY2Ztcy1kYzgz>  
2026 SHC KHI 975

**Facts:** The applicant, through attorney, challenged the order dated 23.10.2025 passed by the learned Vth Additional Sessions Judge, Karachi South, whereby his complaint under Sections 3, 4 and 5 of the Illegal Dispossession Act, 2005 was dismissed and cognizance was declined. The applicant claimed to be lawful leasehold owner and occupier of Plot No.616-A, Mehmoodabad, Karachi. He alleged that after loss of original title documents, forged documents surfaced in favour of the respondents,

and on 13.06.2025 the respondents forcibly dispossessed him. The trial Court declined cognizance mainly because civil litigation and disputed title issues were pending.

**Issue:** Whether pendency of civil litigation and rival claims of title bar criminal proceedings or cognizance under the Illegal Dispossession Act, 2005 where prima facie unlawful dispossession is alleged?

**Rule:** Civil and criminal proceedings may proceed simultaneously if the allegations disclose commission of an offence. Section 3(2) of the Illegal Dispossession Act, 2005 makes liability under the Act independent and “without prejudice” to liability under other laws. Pendency of civil suits does not bar proceedings under the Act. The Court relied upon Shaikh Muhammad Naseem v. Mst. Farida Gul (2016 SCMR 1931). At the cognizance stage, the Court must conduct only a prima facie assessment of unlawful dispossession and should not enter into deep adjudication of title or documentary validity. Section 5 of the Act also empowers inquiry or investigation for purposes of the Act.

**Application:** The DSP Complaint Cell inquiry report, acknowledged by the trial Court, prima facie showed that the applicant was in possession and was unlawfully dispossessed on 13.06.2025. Once such material was available, the trial Court should have assumed cognizance and proceeded in accordance with law. Instead, it treated the matter as purely civil and went into deeper issues of title and documentary validity. The High Court held that the existence of rival ownership claims did not oust criminal jurisdiction under the Illegal Dispossession Act. The sufficiency or reliability of the inquiry report was a matter for trial, not for threshold dismissal.

**Conclusion:** The revision was allowed. The impugned order dated 23.10.2025 was set aside and the matter was remanded to the trial Court with direction to assume cognizance and proceed in accordance with law after hearing the parties. The District & Sessions Judge, Karachi South, was also directed to either hear the complaint personally or assign it to another Additional Sessions Judge due to the applicant’s expressed lack of confidence in the trial Court. Civil litigation or disputed title does not bar cognizance under the Illegal Dispossession Act where prima facie unlawful dispossession is disclosed. The transfer or reassignment direction, based on lack of confidence, is an ancillary administrative safeguard and not the main ratio.

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**19. SINDH HIGH COURT  
Ghuncha Gul v. Muhammad Rizwan Dossul and another  
Criminal Revision Application No.303 of 2025**

**Present:** MR. JUSTICE JAN ALI JUNEJO

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MzExMzg5Y2Ztcy1kYzgz>  
2026 SHC KHI 974

**Facts:** The applicant challenged the order dated 23.10.2025 passed by the learned Vth

Additional Sessions Judge, Karachi South, whereby his complaint under Sections 3, 4 and 5 of the Illegal Dispossession Act, 2005 was dismissed at the threshold and cognizance was declined. The applicant claimed to be leasehold owner of Plot No.616, Mehmoodabad, Karachi, and asserted long-standing possession through tenants. He alleged that after loss of original documents, the respondents fabricated a General Power of Attorney and Sale Deed and forcibly dispossessed him on 13.06.2025. Civil suits, FIRs and complaints were pending between the parties. The trial Court treated the matter as civil in nature and refused cognizance.

**Issue:** Whether a complaint under the Illegal Dispossession Act, 2005 can be dismissed at the threshold merely because title is disputed and civil litigation is pending between the parties?

**Rule:** The Illegal Dispossession Act, 2005 protects lawful possession against illegal and forcible dispossession. Even where title is disputed, the criminal Court must examine whether the complainant was prima facie in possession and whether such possession was unlawfully disturbed. There is no provision in the Act barring proceedings merely because civil litigation is pending. Section 3(2) confirms that proceedings under the Act are independent and in addition to other civil or criminal remedies. The Court again relied upon Shaikh Muhammad Naseem v. Mst. Farida Gul (2016 SCMR 1931). At the cognizance stage, the Court should not pre-judge defence documents or conduct a deep evidentiary appraisal.

**Application:** The applicant produced lease documents and claimed long-standing possession through tenants, while the respondents relied upon their own chain of documents, including a General Power of Attorney and Sale Deed, which were under challenge in civil proceedings. The High Court accepted that title was sub judice before civil Courts, but held that this did not bar proceedings under the Illegal Dispossession Act. The DSP Complaint Cell inquiry indicated that the applicant was in possession and was dispossessed on 13.06.2025. Therefore, the trial Court should have made a tentative assessment for cognizance rather than treating the matter as purely civil and relying heavily on the defence version.

**Conclusion:** The revision was allowed. The impugned order dated 23.10.2025 was set aside, and the matter was remanded to the trial Court with direction to assume cognizance and proceed in accordance with law after hearing the parties. The District & Sessions Judge, Karachi South, was directed to hear the matter personally or assign it to another Additional Sessions Judge. Pendency of civil litigation and disputed title do not prevent cognizance under the Illegal Dispossession Act where preliminary material discloses possession and forcible dispossession. Observations about lack of confidence in the trial Court and reassignment of the matter are ancillary procedural directions, not the core legal ratio.

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