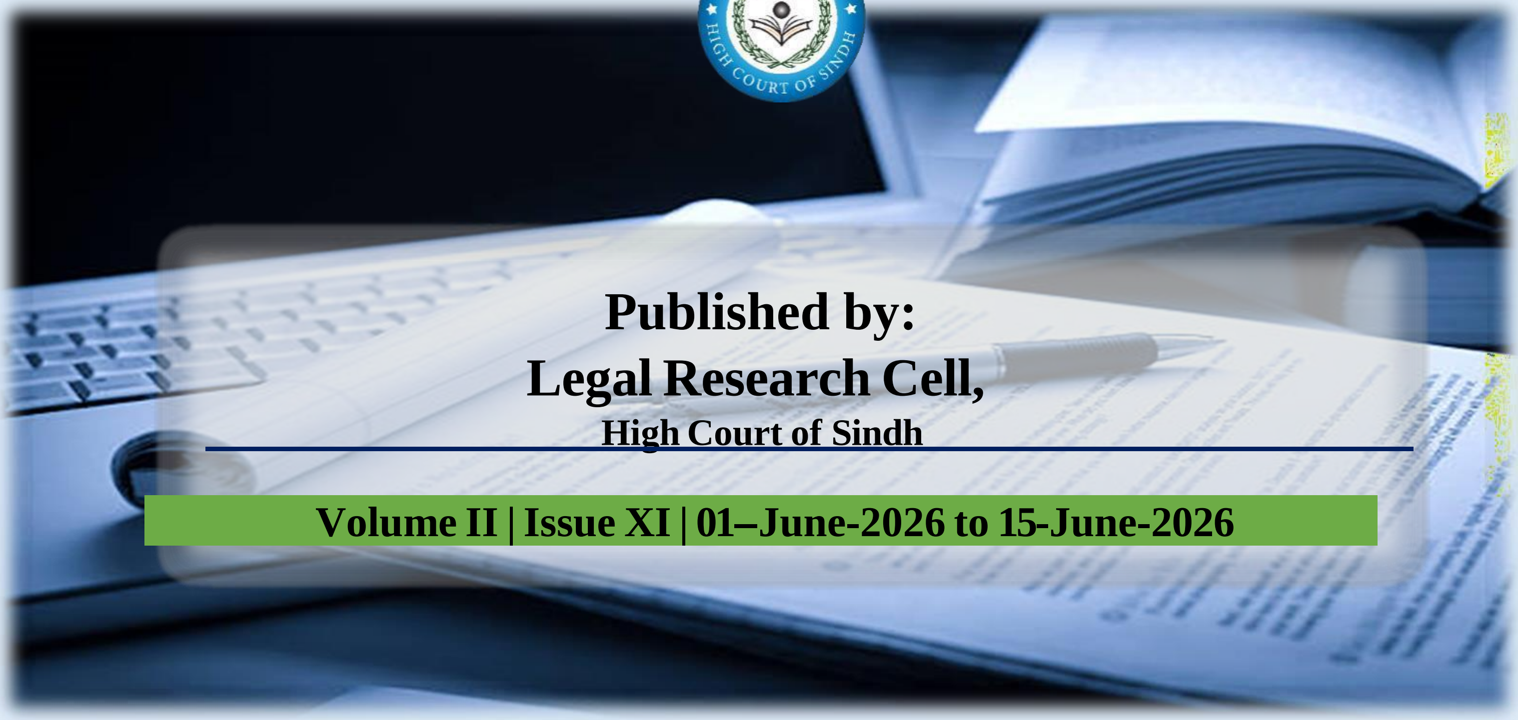
HIGH COURT OF SINDH

Case Law Review

Fortnightly Bench Update



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FORTNIGHTLY BENCH UPDATE

(01-06-2026 to 15-06-2026)

An Overview of Recent Judgments of the Supreme Court of Pakistan, Sindh High Court, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

NOTABLE JUDGMENTS

Sr. No.	**Court**	**Subject**	**Area of Law**	**Page**
1	Federal Constitutional Court of Pakistan	Whether the compromise decree dated 15.06.2021/16.06.2021 was valid and enforceable, particularly given. The vagueness and uncertainty in Clause 2 regarding relinquishment of unidentified "Ghair Mutadawia" properties (not part of the suit). Lack of certainty of subject matter, proper execution, and informed consent (especially from female/parda nasheen heirs). Compatibility with Islamic inheritance law, constitutional protections for women's property rights, and principles under Order XXIII Rule 3 CPC and Section 29 of the Contract Act, 1872.	Civil Law	6
2	Supreme Court of Pakistan	Whether the prosecution proved the recovery of narcotics, safe custody, and chain of custody through reliable evidence. Whether the alleged recovery from "secret cavities" in the vehicle was established with sufficient corroborative evidence. Whether conscious possession of the narcotics by the petitioner was proved. Whether the prosecution case suffered from material infirmities creating reasonable doubt.	Criminal Law	**7**

3.	High Court of Sindh	The principal issues before the Court were whether the exchange of correspondence and extension of time amounted to a novation of contract under Section 62 of the Contract Act, 1872; whether the appellant was entitled to recover additional markup after the expiry of the original Murabaha facility; and whether the trial court had correctly applied the principles governing Murabaha financing.	Civil Law	8
4.	High Court of Sindh	The principal controversy before the High Court was whether the consideration for the Commercial Suit Plot had in fact proceeded from the appellant and, if so, whether Respondents No.4 and 12 could claim the protection available to bona fide purchasers for value under Section 41 of the Transfer of Property Act, 1882. The Court was also required to determine whether the learned Single Judge had rightly refused the equitable relief of specific performance and confined the appellant to monetary compensation. Additionally, the Court had to decide whether Respondents No.4 and 12, having derived benefits from the impugned transaction, were equally liable under the decree and whether the damages awarded by the trial court required enhancement to ensure complete restitution to the appellant.	Civil Law	9
5.	High Court of Sindh	The Court held that under Section 118 of the Negotiable Instruments Act, 1881, there is a statutory presumption that a cheque has been issued for consideration and in discharge of a legally enforceable liability. The burden lies upon the drawer of the cheque to rebut this presumption by producing cogent and convincing evidence. The Court further observed that under Article 64-A of the Limitation Act, 1908, a suit based on a dishonoured cheque must be instituted within three years from the date on which the cheque is dishonoured. The Court also reaffirmed the principle that where a drawer issues stop-payment instructions or where the cheque is dishonoured for insufficiency of funds, such dishonour does not negate the statutory presumption regarding liability.	Civil Law	10

6.	High Court of Sindh	**(i)** Whether the search warrant obtained under Section 40 of the Sales Tax Act, 1990, and the subsequent search of the petitioner's premises were lawful in the absence of any pending inquiry or proceedings under the Sales Tax Act? **(ii)**. Whether the Customs authorities lawfully exercised powers under Section 163 of the Customs Act, 1969 to seize the goods; and whether the respondents' actions infringed the petitioner's constitutional and statutory rights?	Criminal Law	11
7.	High Court of Sindh	Whether the petitioner, whose right to appointment under the invalidation quota had accrued prior to the judgment in General Post Office, Islamabad v. Muhammad Jalal (PLD 2024 SC 1276), could lawfully be deprived of employment and have her appointment terminated on the basis of that judgment and the subsequent withdrawal of policies relating to appointments on deceased or invalidation quota?	Service Law	13
8.	High Court of Sindh	Whether the petitioner, being the second widow of a deceased government servant and lacking the consent and NOC of the other surviving widow and legal heirs, was entitled to appointment under Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, and whether the Court could direct the respondents to grant her employment under the deceased quota?	Service Law	14
9.	High Court of Sindh	Whether the applicants, who were alleged to have participated in an armed attack on a police party and in the rescue of an arrested accused from police custody, were entitled to the concession of post-arrest bail under Section 497 Cr.P.C.? Whether, in view of the rule of consistency, absence of specific allegations against one applicant, and the grant of bail to similarly placed co-accused, the applicants' case called for further inquiry warranting grant of bail?	Criminal Law	16

10.	Lahore High Court	Whether the appellant (Muhammad Atif) was rightly convicted and sentenced to death under Section 302(b) PPC for Qatl-i-Amd as Tazir on the prosecution's version that he stabbed Muhammad Sajjad in the chest during a sudden quarrel over a stolen iron cutter/tool, or whether the case falls under a lesser category of culpable homicide not amounting to murder under Section 302(c) PPC, as the appellant acted in self-defence after the deceased (allegedly under the influence of drugs) first attacked him at his house, inflicting two chest injuries, with the appellant exceeding the right of private defence by delivering one fatal blow to the deceased's heart?	Criminal Law	17
11.	Peshawar High Court	Whether the petitioner (nephew) is entitled to inherit as a legal heir alongside or instead of the full brother. Maintainability of succession proceedings post-2019 Khyber Pakhtunkhwa amendments (NADRA role). Whether the Succession Court could adjudicate and decree the alleged debts in summary succession proceedings. Proper scope and jurisdiction of proceedings under the Succession Act, 1925.	Taxation Law	18
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1- FEDERAL CONSTITUTIONAL COURT.

C.P.L.A.143-Q/2025

Mst. Bibi Amina and others Versus Shamsullah and others.

Present: Mr. Justice Justice Amin-ud-Din Khan, Mr, Justice Justice Ali Baqar Najafi

Source:

https://www.fccp.gov.pk/download/eyJpdiI6IityLzg3bEovWkVoaFNyMVVOd3R5NHc9PSIsInZhbHVlIjoiZzBIOHhDRWpHeENpVnRIZnI2TmZuQT09IiwibWFjIjoiNTIzZGQ1NmNhODgzOTI5MTA2YjViMTY4NWFjMDJjYmRkOWEwODA0NDE3MDM2NjI4ZjI3NmVmODEwODJiODY4NSIsInRhZyI6IiJ9

Facts: The petitioners (daughters) filed a suit for declaration and separate possession of their Shari shares in their deceased parents' estate. During the suit, a written compromise was allegedly executed, leading to a consent decree dated 15.06.2021 under Order XXIII Rule 3 CPC. The petitioners later challenged the decree via an application under Section 12(2) CPC, alleging fraud, misrepresentation, concealment of facts, lack of free consent, and that the compromise was unlawful and uncertain.The Trial Court initially allowed the Section 12(2) application and set aside the decree. After revisions and remands, the Revisional Court ultimately affirmed this. However, the High Court of Balochistan (in its impugned judgment dated 25.06.2025) reversed the concurrent findings, restored the compromise decree, and dismissed the petitioners' application. The matter reached this Court via a Petition for Leave to Appeal, focusing on Clause 2 of the compromise deed, which used vague language ("Ghair Mutadawia" properties) regarding relinquishment of unspecified properties outside the suit. The compromise document also had execution irregularities (unsigned pages).

Issue: Whether the compromise decree dated 15.06.2021/16.06.2021 was valid and enforceable, particularly given. The vagueness and uncertainty in Clause 2 regarding relinquishment of unidentified "Ghair Mutadawia" properties (not part of the suit). Lack of certainty of subject matter, proper execution, and informed consent (especially from female/parda nasheen heirs). Compatibility with Islamic inheritance law, constitutional protections for women's property rights, and principles under Order XXIII Rule 3 CPC and Section 29 of the Contract Act, 1872.

Rule: A compromise under Order XXIII Rule 3 CPC must be lawful, certain, and confined to the subject matter of the suit. Courts cannot lend judicial imprimatur to uncertain or unlawful agreements. Under **Section 29 of the Contract Act, 1872**, agreements whose meaning is uncertain or incapable of being made certain are void. Certainty of subject matter is essential for contracts involving immovable property and inheritance rights. Inheritance shares under Islamic law (Holy Quran, Surah An-Nisa 4:7, 4:11) are vested, obligatory rights. Female heirs, especially parda nasheen or vulnerable women, receive heightened judicial protection; the burden lies on the beneficiary to prove free, informed consent with independent advice (Ghulam Muhammad v. Zohran Bibi, Phul Peer Shah cases). Constitutional provisions (Articles 4, 9, 23, 24, 25) and international obligations (CEDAW, etc.) strongly protect women's property and inheritance rights against deprivation through fraud, coercion, or uncertainty. Customary practices defeating Quranic shares are invalid.

Application: The Court found the compromise fundamentally flawed. Clause 2 was patently vague and uncertain, failing to identify any specific properties being relinquished. It improperly extended beyond the suit's subject matter to undisclosed assets. This violated principles of certainty, consensus ad idem, and the jurisdictional limits of a compromise decree. Execution defects (unsigned pages) further undermined authenticity. No evidence showed the female petitioners received independent advice or full disclosure, especially regarding relinquishment of inheritance rights. Such arrangements cannot override divinely ordained inheritance rights or constitutional protections. The Trial and Revisional Courts correctly set aside the decree; the High Court erred in restoring it.

Conclusion: The Court allowed the Petition for Leave to Appeal, set aside the impugned High Court judgment dated 25.06.2025, and restored the orders of the Trial Court (08.11.2022) and Revisional Court

(20.08.2024) that had allowed the Section 12(2) application and set aside the compromise decree. The suit was to proceed on merits. The judgment strongly reaffirms protections for women's inheritance rights against uncertain or exploitative compromises.

2- SUPREME COURT OF PAKISTAN

Criminal Petition No. 51 of 2023.
Alam Khan Versus The State.

Present: MR. JUSTICE MUHAMMAD HASHIM KHAN KAKAR,
MR. JUSTICE SALAHUDDIN PANHWAR,
MR. JUSTICE ISHTIAQ IBRAHIM

Source: https://www.supremecourt.gov.pk/downloads_judgements/crl.p._51_2023.pdf

Facts: On 21.12.2021, police officials at Check Post Sakhi Sarwar intercepted a double-cabin vehicle (registration No. KWA-6262) and allegedly recovered 27 packets of Charas (one kilogram each) from a secret cavity in the vehicle. FIR No. 356/2021 was registered against the petitioner under Section 9(c) of the Control of Narcotic Substances Act, 1997 (CNSA).After trial, the Additional Sessions Judge, Dera Ghazi Khan, convicted the petitioner and sentenced him to life imprisonment along with a fine of Rs. 100,000/-. The petitioner's appeal was dismissed by the Lahore High Court, Multan Bench, vide judgment dated 15.12.2022. The petitioner then filed this Criminal Petition before the Supreme Court.

Issues: Whether the prosecution proved the recovery of narcotics, safe custody, and chain of custody through reliable evidence. Whether the alleged recovery from "secret cavities" in the vehicle was established with sufficient corroborative evidence. Whether conscious possession of the narcotics by the petitioner was proved. Whether the prosecution case suffered from material infirmities creating reasonable doubt.

Rule: In narcotics cases under the CNSA, the prosecution must establish through trustworthy, confidence-inspiring, and unimpeachable evidence that the recovered substance remained in safe custody and that the samples sent for forensic analysis were the same as those recovered. Recovery from secret cavities in a vehicle requires production of the vehicle itself (where feasible) or clear photographs showing the cavities (open and closed), their location, and the vehicle's registration number. Mere oral testimony is insufficient. The prosecution must prove the accused's conscious possession of the narcotics. Any serious lacuna or contradiction in the prosecution evidence creates reasonable doubt, which must be resolved in favour of the accused.

Application: The Supreme Court identified multiple fatal infirmities in the prosecution case, Material contradiction regarding who handed over the case property to the Moharrir. Complete failure to produce the vehicle or photographs of the alleged secret cavities. No evidence (e.g., from Excise Department) to prove the vehicle belonged to or was in the exclusive possession of the petitioner. Non-production of the Malkhana Register and road certificate, leaving the chain of custody to be proved only by oral evidence. These omissions and contradictions made the recovery and conscious possession highly doubtful.

Conclusion: The Supreme Court granted leave, converted the Criminal Petition into an appeal, and **allowed** the appeal. The petitioner, **Alam Khan son of Karam Khan**, was **acquitted** of the charge under Section 9(c) of the CNSA. He was ordered to be released forthwith if not required in any other case.

3- HIGH COURT OF SINDH

High Court Appeal No. 205 of 2001
National Investment Trust Limited v. Textile Management (Pvt.) Limited

Present: MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM
MS. JUSTICE SANA AKRAM MINHAS.

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzE1ODM1Y2Ztcy1kYzgz**
2026 SHC KHI 1317

Facts: The respondent, Textile Management (Pvt.) Limited, obtained a Murabaha finance facility of Rs. 8.207 million from the appellant, National Investment Trust Limited (NIT), against the pledge of 104,400 shares of Muhammad Farooq Textiles Mills Limited. The facility was repayable in three installments. The respondent timely paid the first two installments but failed to pay the final installment of Rs. 7,402,500 within the agreed period. Thereafter, the respondent sought extensions of time for repayment through various correspondences. The appellant granted the extensions and asserted that the respondent became liable to pay additional markup at the rate of 23% on the outstanding amount. The respondent, however, contended that under the original Murabaha Agreement it was only liable to pay the agreed sale price and that no additional markup could be imposed merely because payment had been delayed. The trial court accepted the respondent's contention and dismissed the appellant's claim for additional markup, leading to the present appeal.

Issues: The principal issues before the Court were whether the exchange of correspondence and extension of time amounted to a novation of contract under Section 62 of the Contract Act, 1872; whether the appellant was entitled to recover additional markup after the expiry of the original Murabaha facility; and whether the trial court had correctly applied the principles governing Murabaha financing.

Rule: The Court reiterated that under Section 62 of the Contract Act, 1872, novation occurs only when the parties clearly intend to substitute the original contract with a new and independent agreement. Mere extension of time, rescheduling of payment, or acceptance of delayed performance does not amount to novation. The Court further observed that under the principles of Islamic finance, once the Murabaha sale price is fixed and the transaction is completed, the liability becomes crystallized and cannot be increased merely because of delay in payment. Charging additional markup on an existing debt amounts to charging markup upon markup, which is impermissible. The Court also held that estoppel cannot operate against law and cannot validate an otherwise unlawful claim.

Application: Upon examining the record, the High Court found that no fresh Murabaha transaction had been entered into between the parties. There was no new Purchase and Sale Agreement, no acquisition of fresh assets, no fixation of a new sale price, and no creation of fresh securities. The correspondence merely reflected requests by the respondent for additional time to discharge the existing liability and the appellant's willingness to accommodate those requests. Therefore, the extensions did not extinguish the original contract or create a new finance facility and consequently did not amount to novation under Section 62 of the Contract Act. The Court further held that after the original sale price had crystallized, the appellant could recover only that amount. Any additional markup demanded after the expiry of the financing period constituted impermissible markup upon markup and was contrary to the principles governing Murabaha financing and the regulatory framework embodied in BCD Circular No. 13 of 1984. The respondent's willingness to negotiate or pay a reduced markup also could not legalize a claim that was otherwise prohibited by law.

Conclusion: The High Court of Sindh dismissed the appeal and affirmed the judgment of the trial court. It held that the correspondence between the parties merely constituted an extension of time for payment and did not amount to a novation of contract. Consequently, the appellant was not entitled to recover any additional markup beyond the agreed Murabaha sale price.

4- HIGH COURT OF SINDH

Bashir Akhtar (Deceased) v. Y.R. Enterprises & Others
High Court Appeal No. 259 of 2005,

Present: MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM
MS. JUSTICE SANA AKRAM MINHAS.

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE1ODQ3Y2Ztcy1kYzgz
2026 SHC KHI 1318, 2026 SHC KHI 1326, 2026 SHC KHI 1327

Facts: The appellant, Bashir Akhtar, after his retirement, became engaged in business and real estate investments and developed a relationship of trust with Respondents No.1 to 3, who were real estate consultants. In March 1997, the respondents offered him Commercial Plot No. C-7-C, Khyaban-e-Sehar, Phase VII, DHA, Karachi, for a total consideration of Rs.4.3 million. Acting through Respondents No.1 to 3, the appellant paid the entire sale consideration, comprising Rs.3.5 million in cash and Rs.0.8 million through a pay order issued in favour of the seller, Respondent No.5. Despite repeated assurances, the property was never transferred to him. The appellant later discovered that the same plot had been transferred to Respondent No.4, who was the brother-in-law of Respondent No.2. He further discovered that the respondents had fraudulently induced him to invest an additional Rs.5 million in two other plots through forged documents. The trial court found that Respondents No.1 to 3 had committed fraud and awarded the appellant monetary compensation of Rs.14.3 million with markup but did not address his prayer for specific performance. The appellant therefore challenged the judgment to the extent that specific performance had been denied and the decree had not been extended against the other beneficiaries of the fraudulent transaction.

Issues: The principal controversy before the High Court was whether the consideration for the Commercial Suit Plot had in fact proceeded from the appellant and, if so, whether Respondents No.4 and 12 could claim the protection available to bona fide purchasers for value under Section 41 of the Transfer of Property Act, 1882. The Court was also required to determine whether the learned Single Judge had rightly refused the equitable relief of specific performance and confined the appellant to monetary compensation. Additionally, the Court had to decide whether Respondents No.4 and 12, having derived benefits from the impugned transaction, were equally liable under the decree and whether the damages awarded by the trial court required enhancement to ensure complete restitution to the appellant.

Rules: The Court held that Section 41 of the Transfer of Property Act, 1882 protects only a transferee who has acquired property for valuable consideration from his own lawful source, has acted in good faith, and has no notice of another's prior rights or interests. A person who has not himself provided the consideration cannot claim to be a bona fide purchaser for value. The Court further observed that under Section 22 of the Specific Relief Act, 1877, specific performance is an equitable and discretionary remedy. The existence of a valid agreement does not automatically entitle a party to specific performance, and the Court may refuse such relief where monetary compensation provides an adequate remedy or where equitable considerations do not favour enforcement. The Court also relied upon Section 82 of the Trusts Act, 1882, which embodies the principle that where one person furnishes the consideration for the purchase of property and title is taken in the name of another, the beneficial interest follows the consideration, and the person in whose name the property stands cannot unjustly retain the benefits of property acquired through another's funds.

Application: The documentary evidence on record conclusively established that the appellant had paid the entire consideration for the Commercial Suit Plot. The receipts issued by Respondents No.1 to 3 and the banking record regarding the pay order unequivocally proved that the funds had emanated from the appellant. The same pay order issued by the appellant was expressly incorporated into the sale agreement executed between the seller and Respondent No.4. Conversely, Respondents No.4 and 12 failed to produce any documentary evidence demonstrating that they had independently paid the sale consideration or possessed any lawful source of funds for purchasing the property. The Court therefore held that Respondents No.4 and 12 could not claim the status of bona fide purchasers for value under Section 41 of the Transfer of Property Act because the consideration had not proceeded from them. Rather, they had benefited from a transaction financed entirely by the appellant's funds. However, the Court declined to grant specific performance. It observed that the appellant's dealings with Respondents No.1 to 3 were essentially investment-oriented and formed part of a series of commercial investments rather than a genuine and continuing desire to acquire and enjoy the commercial plot itself. Since the transaction was primarily an investment venture and there was no direct agreement between the appellant and the seller, the Court considered monetary compensation to be the more appropriate and equitable remedy. Applying Section 82 of the Trusts Act, the Court held that Respondents No.4 and 12 had unjustly enriched themselves through the use of the appellant's funds and were therefore liable to account for and restore the benefits derived from the transaction. Considering the appellant's deprivation of the property for nearly three decades and the substantial appreciation in the value of commercial property in DHA, Karachi, the Court found that the damages awarded by the trial court were grossly inadequate and incapable of achieving complete restitution. Consequently, the Court enhanced the damages from Rs.5 million to Rs.150 million together with markup at the rate of 15% per annum from the date of institution of the suit until realization.

Conclusion: The High Court partly allowed the appeal and modified the impugned judgment. The damages were enhanced from Rs.5 million to Rs.150 million with markup at the rate of 15% per annum from the date of institution of the suit until realization. The monetary decree, including the refund amount and enhanced damages, was extended jointly and severally against Respondents No.4 and 12 in addition to Respondents No.1 to 3. The Court, however, declined to grant specific performance of the Commercial Suit Plot in favour of the appellant.

5- HIGH COURT OF SINDH

First Appeal No.101 of 2018
Arsalan Pervaiz v. Shehzad Ayub and Another **and** Hassan Pervez v.
First Appeal No.13 of 2019
Shehzad Ayub and Another

Present: **MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM**
MS. JUSTICE SANA AKRAM MINHAS.

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE1MzQ1Y2Ztcy1kYzgz
2026 SHC KHI 1274, 2026 SHC KHI 1275

Facts: The respondent, Shehzad Ayub, instituted two summary suits against the appellants, who are brothers, for the recovery of amounts represented by several dishonoured cheques issued by them. One suit was filed against Hassan Pervez for recovery of Rs.4,825,000, while the other was instituted against Arsalan Pervaiz for recovery of Rs.1,000,000 together with interest. The appellants admitted their business relationship with the respondent and also admitted the issuance of the disputed cheques and their signatures thereon. Their principal defence was that the cheques had been issued merely as security and not in discharge of any outstanding liability. They further contended that substantial repayments had already been made and that some of the claims were barred by limitation. The trial courts decreed both suits in favour of the respondent, whereupon the appellants preferred the present appeals.

Issues: The principal questions before the High Court were whether the suits had been instituted within the prescribed period of limitation, whether the disputed cheques had been issued merely as security or towards repayment of an outstanding liability, and whether the evidence on record had been correctly appreciated by the trial courts in decreeing the suits in favour of the respondent.

Rules: The Court held that under Section 118 of the Negotiable Instruments Act, 1881, there is a statutory presumption that a cheque has been issued for consideration and in discharge of a legally enforceable liability. The burden lies upon the drawer of the cheque to rebut this presumption by producing cogent and convincing evidence. The Court further observed that under Article 64-A of the Limitation Act, 1908, a suit based on a dishonoured cheque must be instituted within three years from the date on which the cheque is dishonoured. The Court also reaffirmed the principle that where a drawer issues stop-payment instructions or where the cheque is dishonoured for insufficiency of funds, such dishonour does not negate the statutory presumption regarding liability.

Application: Upon examining the evidence, the Court found that both appellants had admitted the business relationship with the respondent and had also admitted issuing the disputed cheques from their own bank accounts. No allegation of forgery or manipulation of the cheques had been raised. In the case of Arsalan Pervaiz, the documentary record, including the joint application and subsequent pleadings filed by him, established the existence of an outstanding liability towards the respondent and contradicted his assertion that the cheque had been issued merely as security. Similarly, in the case of Hassan Pervez, the evidence revealed that the payments relied upon by him had been made prior to the issuance of the disputed cheques and therefore had no nexus with the liabilities represented by those cheques. His own cross-examination demonstrated inconsistencies and undermined his defence that the cheques were intended only as security. The Court held that the appellants had failed to rebut the statutory presumption under Section 118 of the Negotiable Instruments Act. The evidence instead established that the cheques had been issued towards repayment of outstanding liabilities. On the question of limitation, the Court held that the period of limitation commenced from the dates on which the cheques were dishonoured and not from the dates appearing on the cheques themselves. Since the suits had been instituted within three years of dishonour, they were held to be within time. The Court further observed that, owing to the conduct and deceptive tactics of the appellants, the cause of action in one of the suits was of a continuing nature, thereby independently defeating the plea of limitation.

Conclusion: The High Court dismissed both appeals and affirmed the judgments and decrees passed by the trial courts. It held that both suits were within limitation, that all the disputed cheques had been issued in discharge of outstanding liabilities and not as security, and that the evidence had been properly appreciated by the courts below. Consequently, no interference with the impugned judgments was warranted.

6- SINDH HIGH COURT

Constitutional Petition No. D-1088 of 2026
M/S Poineer Tobacco V. Federation of Pakistan and others

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

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzE0ODc1Y2Ztcy1kYzgz**
2026 SHC KHI 1190

Facts: The petitioner, M/S Pioneer Tobacco, a partnership concern operating within the Karachi Export Processing Zone (KEPZ), challenged the legality of a search warrant dated 18.02.2026, the subsequent raid conducted by officials of Inland Revenue, and the seizure of imported cigarettes and sheesha/hookah flavors by Customs authorities. The petitioner contended that it was lawfully carrying on business under permissions granted by the Export Processing Zones Authority and that the raid was conducted without initiation of any proceedings under the Sales Tax Act, 1990. The petitioner further asserted that the seized goods had been legally imported through valid customs documentation and that the actions of the respondents violated statutory provisions and fundamental rights guaranteed under the Constitution. The respondents maintained that the petitioner was suspected of sales tax fraud and illicit tobacco trade activities, justifying the search and seizure. During the search, no manufacturing facility was found, but imported tobacco products were seized on suspicion of being smuggled goods.

Issues: **(i)** Whether the search warrant obtained under Section 40 of the Sales Tax Act, 1990, and the subsequent search of the petitioner's premises were lawful in the absence of any pending inquiry or proceedings under the Sales Tax Act?

(ii). Whether the Customs authorities lawfully exercised powers under Section 163 of the Customs Act, 1969 to seize the goods; and whether the respondents' actions infringed the petitioner's constitutional and statutory rights?

Rule: The Court examined Sections 37A, 38, 38A, 38B, and 40 of the Sales Tax Act, 1990. Section 37A requires initiation of an inquiry on the basis of material evidence and with prior approval of the Commissioner before adverse action may be taken. The provision also mandates that the person accused of tax fraud be afforded an opportunity of hearing. Section 40 authorizes a search only where documents or things relevant to proceedings under the Act are believed to be kept at a particular place and after obtaining a warrant from a Magistrate.

The Court also considered Sections 162, 163, and 26 of the Customs Act, 1969. Section 163 permits a search and seizure without a warrant only where there are reasonable grounds to believe that goods liable to confiscation are concealed and are likely to be removed before a warrant can be obtained. Section 26 empowers customs authorities to require production of documents and information to determine the legality of imported goods. The Court further relied upon Articles 4, 9, 10-A, and 18 of the Constitution, which guarantee due process, fair trial, lawful treatment, and freedom of trade and business.

Appl: Applying the above principles, the Court found that no inquiry or proceedings under the Sales Tax Act had been initiated against the petitioner before the search warrant was obtained. No approval of the Commissioner, as required under Section 37A, was produced either before the Magistrate or before the Court. Furthermore, the petitioner was never issued a notice nor afforded an opportunity of hearing. Consequently, the statutory prerequisites for invoking the investigative and search powers under the Sales Tax Act were absent. The Court therefore held that the Magistrate's order authorizing the search was granted without proper legal foundation and was unsustainable. The Court further observed that the very purpose for which the search warrant was obtained—verification of an alleged unauthorized manufacturing facility—proved unfounded, as no manufacturing activity or machinery was discovered during the raid. The Customs authorities subsequently seized the goods on suspicion that they were smuggled. However, the Court found that no material was available to establish such suspicion. No notice under Section 26 of the Customs Act was issued to the petitioner, nor was any inquiry conducted regarding the origin of the goods. The petitioner produced bills of lading, export invoices, goods declarations, and proof of payment of duties showing that the goods had been lawfully imported from China. The respondents failed to challenge the authenticity of these documents. The Court held that once the petitioner produced prima facie evidence of lawful importation, the burden shifted to the customs authorities to establish that the goods were smuggled. Since no such evidence was produced and no proceedings under the Customs Act were initiated after the seizure, the action of the customs authorities lacked legal justification. The Court further noted that the respondents could not invoke the protection of good faith under Section 217 of the Customs Act because the seizure was unsupported by evidence. The Court emphasized that arbitrary searches and seizures offend the constitutional guarantees of due process, fair trial, and lawful conduct of business.

Con: The High Court concluded that both the search warrant issued under Section 40 of the Sales Tax Act, 1990, and the subsequent search of the petitioner's premises were illegal because no inquiry or proceedings had been initiated as required by law. The Court further held that the seizure of the imported goods under Section 163 of the Customs Act, 1969 was unlawful, as the respondents failed to establish any reasonable basis for treating the goods as smuggled and ignored the documentary evidence proving lawful importation. Accordingly, the petition was allowed, the search and seizure were declared illegal and without lawful authority, and the respondents were directed to return the seized goods to the petitioner forthwith. The Court reaffirmed that statutory powers must be exercised strictly in accordance with law and in a manner that respects the fundamental rights

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7- SINDH HIGH COURT
Constitutional Petition No.D-1252 of 2025
Mst Jaweria v. Federation of Pakistan and others

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

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzE1OTAxY2Ztcy1kYzgz**
2026 SHC KHI 1325

Facts: The petitioner, Mst. Jaweria, sought the setting aside of her termination order dated 18.02.2025 and reinstatement in service with consequential benefits. Her father was employed as a Porter in the Pakistan Post Office Department and was retired on medical invalidation on 02.07.2023 due to his inability to continue service. Following his invalidation and subsequent death, the petitioner applied for appointment under the invalidation/incapacitated quota. Her application was processed and accepted by the department, resulting in her appointment as a Beat Sorter/Sorter in BPS-09 on a two-year contract basis. Subsequently, her services were terminated on the ground that appointments under the Prime Minister's Assistance Package and invalidation quota had become impermissible in view of the judgments of the Islamabad High Court and the Supreme Court in General Post Office, Islamabad v. Muhammad Jalal (PLD 2024 SC 1276). Aggrieved by the termination, the petitioner approached the High Court.

Issue: Whether the petitioner, whose right to appointment under the invalidation quota had accrued prior to the judgment in General Post Office, Islamabad v. Muhammad Jalal (PLD 2024 SC 1276), could lawfully be deprived of employment and have her appointment terminated on the basis of that judgment and the subsequent withdrawal of policies relating to appointments on deceased or invalidation quota?

Rule: The Court examined the legal framework governing compassionate and invalidation-based appointments, including various Office Memoranda issued by the Establishment Division from 2001 onward, culminating in the Prime Minister's Assistance Package. The Supreme Court in General Post Office, Islamabad v. Muhammad Jalal (PLD 2024 SC 1276) declared such appointment schemes unconstitutional but expressly clarified that the judgment would not affect appointments already made or accrued rights. Furthermore, the Federal Constitutional Court in Province of Sindh

v. Muhammad Rizwan Khan & Others (F.C.P.L.A. No. 508 of 2025 and connected matters) held that the right of a spouse or child accrues upon the death or invalidation of a civil servant, while the subsequent application process and issuance of appointment letters are merely administrative acts. The Federal Constitutional Court further held that the Supreme Court's judgment operates prospectively and does not extinguish vested or accrued rights. Under Article 189 of the Constitution, judgments of the Federal Constitutional Court are binding upon all courts, including the High Court.

Appl: Applying the above principles, the Court observed that the petitioner's father had been retired on invalidation grounds and that the petitioner had applied for appointment within the applicable framework. The respondent department itself processed her application and issued an appointment order after completing all requisite formalities. The Court noted that the department's reliance upon the interim order of the Islamabad High Court was misplaced because no final judgment of that Court was produced. More importantly, the Supreme Court in Muhammad Jalal had specifically protected previously accrued rights and appointments from retrospective invalidation. The Court further relied upon the subsequent judgment of the Federal Constitutional Court in *Muhammad Rizwan Khan*, which clarified that the relevant event giving rise to the right is the death or invalidation of the employee and not the later issuance of an appointment letter. Since the petitioner's right had accrued before the judgment in *Muhammad Jalal*, the subsequent declaration of unconstitutionality could not retrospectively extinguish her entitlement. The Court also observed that, following the 2022 amendment to the Prime Minister's Assistance Package, the petitioner was entitled to regular appointment rather than a contractual appointment. Therefore, the department's decision to terminate her services on the assumption that such appointments had become legally untenable was found to be without lawful justification and contrary to the binding interpretation of the Federal Constitutional Court.

Concl: The High Court held that the petitioner possessed an accrued and protected right to appointment under the invalidation quota, which could not be defeated by the subsequent judgment in General Post Office, Islamabad v. Muhammad Jalal. Since the termination order was based on an erroneous understanding of the law and ignored the protection afforded to accrued rights, it was declared unsustainable. Consequently, the petition was allowed, the termination order dated 18.02.2025 was set aside, the petitioner was reinstated with full back benefits, and the respondent department was directed to issue a fresh appointment letter on a regular basis in continuity of her earlier contractual appointment against the invalidation quota.

8- SINDH HIGH COURT

Constitutional Petition No.D-6067 of 2025
M/S Rabia v. Chief Secretary Government of Sindh and others

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

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MzE1MTYzY2Ztcy1kYzgz**
2026 SHC KHI 1249, 2026 SHC KHI 1250, 2026 SHC KHI 1251

Facts: The petitioner, Mst. Rabia, sought appointment under the deceased quota following the death of her husband, Mumtaz Ahmed, who was serving as Assistant (BS-16) in the Excise, Taxation &

Narcotics Department, Government of Sindh, and died in service on 10.11.2022. She applied for employment on 17.04.2023 and submitted all documents required by the department. However, her case was not processed because the deceased employee's first wife, Mst. Sughra, refused to provide a No Objection Certificate (NOC) or nomination in her favor. The respondents maintained that under the applicable policy governing appointments under Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, unanimous consent of legal heirs was necessary. The petitioner therefore approached the High Court seeking directions for issuance of an appointment order and consequential benefits.

Issue: Whether the petitioner, being the second widow of a deceased government servant and lacking the consent and NOC of the other surviving widow and legal heirs, was entitled to appointment under Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, and whether the Court could direct the respondents to grant her employment under the deceased quota?

Rule: Rule 11-A of the Sindh Civil Servants (Appointment, Promotion & Transfer) Rules, 1974, is a beneficial provision intended to provide employment assistance to the family of a civil servant who dies during service or becomes invalidated/incapacitated. Through successive amendments, the rule evolved to permit appointment of one child of the deceased employee, or the spouse where all children are minors, subject to fulfillment of prescribed conditions and application within the stipulated time. The Court observed that the primary object of the rule is to benefit the children of the deceased employee, while the spouse's entitlement is secondary and conditional. Furthermore, the Services and General Administration Department, exercising powers under Rule 3 of the APT Rules, validly prescribed procedural requirements, including submission of NOCs and consent from other legal heirs, which fall within the executive domain and ordinarily cannot be interfered with by the Court.

Application: The Court examined the legislative history and purpose of Rule 11-A and found that preference under the deceased quota is intended primarily for the children of the deceased employee. In the present case, the deceased was survived by two widows and several children. Although the petitioner applied for employment when the children were minors, she failed to fulfill the departmental requirement of obtaining an NOC from the other legal heirs, particularly the first widow. The Court held that where a deceased employee leaves behind multiple widows and legal heirs, and unanimous consent is unavailable, the department must exercise its discretion in a manner consistent with the purpose of Rule 11-A. By the time the matter was decided, the deceased's daughter, Maryam, had attained majority and had become eligible for appointment. Since the rule accords priority to children of the deceased employee, the Court held that Maryam's entitlement superseded the petitioner's claim. The Court further observed that in such circumstances, the department should consider Maryam's appointment irrespective of the NOC requirement and the limitation period, so as to advance the beneficial object of the rule and avoid unnecessary litigation.

Conclusion: The High Court concluded that the petitioner had failed to establish any legal right warranting interference under Article 199 of the Constitution. Since she did not satisfy the mandatory requirement of obtaining consent from other legal heirs and because an eligible child of the deceased employee had attained majority and acquired a superior claim under Rule 11-A, the petitioner was not entitled to appointment under the deceased quota. Consequently, the constitutional petition was dismissed. However, the Court directed the respondents to consider the case of Maryam, the adult daughter of the deceased employee, for appointment under the deceased quota within three months and advised the Services and General Administration Department to formulate clearer rules to address similar situations involving multiple widows and competing family claims.

9- HIGH COURT OF SINDH

Criminal Bail Application No.D-74 & 131 of 2026
Muhammad Hassan and Aijaz Vs The State

Present: **MR. JUSTICE JAWAD AKBAR SARWANA.**
MR. JUSTICE SYED FIAZ UL HASSAN SHAH
Source: https://caselaw.shc.gov.pk/caselaw/view-file/MzE1MjAxY2Ztcy1kYzgz
2026 SHC HYD 1266

Facts: On receiving secret information that proclaimed offender Abdul Majeed alias Dodo Mallah was present at the Otaq of Altaf Otho, a police party from P.S. Jati conducted a raid on 10.12.2024 and apprehended him. During the operation, a group of armed persons, including the present applicants and other co-accused, allegedly attacked the police party, fired shots causing injuries to several police officials, damaged the official police vehicle, and forcibly secured the release of the arrested accused from police custody before escaping. Consequently, Crime No. 158 of 2024 was registered and the applicants sought post-arrest bail after refusal by the Anti-Terrorism Court, Hyderabad.

Issue: Whether the applicants, who were alleged to have participated in an armed attack on a police party and in the rescue of an arrested accused from police custody, were entitled to the concession of post-arrest bail under Section 497 Cr.P.C.?

Whether, in view of the rule of consistency, absence of specific allegations against one applicant, and the grant of bail to similarly placed co-accused, the applicants' case called for further inquiry warranting grant of bail?

Rules: The Court applied the rule that bail in non-prohibitory clause offences is a rule and refusal is an exception, relying on Tariq Bashir v. State, PLD 1995 SC 34 and Sheikh Abdul Raheem v. State, 2021 SCMR 822. It also applied the rule of consistency**,** as similarly placed co-accused had already been granted bail, relying on Mubashar Hassan v. State, PLD 2022 Lahore 684. The Court further noted non-association of independent witnesses under section 103 Cr.P.C.**,** supported by Nazeer Ahmad v. State, 2021 P.Cr.L.J Note 41 and Mehmood Ahmad v. State, 1995 SCMR 127. The Court also applied the golden principle of bail that an erroneous grant of bail can be corrected at trial by conviction, but wrongful refusal of bail cannot be repaired if an innocent person suffers unjustified incarceration. This rule was relied upon from Manzoor v. The State, PLD 1972 SC 81**.**

Application: The Court found that the prosecution case required further inquiry because, although an armed attack on the police party was alleged, no independent/private witness was associated despite availability, no weapon was recovered from the accused, and the injury attributed was on a non-vital part and fell within bailable/non-prohibitory provisions. The Court also noted that co-accused with similar allegations had already been granted bail, so the rule of consistency applied. For the non-nominated accused, only general allegations without a specific role were made, placing him on an even better footing for bail.

Conclusion: The Court concluded that the applicants were entitled to post-arrest bail because the prosecution case contained factors requiring further inquiry, including the absence of independent witnesses, lack of recovery of the alleged weapon, the non-prohibitory nature of the attributed injury, and the grant of bail to similarly placed co-accused. The Court further held that where doubt exists at the bail stage, the benefit should lean in favour of liberty, particularly as an erroneous grant of bail can be remedied upon conviction, whereas unjustified pre-trial detention of an innocent person cannot be adequately compensated. Accordingly, post-arrest bail was granted to both applicants.

10- LAHORE HIGH COURT

Criminal Appeal No. 44191/2023,
Murder Reference No. 147/2023

Muhammad Atif Versus The State

Present: MR. JUSTICE FAROOQ HAIDER,
MR. JUSTICE ALI ZIA BAJWA, J.

Source: https://sys.lhc.gov.pk/appjudgments/2026LHC3560.pdf
2026LHC3560

Facts: The appellant, Muhammad Atif, was convicted by the trial court (Additional Sessions Judge, Bhalwal) under Section 302(b) PPC for the murder of Muhammad Sajjad on 04.12.2022. He was sentenced to death, with compensation of Rs. 20,00,000 to the legal heirs (in default, 6 months S.I.).

Issues: Whether the appellant (Muhammad Atif) was rightly convicted and sentenced to death under Section 302(b) PPC for Qatl-i-Amd as Tazir on the prosecution's version that he stabbed Muhammad Sajjad in the chest during a sudden quarrel over a stolen iron cutter/tool, or whether the case falls under a lesser category of culpable homicide not amounting to murder under Section 302(c) PPC, as the appellant acted in self-defence after the deceased (allegedly under the influence of drugs) first attacked him at his house, inflicting two chest injuries, with the appellant exceeding the right of private defence by delivering one fatal blow to the deceased's heart?

Rules: Qatl-i-Amd (Murder) under Section 302 PPC, with reference to the three categories of punishment (especially clause (c)). Exceptions to Section 300 PPC (old law), particularly Exception 2 (exceeding right of self-defence without premeditation). Cases falling under old Exceptions to Section 300 read with Section 304 PPC are now dealt with under Section 302(c) PPC (as per *Ali Muhammad v. Ali Muhammad* PLD 1996 SC 274 and later authorities like *Muhammad Daniyal* 2026 SCP 23 and *Amir Khan* 2025 SCMR 1572). Accused only needs to show a reasonably probable defence, not prove it beyond reasonable doubt. When both parties conceal facts, courts may adopt the "third view" emerging from evidence. Principles from cited Supreme Court cases on sudden fight, self-defence, and lack of premeditation.

Application: The court found: Occurrence happened in front of the appellant's house. Deceased was the aggressor (armed with knife, attacked first, injuring appellant). Appellant received two injuries on vital areas (medically examined same day). Appellant then used the knife in self-defence but struck the deceased in a vital area (chest, piercing heart), causing immediate death — exceeding the right of private defence. Motive (theft of cutter) was not proved; contradictions existed in prosecution evidence. Injuries to the appellant were suppressed initially by prosecution witnesses but confirmed by the Investigating Officer (who verified the defence version).

Conclusion: Conviction under Section 302(b) PPC (death sentence) was converted to Section 302(c) PPC. Sentence reduced to 15 years Rigorous Imprisonment. Compensation reduced to Rs. 10,00,000 (in default, 6 months S.I.). Benefit of Section 382-B Cr.P.C. extended. Appeal dismissed with modifications. Murder Reference No. 147/2023 answered in the negative — death sentence not confirmed. The judgment emphasizes that the incident was a sudden fight without premeditation, initiated by the deceased, where the appellant exceeded lawful self-defense. The decision is approved for reporting.

11- PESHAWAR HIGH COURT.

C.R. No. 245-P/2025 (Civil Revision)

Shahid Ali Khan (nephew of the deceased; son of Himat Khan) Versus Olas Khan etc. (primarily Olas Khan, full brother of the deceased) Deceased: Awalsuf Khan (died on 06.06.2020)

Present: **MR. JUSTICE MUHAMMAD NAEEM ANWAR.**

Facts: The respondent (Olas Khan) applied for a succession certificate regarding bank accounts of his deceased brother, Awalsuf Khan. The petitioner (nephew) sought impleadment claiming to be a legal heir and asserted that the deceased owed him substantial debts (Rs. 2,33,00,000/-) for medical expenses.

Issues: Whether the petitioner (nephew) is entitled to inherit as a legal heir alongside or instead of the full brother. Maintainability of succession proceedings post-2019 Khyber Pakhtunkhwa amendments (NADRA role). Whether the Succession Court could adjudicate and decree the alleged debts in summary succession proceedings. Proper scope and jurisdiction of proceedings under the Succession Act, 1925.

Rules: **Islamic Law of Inheritance (Sunni Hanafi):** Residuary heirs (*Asabah*) — nearer in degree excludes the more remote. Full brother (Serial No. 5) excludes brother's son (Serial No. 9). **Succession Act, 1925** (Sections 372, 373, 381): Succession certificates are summary in nature, limited to debts and securities. They do not determine title, heirship disputes, or complex questions of law/fact conclusively. Courts in succession matters grant certificates on *prima facie* basis and do not adjudicate contested debts/liabilities (which require substantive civil suits). Consent of parties cannot confer jurisdiction where none exists. Cited cases: *Lal v. Barkhurdar* (1996 SCMR 1964), *Waris Ali v. Rasoolan Bibi* (PLD 2014 SC 779), *Mst. Neelam Ashfaq* (PLD 2019 Sindh 247), etc.

Application: The petitioner (nephew) was rightly excluded by the full brother (Olas Khan) under the rule of nearer residuary excluding the remote. Succession proceedings were maintainable despite NADRA amendments due to disputed heirship. The trial court exceeded jurisdiction by determining and decreeing the alleged debts in summary proceedings (petitioner had earlier withdrawn a proper recovery suit). Appellate court correctly reversed the debt findings.

Conclusion: Civil Revision **dismissed**. Impugned appellate judgment upheld: Succession certificate properly issued in favor of the respondent (full brother). Petitioner’s claim as legal heir rejected; debt recovery claim not entertain able in succession proceedings (must be pursued via separate suit). No order as to costs. The judgment emphasizes the limited, summary nature of succession certificate proceedings under Pakistani law.

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