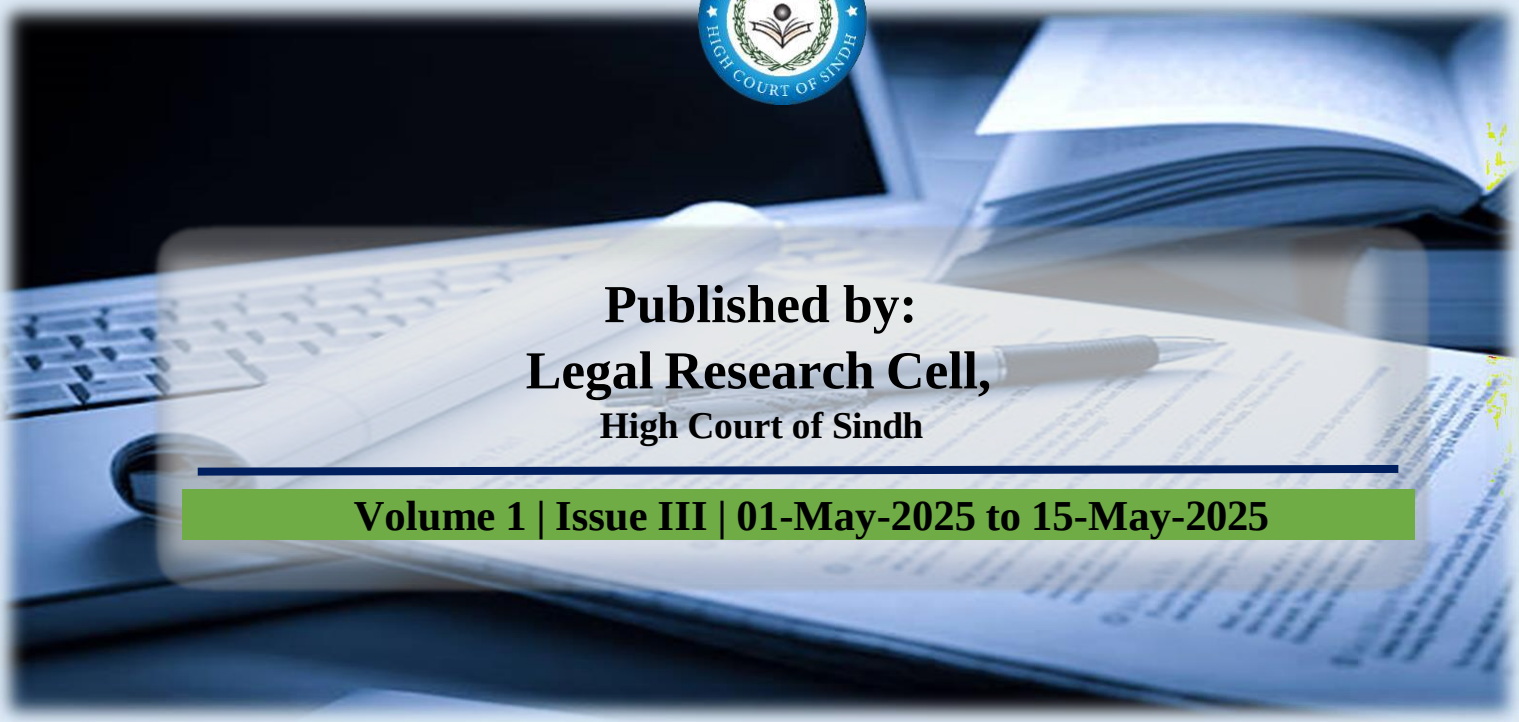
HIGH COURT OF SINDH

Case Law Review

Fortnightly Bench Update



Published by:
Legal Research Cell,
High Court of Sindh

Volume 1 | Issue III | 01-May-2025 to 15-May-2025

FORTNIGHTLY BENCH UPDATE

(01-05-2025 to 15-05-2025)

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

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1. **SUPREME COURT OF PAKISTAN**

I.C.A. 5/2023 in C.P. 24/2023 & C.M.A.10534/2023
Shuhada Forum, Balochistan v. Justice (R) Jawwad S. Khawaja and others
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Province of Punjab v. Jawwad S. Khawaja and others
And others

Present: **Mr. Justice Amin-ud-Din Khan, Senior Judge**
Mr. Justice Jamal Khan Mandokhail
Mr. Justice Muhammad Ali Mazha
Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Musarrat Hilali
Mr. Justice Naeem Akhter Afghan
Mr. Justice Shahid Bilal Hassan

Source: https://www.supremecourt.gov.pk/downloads_judgements/i.c.a._5_2023_so_07052025.pdf

Facts: On 9th and 10th May 2023, violent incidents occurred across Pakistan following the arrest of a prominent political leader. During these events, military installations, including GHQ Rawalpindi, Corps Commander's House Lahore, ISI offices, Mianwali Air Base, and other sensitive defense establishments were attacked, vandalized, and set on fire. These coordinated attacks happened within a few hours across multiple provinces and were described by the government as deliberate and orchestrated acts targeting national security infrastructure. As a result, First Information Reports (FIRs) were lodged, and civilians (about 103 persons) were arrested and placed under trial for their alleged involvement.The federal and provincial governments decided to try these civilians under the Pakistan Army Act, 1952, specifically under Clause (d)(i) and (ii) of Section 2(1) and Section 59(4), which allow for the military trial of certain civilians involved in offenses relating to military affairs or establishments. Multiple constitutional petitions were filed before the Supreme Court, challenging the legality of such trials. On 23rd October 2023, a bench of the Supreme Court (4–1 majority) ruled that trying civilians in military courts under these provisions was unconstitutional, violating Articles 10-A and 175(3) of the Constitution, and directed that such civilians be tried in ordinary criminal courts. Subsequently, several Intra Court Appeals (ICAs) were filed by the Federation of Pakistan, the Provinces of Punjab, Sindh, Balochistan, and KPK, and other parties to overturn the October 2023 ruling. The appellants argued that the nature of the attacks justified military jurisdiction, that due process was available within the military justice system.

Issue: Whether civilians accused of attacking military installations on 9th–10th May

2023 can be tried under military jurisdiction as per the Pakistan Army Act, 1952, and whether certain provisions of the Act are unconstitutional for violating the fundamental right to fair trial under Article 10-A of the Constitution?

Rule: The majority judgment (4-1) in October 2023 declared that:

1. Clause (d)(i) & (ii) of Section 2(1) and Section 59(4) of the Pakistan Army Act, 1952 were ultra vires the Constitution,
2. Civilians must be tried by ordinary criminal courts, not military courts,
3. Right to fair trial under Article 10-A and judicial independence under Article 175(3) must be upheld.

Application: In ICA No. 5/2023 and connected appeals, the Supreme Court (by majority 5-2) set aside the October 2023 judgment and:

1. Restored the challenged provisions of the Army Act, allowing military trials of civilians for certain acts against the military.
2. Held that these provisions do not violate Article 8(5) or Article 10-A, as due process is adequately provided within military justice, including internal appeal rights.
3. Rejected the argument that military courts cannot try civilians, citing precedents (e.g., Shahida Zahir Abbasi and District Bar Rawalpindi cases) affirming that military courts are valid constitutional entities.
4. However, the Court recommended legislative reforms, directing the Parliament to:
    - Amend the Army Act within 45 days to ensure an independent right of appeal to High Courts for civilians convicted by military courts.
    - Calculate appeal timelines from the date of such amendments.
5. Noted that attacks on military installations were coordinated and grave enough to fall within military jurisdiction.
6. Clarified that pending petitions in High Courts regarding the transfer of cases to military courts should be decided on their own merits.

Conclusion: The Court, by a 5-2 majority, reinstated military jurisdiction over civilians under certain provisions of Army Act and upheld military trials' validity. It urged Parliament to improve judicial safeguards by introducing an external right of appeal to align with constitutional and international fair trial standards.

SINDH HIGH COURT

2. **Sindh High Court**
National Foods Limited vs Collector of Customs, Karachi & another
Spl. Cus. Ref. A. 1129/2023 (D.B.)

Present: **Mr. Justice Muhammad Junaid Ghaffar, Honourable Acting Chief Justice**
Mr. Justice Mohammad Abdur Rahman

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjYzNzUwY2Ztcy1kYzgz

Facts: National Food Limited imported prefabricated building structures as part of establishing a new industrial plant in the Faisalabad Special Economic Zone (SEZ). It claimed exemption from customs duties and sales tax under three grounds: (i) Chapter 9917(2) of the Customs Tariff; (ii) Section 37 of the Special Economic Zones Act, 2012 read with SRO 41(I)/2009; and (iii) the definition of "capital goods" as provided in Part I of the Fifth Schedule to the Customs Act, 1969. Customs authorities denied this claim, concluding that prefabricated structures were not covered under "capital goods." The Collector (Appeals) and Customs Appellate Tribunal upheld the decision. The applicant relied on the judgment in Aisha Steel Mills Ltd. v. Federation of Pakistan (2011 PTD 569), where prefabricated buildings were held to qualify as capital goods entitled to exemption.

Issue: Whether prefabricated building structures imported for setting up an industrial unit in a Special Economic Zone qualify as "capital goods" and are entitled to exemption from customs duties and sales tax under the relevant laws and notifications?

Rule:

1. Chapter 9917(2) of the Pakistan Customs Tariff allows duty exemption for "capital goods" imported by SEZ enterprises.

2. Section 37 of the SEZ Act, 2012 and SRO 41(I)/2009 provide tax and duty exemptions on capital equipment imported for establishing projects in SEZs.

3. The definition of "capital goods" in the Fifth Schedule to the Customs Act includes plant, machinery, equipment, and accessories used in manufacturing or service sectors.

4. In Aisha Steel Mills Ltd. (2011 PTD 569), the Sindh High Court held that prefabricated buildings and sheds fell within the ambit of "capital goods" and were entitled to exemption under SRO 575(I)/2006.

5. Departmental interpretations or instructions (like those issued by FBR) are not binding on quasi-judicial or judicial bodies (PLD 1992 SC 485; 1993 SCMR 1232).

Application: The Court found that the applicant's import fell squarely within the definition of

"capital goods" under Chapter 9917(2) and the Fifth Schedule. The definition includes not only traditional machinery but also plant, equipment, and other industrial inputs necessary for production. Prefabricated structures, when used as integral components of industrial installations, are included in this category. Relying on Aisha Steel Mills, the Court emphasized that the exemption for prefabricated buildings does not depend on their inclusion in specific industrial sectors or the presence of crane systems. The Tribunal had wrongly limited the application of Aisha Steel to prefabricated buildings equipped with cranes. In truth, the judgment had explicitly held that such buildings even without additional machinery qualify as capital goods. The Tribunal's reliance on an FBR opinion excluding prefabricated buildings was also rejected. The Court reiterated that quasi-judicial bodies cannot be bound by departmental clarifications, especially when contrary to binding precedent. The Court further clarified that the exemption in Chapter 9917(2) is not restricted to Zone Developers but extends equally to Zone Enterprises, such as the applicant. The Tribunal's failure to acknowledge this was a fundamental error. Additionally, under SRO 41(I)/2009, issued under Section 19 of the Customs Act and Section 13 of the Sales Tax Act, capital equipment defined to include plant and equipment, even if not defined with the same precision as "machinery" qualifies for exemption. Drawing from its judgment in Hayat Kimya Pakistan (Pvt.) Ltd. (C.P. No. D-8480/2019, dated 11.03.2024), the Court noted that undefined terms like "equipment" and "plant" must be construed liberally to include industrial prefabricated structures. Thus, the applicant was entitled to benefit under all three legal frameworks: Chapter 9917(2), SRO 41(I)/2009, and the SEZ Act, 2012. The impugned orders failed to appreciate these overlapping exemptions and misapplied the law by adopting an overly restrictive interpretation.

Conclusion: The Court allowed the Reference Application and set aside the orders of the lower forums. It held that prefabricated building structures fall within the definition of capital goods and are therefore entitled to exemption from customs duty and sales tax under the SEZ Act, 2012, Chapter 9917(2), and SRO 41(I)/2009.

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3. Sindh High Court
Ibrahim Noor v Pakistan International Airlines corporation & others
Constitutional Petition No. D-4002 of 2011

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

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjUyMjM0Y2Ztcy1kYzgz**

Facts: Ibrahim Noor, the petitioner, worked in the Finance Department of Pakistan International Airlines Corporation (PIAC) from 1976 until his dismissal in 2010. The petitioner was dismissed from service on August 9, 2010, following a departmental inquiry that found him responsible for various financial irregularities,

leading to a loss of PKR 147 million. Despite reaching retirement age on November 30, 2010, he was not allowed to retire with the standard benefits. The petitioner challenged the dismissal, stating that his service record had been positive throughout his career, and he had been unfairly penalized. He also highlighted the case of other employees, such as Mrs. Amna Nazir, who was implicated in similar misconduct but was promoted and sent abroad, which the petitioner claimed was an example of favoritism. Furthermore, the petitioner relied on his acquittal in a criminal case under the National Accountability Bureau (NAB) Reference No. 20/2011, arguing that the acquittal should nullify the disciplinary action taken against him. As a result, he filed a constitutional petition under Article 199 of the Constitution, seeking to have his dismissal overturned and to be granted retirement benefits.

Issue 1 Whether a constitutional petition under Article 199 could be maintained against PIAC, a public corporation whose service regulations were non-statutory?

Issue 2 Whether the acquittal of the petitioner in a criminal case related to similar charges could invalidate the disciplinary proceedings and entitlement to reinstatement and retirement benefits?

Rule 1 The rule that governs the maintainability of writ petitions under Article 199 in service matters is that if the service regulations are non-statutory, the relationship between the employer and employee is considered a master-servant relationship, and the remedy under Article 199 is not available.

Rule 2 The Court also referred to precedents regarding departmental and criminal proceedings being distinct, where departmental inquiries operate on a **balance of probabilities**, while criminal proceedings require **proof beyond reasonable doubt**. The Court emphasized that **acquittal in a criminal case does not automatically nullify the findings of a departmental inquiry**. The Court also cited decisions such as *Dr. Sohail Hassan Khan v. Director General (2020 SCMR 1708)* and *Usman Ghani v. The Chief Post Master (2022 SCMR 745)* to highlight the principle that departmental inquiries and criminal cases are independent, and a writ under Article 199 is not the appropriate remedy in such cases, especially where the employee was given a full opportunity to defend himself.

Application: In applying the law to the facts, the Court noted that the petitioner's dismissal followed a thorough departmental inquiry that found him responsible for a number

of financial irregularities. The petitioner had been given full opportunity to cross-examine witnesses and present his defense, but he failed to convince the department of his innocence. The Court emphasized that the **acquittal in the criminal case** was irrelevant to the **departmental proceedings** since the standards of proof and procedures were different. The inquiry committee had found the petitioner guilty of negligence in managing the finances and following PIAC's internal policies. The petitioner's reliance on his criminal acquittal was therefore misplaced, as departmental actions are based on a lower standard of proof. Additionally, the Court pointed out that the service regulations at PIAC were **non-statutory**, meaning the relationship between the petitioner and PIAC was governed by internal policies, not enforceable through constitutional jurisdiction under Article 199. Moreover, the petition was filed **long after the dismissal** and only after the petitioner had reached his retirement age, which further weakened his case.

Conclusion: The Court concluded that the petition was not maintainable. The relationship between the petitioner and PIAC was governed by **non-statutory rules**, making the petition unsuitable for adjudication under Article 199. The **acquittal in the criminal case** did not affect the validity of the departmental inquiry. The Court dismissed the petition, affirming that the petitioner's dismissal stood and he was not entitled to the relief sought. The Court also noted the delay in filing the petition and the disputed factual questions, which further supported the decision to reject the petition.

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4. **Sindh High Court**
Amjad Ai Pechuho v National Bank of Pakistan & others
Constitutional Petition. No. D-5570 of 2017

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

Source **https://caselaw.shc.gov.pk/caselaw/view-file/MjYzNDI3Y2Ztcy1kYzgz**

Facts The petitioner, Amjad Ali Pechuho, was appointed as Officer Grade-III (OG-III) at National Bank of Pakistan (NBP) in 1996 pursuant to a public advertisement. However, he was verbally barred from service shortly thereafter, allegedly due to lack of an M.A. in Economics, despite holding a Master's degree in Economics and Political Science (1993). No formal termination order was issued at the time. In 2001, a charge sheet was issued against him after a five-year delay, alleging absence, lack of qualification, and declining a lower position. He denied the charges, and an inquiry was conducted in which willful absence was not proven.

Despite this, he was not reinstated to his original post. Under the Sacked Employees (Reinstatement) Ordinance, 2009, and Act, 2010, he was reinstated in 2009 as a Senior Assistant rather than as OG-III. He accepted the post under protest, repeatedly requesting restoration of his 1996 seniority and eventual promotion to OG-II under Section 10 of the 2010 Act. These requests were rejected. His SAP record at NBP reflected his original 1996 appointment date. After exhausting departmental remedies, he filed this petition challenging his wrongful termination and discriminatory reinstatement.

Issue 1 Whether the petitioner, after reinstatement under the now-declared unconstitutional Sacked Employees (Reinstatement) Ordinance, 2009, and Act, 2010, can lawfully claim reinstatement as Officer Grade-III from 1996 with all back benefits and promotion?

Issue 2 Whether the bank's actions—refusal to reinstate the petitioner to his original post and denial of promotion—were lawful and in accordance with principles of natural justice and equity?

Rule 1 With respect to the first issue, the Supreme Court in its 2021 judgment declared both the Sacked Employees (Reinstatement) Ordinance, 2009, and the Sacked Employees (Reinstatement) Act, 2010, as unconstitutional. As a result, all reinstatements and promotions granted under these laws were rendered legally questionable. This judgment nullified the foundation upon which the petitioner had been reinstated in 2009 as a Senior Assistant. Consequently, the legal status of the petitioner must be determined independent of the now-invalid Ordinance and Act. The ultra vires declaration effectively reopens the petitioner's original cause of action: whether the termination in 1996 was lawful and justified under the Bank's service rules.

Rule 2 The principles of administrative fairness and natural justice require that no adverse action be taken against an employee without affording due process, such as issuance of a show-cause notice or an opportunity to be heard. Moreover, findings of unproven charges by an Enquiry Officer ordinarily militate against the justification for a punitive action like termination. Article 25 of the Constitution ensures equality before the law and prohibits discrimination in service-related matters. Thus, if the petitioner was terminated without written order or inquiry, and similarly situated individuals were allowed to retain their status or secure promotions, his non-reinstatement as OG-III and denial of promotion may amount to discriminatory treatment violative of fundamental rights.

Application Applying the above rules, the Court noted that the petitioner's termination in 1996

was never formalized in writing, and his alleged absence was later addressed in an inquiry where the charges remained unproven. Despite this, he was denied reinstatement to his original post. His eventual rejoining as a Senior Assistant under the now-invalid Sacked Employees Ordinance and Act could not negate his claim based on the initial illegality. The Supreme Court's 2021 declaration that the said laws were unconstitutional further nullified the Bank's defense of a "settled matter" and revived the question of legality of the 1996 termination. Additionally, the petitioner's repeated appeals and internal memos recognizing his 1996 entry into service, as well as the Bank's own SAP records, undermined its position of finality. The Court also rejected the argument of estoppel and laches, holding that the petitioner's cause was continuously pursued and not abandoned. Since the Bank had neither proved willful misconduct nor provided fair procedural safeguards before terminating the petitioner, the Court held that the matter required reconsideration.

Conclusion The petition was disposed of, directing the competent authority of the respondent bank to reconsider the petitioner's case within three months, specifically addressing the legality of the 1996 termination and the possibility of reinstatement to OG-III from that date, strictly in accordance with applicable law and bank policy.

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5. **Sindh High Court**
Saleem Akhtar Siddiqui vs Sultan Ahmed Qureshi & others
Constitutional Petition No. D-2922 of 2024

Present: **Mr. Justice Muhammad Faisal Kamal Alam**
Mr. Justice Jawad Akbar Sarwana

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYyMTY2Y2Ztcy1kYzgz**

Facts: Saleem Akhtar Siddiqui, an Advocate and former government employee, filed this constitutional petition against a rent decree passed in favor of Sultan Ahmed Qureshi (SAQ), the owner of a property in Phase 5, Khayaban-e-Mujahid, Karachi. SAQ had earlier filed Rent Case No.103/2016, which concluded in his favor, and the execution was carried out on 12.03.2018. Meanwhile, the petitioner filed a civil suit for specific performance against SAQ claiming to have paid Rs. 5 crores as part of a sale deal. Subsequently, SAQ instituted Civil Suit No.1260/2018 for arrears of rent amounting to Rs. 4,320,000. The suit proceeded ex parte as the petitioner failed to file a written statement despite substituted service and personal receipt of summons. The suit was decreed on 17.10.2020. Petitioner's Section 12(2) CPC application to set aside the decree, and subsequent revision, were dismissed by the Trial and Appellate Courts. He then filed this constitutional petition, also contending that his pension account was blocked, which he claimed was impermissible under the law.

Issue 1 Whether the dismissal of the petitioner's application under Section 12(2) CPC to set aside the rent decree was justified?

Issue 2 Whether the attachment or blocking of the petitioner's pension account during execution proceedings was legal?

Rule: Section 12(2), CPC – A decree can be challenged if obtained through fraud, misrepresentation, or lack of lawful service.

Section 11, CPC – Bars re-litigation of issues already adjudicated between the same parties.

Section 60(1)(g), CPC and Section 11 of the Pensions Act, 1871 – Pension and pensionary benefits are exempt from attachment in execution of any decree.

Application: The petitioner's challenge under Section 12(2) CPC was found devoid of merit. Both the Trial and Revisional Courts examined the service record and held that the petitioner had been properly served, including acknowledgment of summons delivery via TCS. The argument of res judicata was also rejected, as the Supreme Court had already allowed the petitioner to pursue his civil suit for specific performance separately, and the rent recovery suit was based on a different cause of action. Regarding the blocking of the pension account, the Court noted that although there was no formal order on record, such blocking might have occurred due to CNIC blocking. The High Court clarified that any such action violates express legal provisions protecting pensionary benefits from attachment.

Conclusion: The Court upheld the dismissal of the petitioner's application under Section 12(2) CPC and maintained the validity of the decree for rent arrears. However, it observed that if the pension account was blocked, such action would be illegal under Section 60(1)(g) CPC and the Pensions Act, 1871. The Executing Court was directed to pass appropriate orders to de-block the pension account if such blocking had occurred.
This observation on the pension is obiter dicta.
The affirmation of the validity of service and the separate cause of action principle is the ratio decidendi.

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6. Sindh High Court
Dr. Muhammad Suleman and another v. Federation of Pakistan and 5 others
Constitutional Petition No. D – 6134 of 2024

Present: **Mr. Justice Faisal Kamal Alam**
Mr. Justice Nisar Ahmed Bhanbhro

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjYxODE4Y2Ztcy1kYzgz

Facts: Dr. Muhammad Suleman and another challenged the promotion of Dr. Kausar Abbas Saldera at JPMC to BS-19 and later to BS-20 (Professor of Physiology) on acting charge basis. They argued that she was ineligible due to insufficient length of regular service and teaching experience, as her contract period prior to regularization in 2011 was wrongly counted. The promotions were allegedly based on manipulated service records, violating applicable service rules.

Issue (1) Whether the promotion of Respondent No.6, Dr. Kausar Abbas Saldera, to the posts of Associate Professor (BS-19) and Professor of Physiology (BS-20) on acting charge basis at JPMC was lawful, given the alleged shortfall in length of service and teaching experience?

(2) Whether the petition under Article 199 of the Constitution was maintainable in light of Article 212?

Rule: According to the Sindh Civil Servants (Appointment, Promotion and Transfer) Rules, 1974, as amended in 2022:

For BS-19: 12 years' service in BS-17 and above, including 3 years' teaching experience as Assistant Professor, with a proviso requiring at least 5 years of total teaching experience.

For BS-20: 17 years' service in BS-17 and above, including 8 years' teaching experience as Associate Professor.

Service rendered on contract cannot be counted for promotion or seniority unless regularized without break (PLD 2003 SC 110, 2017 SCMR 890, 2025 SCMR 104).

Acting charge appointments under Rule 8-A may bypass some eligibility, but cannot override statutory service requirements.

Application: The Court found that Dr. Kausar Abbas was appointed on contract in 2008 and only regularized in service on 29.06.2011, meaning her service for promotion must be reckoned from that date. Despite this:She was promoted to BS-19 in May 2023, when she had completed only 11 years and 10 months of regular service, not the required 12 years.

She lacked the required 5 years of teaching experience as Assistant Professor for BS-19 and 8 years for BS-20.

Her promotion to BS-19 and appointment as Professor in BS-20 on acting charge were both based on incorrect length of service shown in salary slips—changes that were not supported by the Accountant General or JPMC.

JPMC, in another case (C.P. No. D-1594/2024), had admitted that she was not

eligible for promotion to BS-20.

The Court dismissed the argument that Article 212 barred the constitutional petition, noting the mala fides and misrepresentation involved, and that this was not a service matter simpliciter, but involved violation of Rules and public interest.

Conclusion: The High Court held that Dr. Kausar Abbas was ineligible for promotion to BS-19 and BS-20 under the relevant Rules. Her promotion was illegal, and both Notifications dated 08.05.2023 and 08.08.2024 were set aside. The Court directed the official respondents to fill the vacant post of Professor of Physiology within four weeks. However, it was clarified that this judgment will not affect Dr. Kausar Abbas's future eligibility if she qualifies under the law. This was the Ratio decidendi of the case. The arguments relating to maintainability under Article 212, including reliance on the Salma Aziz case, were rejected as Obiter dicta, being either per incuriam or not decisive to the outcome.

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7. Muhammad Muzammil VS The State.
Special Criminal Anti-Terrorism Jail Appeal No.55 of 2023

Present: **Mr. Justice Omer Sial**
Mr. Justice Muhammad Hassan (Akber)

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYzNzQ2Y2Ztcy1kYzgz**

Facts: The appellant, Muhammad Muzammil, was arrested on 06.07.2022 at around 6:40 PM from Ijtimah Gah, Gate 1, Ramzan Goth, Karachi, while allegedly committing a robbery along with two accomplices who managed to flee. According to the prosecution, upon being signaled to stop by the police, the accused persons opened fire, which led to retaliatory firing by the police during which the appellant sustained a bullet injury to his chest. He was apprehended at the scene with an unlicensed 30-bore pistol and three live rounds, while a mobile phone and Rs. 5,000/- in cash were recovered from him. FIRs Nos. 604 and 605 of 2022 were registered at P.S. Manghopir under various provisions of the Pakistan Penal Code, Anti-Terrorism Act, and the Sindh Arms Act. After completion of the investigation, he was tried and convicted by the Anti-Terrorism Court No. III, Karachi, which awarded him multiple sentences including under Section 7(h) of the ATA 1997.

Issue: Whether the conviction of the appellant Muhammad Muzammil under Section 7(h) of the Anti-Terrorism Act, 1997 was legally sustainable, and whether the sentence awarded under various offences should be maintained, reduced, or altered based on the facts and circumstances of the case?

Rule: The case was adjudicated by applying the principles laid down by the Hon'ble Supreme Court of Pakistan in:

- Ghulam Hussain v. The State (PLD 2020 SC 61), and
- Javed Iqbal v. The State (2024 SCMR 1437)

The Supreme Court clarified that for an act to qualify as terrorism under Section 6 of the ATA, 1997, it must not only be a heinous crime (as per Entry No. 4 of the Third Schedule) but must also be committed with the intent, object, or design to create terror or insecurity in society, as outlined in clauses (b) and (c) of Section 6(1). Mere heinousness of the offence does not suffice.

Also relied upon were:

- Niazuddin v. The State (2007 SCMR 206)
- Gul Naseeb v. The State (2008 SCMR 670)
  These cases allow courts to consider reduction in sentence in view of mitigating circumstances, especially where the statutory maximum is discretionary ("may extend up to").

Application: The appellant was convicted under Section 394/34 PPC, Section 7(h) of the ATA 1997 read with Sections 353/324 PPC, and Section 24 of the Sindh Arms Act, 2013. However, the High Court observed that:

- The incident was not premeditated but rather a spontaneous reaction to a police stop.
- No police personnel were injured and no bullet casing from the appellant was recovered.
- The appellant himself sustained a bullet injury and was apprehended from the scene.
- The prosecution failed to establish the intent to terrorize, thus not satisfying the essential ingredient under Section 6(1)(b)/(c) ATA 1997. Therefore, Section 7(h) ATA was held inapplicable.

Further, the Court acknowledged mitigating factors such as:

The appellant being the sole breadwinner of his family,

- His serious injury, and
- Having already served 4 years and 8 months in prison, including remissions.

Given the above, the Court held that although the convictions under PPC and the Sindh Arms Act were sustained, the sentence could be reduced in view of the reformation doctrine.

Conclusion: The High Court allowed the appeal in part:

- Conviction under Section 7(h) of ATA, 1997 was set aside as the offence did not qualify as terrorism under Section 6.

- Convictions under Sections 394/34 PPC and Section 24 of the Sindh Arms Act were upheld, but sentence was reduced to the period already undergone.
- The appellant was ordered to be released forthwith, if not required in any other case.

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8. Constitution Petition No.D-5714 of 2024

Present: **Mr. Justice Omer Sial**
Mr. Justice Muhammad Hassan (Akber)

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYzNzQ4Y2Ztcy1kYzgz**

Facts: The petitioner was appointed on a five-year contractual basis on 29.07.2024 by Dow University of Health Sciences (DUHS), a statutory institution established under the DUHS Act, 2004. Clause 10 of the appointment letter allowed either party to terminate the contract by giving one month's notice or salary in lieu thereof, with immediate termination permissible in case of misconduct. On 31.10.2024, DUHS terminated the petitioner's services by issuing a letter along with one month's salary in lieu of notice. The petitioner challenged the termination, claiming that since no misconduct was alleged, the action was arbitrary and unlawful. The respondents, however, contended that the termination was in accordance with the contract.

Issue: Whether a contractual employee of a statutory body can invoke the constitutional jurisdiction of the High Court under Article 199 of the Constitution of Pakistan to challenge termination of services when such termination is governed by the contract and not by statutory rules.

Rule: The principle settled by the Supreme Court of Pakistan in a series of authorities including *Nisar Ali v. PAEC* (2004 PLC (C.S.) 758), *Abdul Wahab v. HBL* (2013 SCMR 1383), and *Pakistan Electric Power Co. v. Salahuddin* (2022 SCMR 991) is that:

- Employees whose services are contractual and not governed by statutory rules fall within the master-servant relationship.
- Such employees cannot invoke Article 199 of the Constitution to challenge dismissal or to seek regularization, reinstatement, or enforcement of contract terms.
- A statutory body is considered to be performing functions in connection with the affairs of the Federation or Province only if it exercises public functions involving elements of public power.

Application: The Court noted that the petitioner was a contractual employee, whose appointment and termination were governed solely by the terms of the employment contract. The university lawfully exercised its contractual right under Clause 10 by issuing the termination letter with one month's salary in lieu of notice. Importantly, DUHS had not framed any statutory rules governing such employment; rather, it was regulated by internal policies, which are not statutory. The Court reiterated that constitutional jurisdiction cannot be availed by contractual employees for reinstatement of their service;

as such relationships are private in nature and governed by the principle of master and servant. Additionally, DUHS was not shown to be performing functions "in connection with the affairs of the Province" as required under Article 199(1)(a)(i).

Conclusion: The Court dismissed the petition, holding that since the petitioner's appointment was contractual and not governed by statutory rules and DUHS was not performing functions "in connection with the affairs of the Province"; the writ petition was not maintainable. The enforcement of contractual terms falls outside the High Court's constitutional jurisdiction under Article 199.

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9. **Sindh High Court**

Naveed Hussain Halepoto v. Province of Sindh & others
C.P No. D-107 of 2019

Present: **Mr. Justice Arbab Ali Hakro & Mr. Justice Riazat Ali Sahar**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYyMzgzY2Ztcy1kYzgz**

Facts: In 2005, petitioner was appointed as Water Management Officer (Engineering), BPS-17, on contract under a Sindh government project; his services were terminated on 23.05.2013 without inquiry following a show cause notice issued under the Removal from Service (Special Powers) Sindh Ordinance, 2000; after disposal of C.P. No.D-1876/2015 with direction to file representation, his appeal was dismissed by the Chief Secretary on 28.08.2018 without affording proper hearing, giving rise to the present petition.

Issue: Whether the termination of the petitioner's contractual service was lawful and whether the constitutional petition under Article 199 challenging such termination and the appellate order was maintainable.

Rule: Contractual employees are governed by the terms of their contract and relevant statutory rules, including the Sindh Civil Servants Act, 1973 and rules framed thereunder. Under settled law, consistent absenteeism constitutes valid ground for termination of contractual service without formal inquiry. Constitutional jurisdiction under Article 199 is barred where alternate statutory remedies exist, unless there is a breach of fundamental rights, lack of jurisdiction, or mala fide.

Application: The petitioner, a contractual appointee, repeatedly absented himself without justification, despite warnings and prior terminations. He was issued a show cause notice under the Removal from Service (Special Powers) Ordinance, 2000, and after reply, was terminated on 23.05.2013. In compliance with this Court's earlier order, he was afforded a personal hearing by the Chief Secretary, who dismissed his appeal through a detailed order dated 28.08.2018. As per paragraph 11 of the judgment, the appellate order refuted the claim that the hearing was a formality and disclosed proper consideration of record and misconduct. In paragraph 12, the Court held that

no violation of fundamental rights occurred and the petitioner had an adequate alternate remedy before the Sindh Service Tribunal. Therefore, constitutional jurisdiction could not be invoked.

Conclusion: The termination and appellate orders were passed in accordance with law and applicable service rules; no breach of fundamental rights was established. The petition was held to be misconceived, devoid of merit, and not maintainable under Article 199.

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10. **Sindh High Court**
Adeel Ahmed V. Commission of Pakistan & Others
Election Petition No. 15 of 2024

Present: **Mr. Justice Adnan Iqbal Chaudhry**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjY0MDkxY2Ztcy1kYzgz**

Facts: Adeel Ahmed, the petitioner, challenged the election of Respondent No.4 (Aasia Ishaque Siddiqui) before the Election Tribunal, High Court of Sindh. The petition was presented on 28-03-2024, accompanied by a non-notarized statement of service. The required affidavit of service under section 144(2)(c) of the Election Act, 2017 was sworn on 05-04-2024 before an oath commissioner, and another was later submitted on 15-04-2024 before the Assistant Registrar. Respondent No.4 objected that the petition be rejected under section 145(1) due to non-compliance with the mandatory requirement of filing the affidavit of service within the limitation period.

Issue: Whether the election petition is liable to be summarily rejected under section 145(1) of the Election Act, 2017 due to failure to file the affidavit of service in compliance with section 144(2)(c) within the prescribed 45-day limitation period?

Rule: Section 143(3) of the Election Act requires that a copy of the petition be served on respondents by courier or registered post at or before filing. Section 144(2)(c) mandates that an affidavit of service must also be filed to confirm such service. Section 145(1) provides that if there is non-compliance with sections 142, 143, or 144, the petition shall be summarily rejected. The Election Tribunal, citing PLD 2007 SC 362 (Malik Umar Aslam v. Sumera Malik) and PLD 2015 SC 396 (Hina Manzoor v. Ibrar Ahmed), has held that failure to comply with a mandatory procedural requirement within the limitation period renders the petition incurably defective.

Application: The Tribunal found that although courier receipts were submitted on 28-03-2024, no affidavit of service was filed within the 45-day limitation period that ended on 31-03-

2024. The affidavit filed on 05-04-2024, and again on 15-04-2024, was beyond the prescribed timeframe. The Tribunal emphasized that the affidavit of service under section 144(2)(c) is not a mere formality but a mandatory requirement and its non-compliance could not be cured afterward. The production of courier receipts was held to be insufficient.

Conclusion: In light of the facts and legal provisions, the Election Tribunal, High Court of Sindh, rejected the election petition under section 145(1) of the Election Act, 2017. The Tribunal concluded that the failure to file the affidavit of service within the mandatory 45-day limitation period, as prescribed under section 144(2)(c), rendered the petition incurably defective. The Tribunal emphasized that non-compliance with the statutory requirements could not be rectified after the expiration of the limitation period, thereby resulting in the summary rejection of the petition. The decision reflects the mandatory nature of procedural compliance in election petitions.

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11. **Sindh High Court**
Imran Bashir V. The State
Special Criminal Miscellaneous Application No. 05 of 2015

Present: **Mr. Justice Adnan Iqbal Chaudhry**

Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYxNzg0Y2Ztcy1kYzgz**

Facts: The Applicant, Imran Bashir, is a clearing and forwarding agent operating under the business name "M/s. Ghulam Muhammad & Imran Ahmed Enterprises." He sought to quash an FIR lodged against him under Section 156(1) of the Customs Act, 1969, which was registered as FIR No.153(I)DCI/Import/Memon/2014 on 20th December 2014. The FIR pertains to two containers of motorcycle parts imported by Memon Motors (Pvt.) Ltd. from China, which were entered for transshipment from Karachi International Container Terminal (KICT) to Dry Port NLC, Hyderabad. At KICT, the total weight of the consignments was recorded as 84.37 metric tons. However, upon arrival at Dry Port Hyderabad, the Applicant, acting as the clearing agent for the importer, filed a Goods Declaration (GD) showing a lesser weight of 80.36 metric tons, which was cleared by customs officers at the Dry Port. The Applicant approached the Court under Section 561-A Cr.P.C. seeking to quash the FIR, asserting that his role as a clearing agent was not properly investigated and that he should not be held liable for the discrepancy in weight. An interim order was granted by the Court on 12th February 2015, halting the investigation. This order continued to be in place at the time of the application, effectively preventing any coercive action from being taken against the Applicant during the ongoing investigation.

Issue: Whether the High Court could exercise its jurisdiction under Section 561-A of the Criminal Procedure Code (Cr.P.C.) to quash an FIR and the ongoing investigation,

specifically in relation to offences under Section 156(1) of the Customs Act, 1969?

Rule: Section 561-A of Cr.P.C. grants the High Court inherent powers to issue orders necessary to prevent abuse of the process of court or to secure the ends of justice. However, these powers are limited to judicial orders and proceedings, and they do not extend to executive or administrative actions such as police investigations. The Supreme Court has consistently held that the High Court cannot intervene in police investigations under Section 561-A unless the investigation is mala fide or beyond the jurisdiction of the authorities involved. In *Shahnaz Begum v. The Hon'ble Judges of the High Court of Sindh and Balochistan (PLD 1971 SC 677)*, it was stated that such powers do not extend to interfering with police investigations unless there are substantial grounds like mala fide intent or lack of jurisdiction. Similarly, in *Muhammad Ali v. Additional I.G. Faisalabad (PLD 2014 SC 753)*, the Court reaffirmed that Section 561-A applies only to judicial proceedings. Additionally, in *FIA v. Hamid Ali (PLD 2023 SC 265)*, the Court clarified that the High Court has no jurisdiction to quash an FIR or investigation under Section 561-A unless the accused has availed a remedy before the trial court under Sections 249-A or 265-K of Cr.P.C.

Application: In the present case, the Applicant, Imran Bashir, sought to quash the FIR and the investigation initiated against him under the Customs Act. Despite the fact that the investigation was ongoing and not yet completed, the Applicant argued that his involvement was being misrepresented and that the case against him should be dismissed. The High Court, however, emphasized that Section 561-A Cr.P.C. does not provide a remedy for quashing an FIR or stopping an investigation, particularly when the investigation is being carried out by the police. The Court referred to the settled law that the inherent powers under Section 561-A can only be used in relation to judicial orders, not executive functions such as police investigations. The Court highlighted that the appropriate remedy for the Applicant, if he believed that the investigation was being conducted improperly, would be to challenge it through the trial court or by invoking constitutional jurisdiction under Article 199 of the Constitution.

Conclusion: The High Court dismissed the application filed by the Applicant under Section 561-A Cr.P.C. for quashing the FIR and investigation. The Court concluded that the powers under Section 561-A are not applicable to police investigations and that the matter should be pursued in the trial court for proper adjudication. The Court held that it would not interfere in the ongoing investigation and emphasized that the Applicant's remedy lies in the trial court, where he may contest the charges if necessary.

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12. Sindh High Court

Javed Ali Baloch v. Fed. of Pakistan and Others

Constitutional Petition No. 3727/2024 Sindh High Court, Karachi

Present: **Mr. Justice Agha Faisal**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjY0NTIwY2Ztcy1kYzgz

Facts: Javed Ali filed a constitutional petition in 2021 at the Sukkur Bench, seeking appointment in Pakistan State Oil Company Limited (PSO) under the "deceased quota," claiming his right based on the death of his father (a PSO employee) in 2011. However, the petition was filed (i) 10 years after the death, (ii) without arraying PSO as a respondent, and (iii) against respondents who were not within the territorial jurisdiction of the Sukkur Bench. The petitioner claimed entitlement to employment despite the fact that PSO neither had statutory rules of service nor any policy for deceased quota at the time of death. The matter reached a Larger Bench due to a split opinion among judges, eventually being referred to a referee judge.

Issue: Whether a constitutional petition is maintainable against a public listed company (PSO), which lacks statutory rules of service, for employment under a non-existent "deceased quota" scheme?

Rule: Under Article 175(2) of the Constitution, courts cannot exercise jurisdiction unless conferred by law. As per Supreme Court precedent (GPO Islamabad, Tahir Mushtaq, Shahnawaz), appointments under "deceased quota" without open advertisement and merit are discriminatory and violate Articles 25 and 27 of the Constitution. No writ can be issued against a private/public limited company lacking statutory service rules, unless it performs sovereign or state functions (Saeed Khoso, Zeeshan Usmani, PIAC case). A past-and-closed transaction must involve a vested right or completed appointment — mere filing of petition does not create such a right (Muhammad Ismail, Shahnawaz, Mekotex). Bakht Siddiqui and similar rulings were distinguished because they involved enforcement of a specific government policy, not applicable here.

Application: The petition was found fundamentally flawed. PSO was not impleaded as a respondent. PSO is a public listed company without statutory service rules; no sovereign functions were established. At the time of death in 2011, there was no deceased quota policy in PSO. The delay of 10 years and laches further barred the claim. The claim of past-and-closed transaction was rejected because no appointment was made; only a petition was filed. The judgment in Bakht Siddiqui was held inapplicable due to dissimilar facts and legal basis.

Conclusion: The petition was held to be not maintainable and was dismissed. The ratio decidendi is that a writ petition is not maintainable for deceased quota-based employment

against a company lacking statutory rules, especially where no such policy existed at the relevant time. The arguments around policy, equity, or past and closed transactions were treated as obiter dicta, having no bearing on the absence of a legal right or jurisdiction.

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13. Mir Muhammad Raza VS Syeda Sehar Jafferi
C.P. No.S-272 of 2022

Present: **Mr. Justice Muhammad Hassan (Akber)**

Source: https://caselaw.shc.gov.pk/caselaw/view-file/MjYzOTQ4Y2Ztcy1kYzgz

Facts: The petitioner, Mir Muhammad Raza, filed a suit for jactitation of marriage in 2020, claiming that no marriage ever took place between him and the respondent, Syeda Sehar Jafferi, despite her assertions to the contrary and the existence of a birth certificate of a child allegedly born from the said marriage. The respondent produced documentary evidence including a nikahnama, NADRA records, and a birth certificate of the minor child, Mir Wali Muhammad, born on 04.11.2012, listing the petitioner as the father. The petitioner had earlier challenged these documents by filing Constitution Petition No. S-431 of 2014, without initially impleading the respondent. That petition was disposed of in 2016 without hearing the respondent, leading to her successful challenge under Section 12(2) CPC, resulting in the 2016 order being set aside in 2019. Meanwhile, the respondent had filed Family Suit No. 908 of 2018 seeking dissolution of marriage and maintenance, which culminated in a khula decree dated 26.10.2020, which the petitioner did not challenge. Despite having knowledge of the alleged marriage since 2014, the petitioner waited over six years to file the jactitation suit, which was dismissed by the Family Court as barred by limitation and lacking merit. The Appellate Court upheld this finding. Through the instant constitutional petition, the petitioner challenged the concurrent findings, alleging procedural irregularities and misapplication of law.

Issue: Whether the concurrent findings of the Family Court and the Appellate Court rejecting the petitioner's suit for *jactitation of marriage*—on the ground of limitation, maintainability, and the presumption of legitimacy of the child—were legally sustainable and justifiable in constitutional jurisdiction under Article 199 of the Constitution?

Rule: The legal doctrine of jactitation of marriage allows a person falsely alleged to be married to another to seek a declaration that no such marriage exists. Under Muhammadan Law and precedents such as *PLD 1975 SC 624 (Hamida Begum)*, *PLD 1984 SC 95 (Muhammad Azam)*, and *2000 YLR 703 (Nasrullah)*, Courts support presumption of legitimacy and validity of marriage, especially to avoid stigmatizing the child. The burden to proving jactitation is on the person approaching the Court. Family Courts, under the West Pakistan Family Courts Act, 1964, are also empowered to adopt its own procedures and are not bound by technicalities of CPC. or QSO 1984. As held in *2023 SCMR 413 (Arif Fareed v. Bibi Sara)*, constitutional jurisdiction under Article 199 should not be used as a substitute for appeal or revision in family cases.

Application: The petitioner Mir Muhammad Raza filed a suit for jactitation of marriage in 2020, more than six years after he first challenged the marriage through multiple official applications and a constitutional petition in 2014, and after participating in family litigation initiated by the respondent for khula and maintenance. During that time, he neither challenged the khula decree passed in 2020 nor the 2019 order passed under Section 12(2) CPC that set aside the previous NADRA-related order obtained by him through concealment. Official records (NADRA, Union Council, and Birth Certificates) supported the existence of marriage and legitimacy of the child. The courts below rightly rejected the suit as time-barred and frivolous, intended to avoid legal obligations. Moreover, filing a suit for jactitation after years of contesting family litigation raised doubts about the petitioner's intent. The High Court emphasized that such litigation risks branding the mother as a fornicator and the minor child as illegitimate—an outcome that Islamic law and judicial precedents strictly discourage. No jurisdictional or legal defect was found in the concurrent judgments warranting interference under Article 199.

Conclusion: The High Court dismissed the constitutional petition, upholding the orders of the Family Judge and the Additional District Judge, which rejected the petitioner's suit for jactitation of marriage. The Court held that the petitioner's claim was not maintainable in view of the khula decree already passed; dismissal of earlier petition of the plaintiff under section 12(2) CPC; the substantial delay of more than 6 years in approaching the Court; this family dispute pending since last 10 years; and the conduct of the Plaintiff aimed at avoiding his legal obligations towards the child and respondent.

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14. **Sindh High Court**
Javaid vs. The State
Criminal Bail Application No. 1004 of 2025

Present: **Mr. Justice Khalid Hussain Shahani**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjY0MzQ0Y2Ztcy1kYzgz**

Facts: The applicant, Javaid, was arrested and booked under Section 9(c) read with Section 9(i)(3) of the repealed Control of Narcotic Substances Act, 1997, vide FIR No. 214/2025 registered at Police Station Darakshan, Karachi. He applied for post-arrest bail, which was earlier declined by the trial court. The bail application before the High Court raised critical questions of legality, as the FIR was registered under a law that had already been repealed by the Sindh Narcotic Substances Act, 2024. The prosecution argued that under Section 35(1) of the new Act, trial courts have no jurisdiction to grant bail. However, the applicant argued that the prosecution and judicial actions taken under a repealed law for post-repeal events are unconstitutional and void ab initio.

Issue: Whether the High Court can entertain a post-arrest bail application filed under the repealed CNSA 1997 for an offence allegedly committed after the enactment of the Sindh Narcotic Substances Act, 2024, in light of the bar contained in Section 35(1) of the new Act and the jurisdictional scope of Article 199 of the Constitution?

Rule: Section 35(1) of the Sindh Narcotic Substances Act, 2024 bars the jurisdiction of trial courts to entertain bail under the Cr.P.C. However, the Larger Bench in Constitution Petition No. D-937 of 2025 clarified that this bar does not oust the High Court's constitutional jurisdiction under Article 199(1)(c). Further, Section 45 of the 2024 Act repeals the CNSA 1997 within Sindh and restricts any proceedings under the repealed law to cases where the offence occurred prior to repeal. Any prosecution for offences after the repeal must conform to the new law. Reliance was placed on PLD 2001 SC 607 (Khan Asfandyar Wali) and PLD 1989 SC 61 (Federation v. Aitzaz Ahsan) asserting that actions must derive from subsisting legal authority. Article 10-A ensures due process, which is violated when prosecution proceeds under a repealed statute.

Application: The Court held that the FIR registered against the applicant and all proceedings under the CNSA 1997 for an alleged post-repeal offence are void. Since the law had been repealed through Section 45 of the 2024 Act, no new FIR could legally be lodged under it. The prosecution's reliance on the repealed statute contravened the Constitution and the principle of legality. The objection of the DPG about the maintainability of the bail application was overruled to the extent that constitutional jurisdiction remains intact. However, since the present bench was not a constitutionally composed bench under Article 202A(3), it lacked competence to entertain a bail plea invoking fundamental rights. The appropriate forum for relief was through a petition under Article 199(1)(c) before a constitutional bench.

Conclusion: The bail application was held not maintainable before the present bench and was disposed of accordingly, with liberty granted to the applicant to file a constitutional petition invoking Article 199(1)(c). The Court reaffirmed that post-repeal prosecutions

under the CNSA 1997 are unconstitutional, and such actions are jurisdictionally void. This was the ratio decidendi of the case. Observations on the duty of the judiciary to operate strictly within the boundaries of existing law and the circulation of the order to subordinate courts and police for compliance form the obiter dicta.

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15. **Sindh High Court**
Syed Mahmood Shah Moosvi vs. The State
Criminal Appeal No. 131 of 2019

Present: **Mr. Justice Khalid Hussain Shahani**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYzNzY0Y2Ztcy1kYzgz**

Facts: Syed Mahmood Shah Moosvi was convicted under Section 22(b) of the Emigration Ordinance 1979 by the Special Judge Anti-Corruption/Emigration (Central-I) Karachi for fraudulently receiving Rs 852000 from the complainant Muhammad Hamza Akram under the false promise of arranging overseas employment in Malaysia through Singapore despite not being a licensed Overseas Employment Promoter. The complainant was sent to Singapore but no onward employment in Malaysia was arranged and the amount received was not refunded. The trial court sentenced the appellant to imprisonment till rising of the court and a fine of Rs 450000 with a direction that the amount be disbursed to the complainant as compensation. The appellant challenged the conviction on grounds of contradictory and uncorroborated evidence delays in complaint and FIR and procedural illegality in directing that the fine be paid as compensation. The State supported the trial court judgment and submitted that the conviction was based on consistent corroborated and credible evidence.

Issue: Whether the conviction of the appellant under Section 22(b) of the Emigration Ordinance 1979 and the direction to pay the fine amount as compensation to the complainant were sustainable under law and supported by reliable and admissible evidence?

Rule: Section 22(b) of the Emigration Ordinance 1979 penalizes unauthorized acts relating to emigration including fraud by individuals who are not licensed Overseas Employment Promoters. Section 388 of the Code of Criminal Procedure 1898 mandates that fines imposed by a criminal court shall be deposited in the government treasury unless otherwise provided by law. Section 544-A CrPC permits the award of compensation to victims but only through a separate substantiated judicial order and not as a substitution for or redirection of a penal fine. The Emigration Ordinance 1979 does not contain any provision authorizing the award of compensation from fine nor does it incorporate Section 544-A CrPC.

Application: The trial court correctly convicted the appellant based on the consistent and corroborated oral and documentary evidence presented by the prosecution including the complainant's affidavit and witness testimonies. Minor discrepancies in timeline and witness accounts did not undermine the core allegations. The complainant's testimony was found credible and supported by independent witnesses. However the trial court erred in ordering the fine to be paid as compensation without citing any legal basis under the Emigration Ordinance or CrPC. This conflated two separate concepts—punitive fine and victim compensation—without statutory backing. The trial court exceeded its jurisdiction by ordering the fine to be disbursed to the complainant without complying with the legal requirements for awarding compensation under Section 544-A CrPC.

Conclusion: The conviction of the appellant under Section 22(b) of the Emigration Ordinance 1979 was rightly upheld based on cogent and corroborated evidence and no misreading or non-reading of evidence was found. However, the direction to pay the fine amount to the complainant as compensation was declared without lawful authority and modified accordingly. The fine shall be treated as a punitive sanction and deposited in the government treasury in accordance with Section 388 CrPC. The ratio decidendi is the affirmation of conviction under Section 22(b) while the modification relating to the disbursement of fine constitutes obiter dicta**.**

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16. **Sindh High Court**
Umair Sikander vs. The State
Criminal Bail Application No.2699 of 2024

Present: **Mr. Justice Khalid Hussain Shahani**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYzNzY4Y2Ztcy1kYzgz**

Facts: The applicant Umair Sikander, son of the complainant Sikander Younas, sought pre-arrest bail in FIR No. 671/2024 registered at PS Gulshan-e-Iqbal under Sections 506-B, 448, and 380 of the Pakistan Penal Code. The complainant alleged that while he was falsely implicated in a criminal case and incarcerated, the applicant unlawfully dispossessed his mother and siblings from the family residence, misappropriated valuables including gold, cash, vehicle documents, and cheque books, and later threatened the complainant with a firearm upon his return. The complainant asserted exclusive ownership of the property and apprehended further misuse of the stolen items. The applicant contended that the property was his ancestral residence, the FIR was retaliatory, and the matter was a domestic dispute devoid of criminal intent.

Issue: Whether the applicant is entitled to the extraordinary relief of pre-arrest bail in light of

the allegations of dispossession, misappropriation and criminal intimidation directed against his own parents and family members?

Rule: The Supreme Court in PLD 2009 SC 427 and PLD 2021 SC 708 held that pre-arrest bail is an extraordinary remedy granted only when mala fide of arrest is established or where prosecution appears to be false, exaggerated, or intended to harass. This relief is discretionary and not a substitute for post-arrest bail. The applicant must not be accused of grave offences, must show clean hands, and must not have misused interim protection.

Application: The Court observed that the applicant, while under interim bail, committed acts that included forcibly evicting his family, unlawfully appropriating moveable property, and weaponizing legal processes by lodging false FIRs. The Court noted that the offences alleged were serious in nature, including criminal trespass, intimidation, and theft, and the applicant failed to cooperate with the investigation. It was further noted that the applicant's conduct toward his parents grossly violated Islamic injunctions and ethical obligations, especially considering the verses of the Quran and Ahadith cited in the order, which emphasize reverence towards parents. The use of stolen cheques and lodging of false complaints demonstrated mala fide intent. Furthermore, this was the applicant's second successive application with no fresh grounds.

Conclusion: The Court found no merit for extending the concession of pre-arrest bail as the applicant's conduct during interim relief was abusive, the allegations were grave, and he failed to establish mala fide of arrest. The Court dismissed the application and recalled interim bail, holding that the applicant was not entitled to equitable relief due to legal, moral, and constitutional violations.

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17. **Sindh High Court**
Adeel Rehman Memon vs. The State
Criminal Miscellaneous Application No.43 of 2025

Present: **Mr. Justice Khalid Hussain Shahani**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYzMDIxY2Ztcy1kYzgz**

Facts: Adeel Rehman Memon filed this application under Section 561-A CrPC to challenge the orders dated 21 October 2024 and 12 December 2024 passed respectively by the Judicial Magistrate-I, Malir, and the learned Sessions Judge, Malir. The trial had concluded prosecution evidence and recorded the applicant's statement under Section 342 CrPC. At that stage, the complainant—without FIA or prosecution endorsement—moved an application seeking forensic voice comparison of a USB audio clip already marked as an exhibit. The trial court entertained this request, directed collection of the

accused's voice samples, and ordered a fresh forensic analysis. The applicant contended that this was an unlawful post-evidentiary supplementation of evidence, amounting to compelled self-incrimination and denial of fair trial rights guaranteed under Articles 10-A and 13(b) of the Constitution. It was further argued that a prior forensic report was already available and that the forensic request was procedurally defective and filed through private counsel rather than the public prosecutor.

Issue: Whether the trial Court's direction to obtain the accused's voice samples for forensic analysis after closure of prosecution evidence and without prosecutorial endorsement violated the constitutional protections against self-incrimination and the right to a fair trial?

Rule: Article 10-A of the Constitution guarantees the right to a fair trial, including impartial proceedings and due process. Article 13(b) protects against self-incrimination, prohibiting the accused from being compelled to provide evidence against themselves. Forensic collection of biometric data, such as voice samples, without consent and post-indictment, has been held to amount to compelled testimony. The principles of adversarial criminal jurisprudence also bar courts from assisting the prosecution in curing evidentiary lacunae after the conclusion of their case. Precedents such as PLD 2019 SC 675 and 2024 YLR 1636 affirm that electronic evidence must be admitted with proper authentication, secure chain of custody, and production by the actual recorder, failing which it lacks probative value.

Application: The trial court's reliance on a post-evidentiary application filed by private counsel rather than the public prosecutor violated procedural safeguards. The accused had already faced full trial proceedings and closure of prosecution evidence. The audio recording had been transcribed and formed part of the record, while a forensic report on record failed to establish incriminating content. The order compelling voice samples after the fact was held to be in direct contravention of Article 13(b), amounting to judicially sanctioned self-incrimination. The trial court disregarded existing evidence and failed to consider the prejudice caused to the accused. Moreover, reliance on the Sarang Shar case was misplaced because that case involved pre-trial evidence collection endorsed by FIA prosecutors. Here, the procedure adopted amounted to prosecutorial overreach and judicial intervention to repair a deficient prosecution case, violating both the spirit and letter of constitutional protections.

Conclusion: The High Court set aside the impugned orders for being legally and constitutionally unsustainable. It held that compelling the accused to provide voice samples post-evidence closure infringed upon the right to a fair trial and the protection against self-incrimination. The trial court was directed to proceed with the matter strictly in accordance with law. The affirmation that the judiciary must not facilitate post-trial

evidentiary supplementation forms the ratio decidendi, while the broader commentary on constitutional rights and procedural lapses constitutes obiter dicta.

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18. **Sindh High Court**
Oshaque Ahmed Khokhar VS The State
Cr. Jail Appeal No.S-39 of 2024

Present: **Mr Justice Jan Ali Junejo**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYyMDMwY2Ztcy1kYzgz**

Facts: Oshaque Ahmed, while serving as Incharge of PRC Shikarpur during 2020–21, was accused of misappropriating 1,148.569 metric tons of government wheat worth Rs. 6,77,65,571/-. The allegations arose from FIR No. 02/2022 (ACE Shikarpur), following multiple inspections that uncovered significant shortages between book entries and actual stock. Despite his suspension on 07.12.2021, follow-up verifications confirmed the discrepancies. The prosecution examined 15 witnesses, including DFCs, Food Supervisors, and ACE officials, all of whom supported the misappropriation charges. The appellant denied the allegations but led no defense evidence. The trial court convicted him under Sections 409, 477-A PPC and Section 5(2) of the Prevention of Corruption Act, 1947, sentencing him to 10 years of rigorous imprisonment and imposing recovery of the misappropriated amount as land revenue arrears.

Issue Whether the conviction of Oshaque Ahmed under Sections 409 and 477-A PPC read with Section 5(2) of the Prevention of Corruption Act, 1947, for misappropriation of government wheat stock, was sustainable in light of alleged evidentiary discrepancies and procedural objections raised by the defense and whether the trial court was justified in ordering recovery of the misappropriated amount as arrears of land revenue?

Rule Where a public servant holds exclusive control over government property, such control satisfies the requirement of entrustment under Section 409 PPC. Documentary evidence, even in the form of photocopies produced by officials performing statutory duties, is presumed genuine under Article 129(e) of the Qanun-e-Shahadat Order, 1984. Once the prosecution proves entrustment and misappropriation, the burden shifts to the accused to offer a satisfactory explanation. Minor procedural discrepancies do not negate otherwise credible and consistent prosecution evidence.

Application: The Court observed that the appellant, as Incharge of PRC Shikarpur, had exclusive control over government wheat stocks, fulfilling the requirement of entrustment under Section 409 PPC. The prosecution conclusively proved misappropriation through official reports and records, which were duly signed by the appellant and carried a presumption of regularity under Article 129(e) of the Qanun-e-Shahadat Order, 1984. The appellant failed to rebut the prosecution's case or explain the massive shortage. The

Court held that minor discrepancies in dates did not impair the prosecution's credibility. It upheld the trial court's direction for recovery of Rs. 6,77,65,571/- as land revenue arrears under Section 5-C of the Prevention of Corruption Act, 1947, holding such recovery to be lawful and consistent with the deterrent purpose of the statute. Relying on *Mushtaque Hussain v. The State* (2023 P.Cr.L.J. Note 58), the Court emphasized that corruption by public servants causes greater financial harm than common crimes, warranting strict enforcement and exemplary punishment.

Conclusion: The High Court dismissed the appeal, holding that the prosecution had proved entrustment and misappropriation beyond reasonable doubt through reliable official documents and credible witness testimony. The appellant, who had exclusive control over the wheat godown, failed to account for the substantial shortage or produce any defense. The Court held that minor procedural discrepancies did not detract from the weight of the prosecution's case. The official records were presumed authentic under Article 129(e) of the Qanun-e-Shahadat Order, 1984. The recovery of Rs. 6,77,65,571/- as land revenue arrears was upheld under Section 5-C of the Prevention of Corruption Act, 1947. Relying on *Mushtaque Hussain v. The State* (2023 P.Cr.L.J. Note 58), the Court underscored that financial crimes by public officials cause significant harm to the public exchequer and must be addressed firmly to preserve the economic integrity of state institutions.

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19. **Sindh High Court**
Muhammad Alim Shar VS Shah Nawaz & Others
Constitutional Petition No.S-162 of 2022

Present: **Mr Justice Nisar Ahmed Bhanbhro**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYyMTc2Y2Ztcy1kYzgz**

Facts: The petitioner filed a civil suit seeking various reliefs, including cancellation of documents. During its pendency, he moved an application for conditional withdrawal of the suit to file a fresh one, citing unspecified formal defects. The Trial Court allowed the withdrawal on the same day without issuing notice to the defendants or recording reasons. The defendants challenged this order through a revision, which was allowed by the Revisional Court, setting aside the Trial Court's order in its entirety.

Issue: Whether the Revisional Court rightly set aside the Trial Court's order that permitted the petitioner to conditionally withdraw his suit with liberty to file a fresh one, without assigning reasons or hearing the defendants?

Rule: Under Order XXIII Rule 1(2)(b) CPC, a court may allow withdrawal of a suit with permission to file a fresh one only if it is satisfied that there is either a formal defect or another sufficient ground. This permission must follow judicial scrutiny, with reasons

recorded. As held in PLD 2022 SC 716, courts should prefer allowing amendments under Order VI Rule 17 CPC if defects are curable, and must ensure that withdrawal does not bypass legal limitations or procedural safeguards.

Application: The Court held that the Trial Court acted improperly by allowing conditional withdrawal of the suit without notice to the other side or recording any reasons, thus failing to exercise judicial discretion as required under Order XXIII Rule 1(2) CPC. It referred to PLD 2022 SC 716, where the Supreme Court emphasized that permission to withdraw with liberty to file a fresh suit must be granted only after identifying the formal defect and recording satisfaction, reinforcing that such discretion cannot be exercised in a mechanical or arbitrary manner.

Conclusion: The petition was dismissed as no illegality was found in the Revisional Court's order, which correctly set aside the Trial Court's unreasoned permission for withdrawal. The original suit was revived, and the petitioner was allowed to seek amendment or withdrawal afresh under proper procedure. The binding principle was that withdrawal of a suit with liberty to file afresh must be based on judicial satisfaction and recorded reasons, while the observation that defects could be cured through amendment reflected the Court's broader guidance on procedural fairness.

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20. Sindh High Court
Abdul Waheed Khan V. Khush Muhammad Bhutto
Second Appeal No. 159 of 2019

Present: **Mr. Justice Muhammad Jaffer Raza**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYyNjg5Y2Ztcy1kYzgz**

Facts: The Respondent (Plaintiff in the original suit) filed Civil Suit No. 832/2007 seeking possession of a flat (Flat No. B-7, 2nd Floor, Abbas Square, Karachi) and recovery of rent from September 2006 onwards. The Appellant claimed possession on the basis of an agreement to sell dated 05.09.2006, admitting partial payment but asserting that the sale consideration was later paid and accepted, making time not the essence of contract. The trial court decreed the suit in favour of the Respondent, which was upheld by the first appellate court. The Appellant then filed the present IInd Appeal invoking protection under Section 53-A of the Transfer of Property Act, 1882.

Issue: Whether the Appellant, who failed to perform his part of the contract under the sale agreement, can retain possession of the property by invoking the doctrine of part performance under Section 53-A of the Transfer of Property Act, 1882?

Rule: Section 53-A of the Transfer of Property Act, 1882 provides that where a person takes possession in part performance of a contract and has performed or is willing to perform his part, the transferor is debarred from enforcing any right against such transferee.

However, equitable relief under this section is contingent upon full and timely performance of the obligations under the contract. The Supreme Court in *Zafar Iqbal v. Naseer Ahmed* (2022 SCMR 2006) held that the High Court, while exercising second appellate jurisdiction under Section 100 CPC, cannot reappraise evidence and can only interfere when a decision is contrary to law, involves non-reading or misreading of material evidence, or involves a procedural defect.

Application: The High Court held that the Appellant not only failed to fully pay the agreed sale consideration but also could not prove such payments through any receipts or credible evidence. Moreover, the suit for specific performance was filed belatedly in 2019 after the trial court's decree in 2018, displaying conduct inconsistent with the principles of equity. The lower courts had rightly held that the Appellant's possession was unauthorized, and he could not seek equitable relief under Section 53-A. The Appellant's reliance on precedents was found to be distinguishable, as none of the cited cases supported his claim in the absence of willingness and timely performance of contractual obligations.

Conclusion: The High Court dismissed the IInd Appeal, holding that no substantial question of law was involved to justify interference under Section 100 CPC. It concluded that the Appellant's possession was unlawful, as he failed to comply with the essential conditions of Section 53-A. Therefore, the judgment and decree of the lower courts were upheld.

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21. Sindh High Court
Iqbal Ahmed Siddiqui v. Khalid Moudod Siddiqui and another
Second Appeal Appeal No. 77 of 2023

Present: **Mr. Justice Muhammad Jaffer Raza**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYxNTY1Y2Ztcy1kYzgz**

Facts: In this case, the respondent, Khalid Moudod Siddiqui, filed Suit No.1173 of 2015 before the Xth Senior Civil Judge, Karachi Central, seeking possession, mesne profits, and permanent injunction in respect of property bearing Plot No. C1-199, Sector 16-B, North Karachi Industrial Area, Karachi. He claimed ownership on the basis of a sale agreement dated 23.01.2014 and a registered lease deed dated 26.08.2015, supported by proof of payment and mutation in his name. The appellant, Iqbal Ahmed Siddiqui his real brother contested the suit alleging that the transaction was benami in nature and that the property actually belonged to their deceased father. The trial court decreed the suit in favour of the respondent, and the appellate court, namely IV-Additional District and Sessions Judge, Karachi Central, dismissed the appellant's Civil Appeal No.76 of 2021. The appellant then filed this second appeal under Section 100 of the Code of Civil Procedure, 1908,

challenging the concurrent findings of fact and law.

Issue: Whether the concurrent findings of the courts below affirming the respondent's ownership and dismissing the benami claim raised by the appellant suffered from any legal infirmity, misreading, or non-reading of evidence that could justify interference under Section 100 CPC?

Rule: The rule of law applicable is derived from the principles laid down in the cases of Ch. Ghulam Rasool v. Nusrat Rasool (PLD 2008 SC 146) and Manzoor Butt v. Mahmud Sufi (2016 CLC 1284), where it was held that to prove a benami transaction, two key elements must be established: firstly, an agreement either express or implied between the ostensible and real owner, and secondly, that the ostensible owner was not a party to the transaction while the real consideration was paid by another person. Furthermore, under Article 117 of the Qanun-e-Shahadat Order, 1984, the burden of proof lies squarely on the person who asserts such a claim. Additionally, the jurisdiction of the High Court under Section 100 CPC is limited to correction of errors involving misreading or non-reading of evidence as held in Faqir Syed Anwar Ud Din v. Syed Raza Haider (PLD 2025 SC 31).

Application: Applying these principles, the High Court observed that the appellant had neither filed any suit seeking declaration of title in the name of his deceased father nor any suit for cancellation of the registered lease deed in favour of the respondent. His entire defense was based on oral assertions without any documentary proof, and no evidence was produced to establish the motive for a benami arrangement or that the payment was made by their father. On the contrary, the respondent produced credible documentary evidence of sale, lease, payment, and mutation. During cross-examination, the appellant admitted that the documents were in the respondent's name and conceded that he had not previously claimed the transaction to be benami. Moreover, he had filed a separate partition suit regarding other properties but made no mention of the suit property therein. These admissions severely undermined his credibility. The trial and appellate courts correctly placed the burden of proof on the appellant and found his case to be lacking in both pleadings and evidence.

Conclusion: The High Court, exercising jurisdiction under Section 100 of the Code of Civil Procedure, dismissed the second appeal, reaffirming that concurrent findings of fact by the courts below will not be disturbed unless there is a manifest misreading or non-reading of material evidence. In the present case, the appellant failed to plead or prove the essential ingredients of a benami transaction, did not file any suit for declaration or cancellation of title documents, and relied solely on unsubstantiated oral claims. The respondent, on the other hand, established title through a registered lease deed, sale agreement, proof of payment, and mutation record. The trial and appellate courts rightly placed the burden of proof on the appellant in accordance with Article 117 of the Qanun-e-Shahadat Order, 1984. The court held that the failure to discharge this burden was fatal

to the appellant's claim.

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22. **Sindh High Court**
Izzat Gul & others V. Wahab Uddin
Constitution Petition No. S – 713 of 2024

Present: **Mr. Justice Muhammad Jaffer Raza**
Source: **https://caselaw.shc.gov.pk/caselaw/view-file/MjYzNzUyY2Ztcy1kYzgz**

Facts: The petition was filed by Izzat Gul, the maternal grandfather of three minor children, seeking to challenge the judgment and decree dated 04.05.2024 passed in Family Appeal No. 35 of 2024. The family appeal had arisen from a consolidated judgment dated 31.01.2024 in Family Suit No. 2526 of 2022 and Guardian & Ward Application No. 2880 of 2022. After the death of their mother in July 2021, the minors had been residing with their maternal grandparents, who had taken over full responsibility for their care and upbringing. The maternal grandfather instituted a family suit seeking maintenance from the respondent, Wahab Uddin, the biological father of the minors, who had allegedly abandoned the children. In response, Wahab Uddin filed a Guardian and Ward Application under Section 25 of the Guardians and Wards Act, 1890, claiming custody on the basis of his status as the natural guardian. The Family Court allowed the application for custody and granted the respondent visitation rights, while also fixing a maintenance amount. On appeal, the Family Court's decision was upheld. Dissatisfied, the petitioners approached the High Court through the present constitutional petition.

Issue: Whether, under the changed circumstances and in light of the welfare of the minors, the permanent custody of the children should be granted to their maternal grandfather, despite the legal presumption of the father being their natural guardian under Section 25 of the Guardians and Wards Act, 1890?

Rule: The law under Section 25 of the Guardians and Wards Act, 1890 recognizes the father as the natural guardian of minor children. However, Pakistani jurisprudence has firmly established that the welfare of the minor is the paramount consideration in custody matters. Courts are not bound to apply rigid technical rules or formal guardianship rights when determining the best interest of the child. The Supreme Court in *Shaista Habib v. Muhammad Arif Habib* (PLD 2024 SC 629) affirmed that custody can be granted to persons other than parents—including grandparents—if such a decision promotes the minor's welfare. Similarly, in *Asjad Ullah v. Mst. Asia Bano* (C.P. No. 3920 of 2024), the Court reiterated that welfare must override all other concerns, and vendettas or procedural delays should not influence custody decisions. Moreover, in *Malik Mahmood Ahmad Khan v. Malik Moazam Mahmood* (PLD 2025 SC 247), the apex court endorsed a "child-centered approach" in all judicial adjudications concerning children, advocating for recognition of their voices and emotional development.

Application: Applying these principles, Justice Muhammad Jaffer Raza noted that although the respondent is the biological father and therefore the natural guardian under law, his conduct particularly his voluntary abandonment of the minors after their mother's death and his delayed effort to reclaim custody undermined his claim. The minors had appeared before the Court and clearly expressed their preference to continue living with their maternal grandparents, who had provided them with stable care and emotional support since 2021. The Court acknowledged that significant time had lapsed during litigation and emphasized that the children had become accustomed to the love and environment offered by their grandparents. Relying on the Supreme Court precedents and giving primacy to the welfare of the children, the Court was not inclined to disrupt their settled lives. The emotional attachment, care provided by the grandparents, and the minors' own wishes outweighed the formal legal entitlement of the father.

Conclusion: The High Court of Sindh at Karachi, while partly allowing the constitutional petition, held that the permanent custody of the minors shall remain with the petitioner, their maternal grandfather. The respondent father was directed to pay past and future maintenance at the rate fixed by the Family Court. He was granted visitation rights every Sunday from 4:00 p.m. to 7:00 p.m. and on both Eid-ul-Fitr and Eid-ul-Azha, with liberty to approach the Family Court for additional visitation.

LAHORE HIGH COURT, LAHORE

23. **Al Makkah Press (Pvt) Ltd vs The Standard Chartered Bank (Pak) Limited**
E.F.A. No.248622 of 2018

Present: **Mr. Justice Ch. Muhammad Iqbal,**
Mr. Justice Muzamil Akhtar Shabir
Mr. Justice Asim Hafeez,

Source: **file:///C:/Users/User/Desktop/2025%20C%20L%20D%20160.pdf**

Facts: The case arose from two execution proceedings stemming from decrees passed by the Lahore High Court in its banking jurisdiction under the Financial Institutions (Recovery of Finances) Ordinance, 2001. In the first case, *Standard Chartered Bank* filed a recovery suit valuing over Rs. 101 million, but the final decree amounted to Rs. 90.6 million; when the bank initiated execution proceedings, the judgment-debtor objected on the ground that the decreed amount was below the High Court's pecuniary jurisdiction, requesting transfer to the Banking Court. The Single Judge dismissed the objection. In contrast, in another case, *MCB Bank* had obtained a decree of Rs. 62.5 million and the Single Judge transferred the execution to the Banking Court based on the lower decree amount. These conflicting orders led to the constitution of a Full Bench to decide whether the executing court's

pecuniary jurisdiction should be based on the value claimed in the plaint or the amount actually decreed.

Issue: Whether a decree passed by the Lahore High Court in its banking jurisdiction under the Financial Institutions (Recovery of Finances) Ordinance, 2001 ("FIO 2001"), where the decreed amount is below the pecuniary threshold of Rs. 100 million, is executable by the same court or whether the execution must be transferred to the Banking Court established under Section 5 of the Ordinance?

Rule: Section 2(b) FIO 2001 defines the jurisdiction of Banking Courts and the High Court based on the amount claimed in the plaint, not the amount eventually decreed.

1. Section 19 FIO 2001 provides that once a decree is passed, the suit automatically converts into execution proceedings—there is no need for a separate application.
2. The pecuniary jurisdiction is determined at the time of institution of the suit and is based on the valuation in the plaint, not the final decree.
3. Precedent judgments relied upon include:
    - *Dr. Pir Muhammad Khan v. Khuda Bukhsh* (2015 SCMR 1243)
    - *MCB Bank v. Eden Developers* (2019 CLD 219)
    - *Mashraq Bank v. Amtul Rehman Industries* (2002 CLD 336)
    - *PLD 2016 SC 409* (Zahid Zaman Khan)
4. Judgment in *Zarai Taraqiati Bank v. Faran Maiz Industries* (EFA No.1059/2016) was declared per incuriam, as it erroneously interpreted that execution jurisdiction depends on the decreed amount.

Application: The Full Bench analyzed two appeals:

1. EFA No.248622/2018: The execution petition remained in the High Court though the decree was for Rs. 90.6 million (below the Rs. 100 million threshold). The court upheld the decision of the Single Judge who dismissed the objection on pecuniary jurisdiction, holding that the High Court retains execution jurisdiction based on the original suit value (Rs. 101.5 million).
2. EFA No.43805/2021: In a similar case, the execution was transferred to the Banking Court on the ground that the decree was for less than Rs. 100 million, following *Faran Maiz*. The Full Bench set aside that order, affirming that such transfer was illegal and based on a flawed precedent.

The Court held that since the execution arises automatically by operation of law

under Section 19 of FIO 2001, there is no need to re-assess pecuniary jurisdiction at the execution stage. The court which passed the decree remains competent to execute it, regardless of whether the final decree is below the original pecuniary threshold.

Conclusion: The Lahore High Court held that:

- Pecuniary jurisdiction for execution is determined by the value stated in the plaint, not the decreed amount.
- High Court remains the proper executing forum, even if the decreed amount is below Rs. 100 million, provided it passed the decree.
- The previous contrary judgment in *Zarai Taraqiati Bank v. Faran Maiz Industries* was declared per incuriam.
- Therefore, the ratio decidendi is that the High Court retains execution jurisdiction based on the original claim, and Section 19 FIO 2001 governs execution without needing jurisdictional re-evaluation.
- The notion that execution jurisdiction should be transferred based on the final amount is obiter dicta in prior judgments and now overruled.

SELECTED ARTICLES

"Toward Understanding the Doctrine of the Merger of Merger, Law of Limitations, and Challenges in Decree Enforcement "

By Abdul Shakoor Kalhoro

Additional District and Sessions Judge, Posted at Mirpur Mathelo, District Ghotki

Abstract

This paper explores the complexities surrounding the limitation period for filing execution of decrees within the framework of Pakistani law, specifically under the Civil Procedure Code (CPC) 1908[1] and the Limitation Act 1908[2]. It also examines the doctrine of merger and its implications on decrees from lower courts when taken up by appellate or revisional courts. Through a comprehensive analysis of legal provisions, case laws, and scholarly opinions, this research aims to elucidate the procedural intricacies and challenges faced in the enforcement of judicial decrees. Procedure is meant to advance the cause of justice and not to retard it. The difficulty of the decree holder starts in getting possession in pursuance of the decree obtained by him. The judgment debtor tries to thwart the execution by all possible objection.[3]

The proverbial observation by the Privy Council in 1872,[4] is that the difficulties of a

[1] Civil procedure code 1908
[2] Limitation Act 1908
[3] Babu Lal vs. M/s. Hazari Lal Kishori Lal & Ors. [(1982) 1 SCC 525.
[4] Judicial committee of privy council 1872 General Manager of the Raj Durbhunga under Court of Wards VS Maharajah Coomar Singh and 2019 CLC 665 Lahore Multan Bench.

litigant begin when he obtains a decree. It is necessary to remember that success in a suit means nothing to a party unless he gets the relief. Therefore, to be really meaningful and efficient, the scheme of the Code should enable a party not only to get a decree quickly, but also to get the relief quickly The Limitation for filling of execution petition is specified under section 48 of civil procedure code 1908 and Article 181 of Limitation Act 1908. So, this paper is hereby drafted to clear this ambiguity and legal proposition in the minds of judicial officers having the applicability of laws mentioned above herein below. This research paper also examines the doctrine of merger in Pakistan, which governs the relationship between decrees and orders of lower courts and appellate or revisional courts. The research paper analyzes the legal framework, case law, and implications of the doctrine on the finality and binding nature of decrees and orders. The paper argues that the doctrine of merger is essential to ensure the supremacy of appellate and revisional courts and the uniformity of judicial decisions in Pakistan.

Key words
Constitution of Islamic republic of Pakistan, Decree, judgments, civil procedure code, limitation act, doctrine of merger, appellate and revisional courts, decree holder, execution petition, executing court.

Literature Review

1. Constitution of Islamic republic of Pakistan 1973
2. Civil Procedure Code 1908 (CPC): A review of sections and orders relevant to the execution of decrees.
3. Limitation Act 1908: Analysis of provisions that set time limits for filing execution applications.
4. Doctrine of Merger: Examination of the principle whereby a decree of a lower court merges into the decree of an appellate or revisional court.
5. Case laws study developed on the subject proposition.

Methodology

This research employs a doctrinal approach, analyzing statutory laws, judicial pronouncements, and legal commentaries. It also includes a comparative study of Pakistani and Indian case laws to provide a practical understanding of how these doctrines are applied in real scenarios.

Analysis

Limitation Period for Filing Execution

Statutory Provisions: Detailed analysis of relevant article 181 of the Limitation Act 1908, and section 47, 48, 96, 114,115 and order 21 Rules 10,11, 22 of civil procedure code 1908.

Judicial Interpretations: Examination of landmark judgments that have interpreted these provisions in the context of decree execution.

Practical Implications:
Discussion on the challenges faced by decree-holders in adhering to these limitation periods.

Doctrine of Merger

Conceptual Understanding: Explanation of the doctrine of merger and its legal basis.

Impact on Decrees: Analysis of how and when a lower court's decree merges into the appellate court's decree.

Legal definitions of limitation from different dictionaries with references:

- Merriam-Webster: a certain period limited by statute after which actions, suits, or prosecutions cannot be brought in the courts.

- Merriam-Webster: a statute assigning a certain time after which rights cannot be enforced by legal action or offenses cannot be punished.

- Collins English Dictionary: a rule or decision that prevents something from growing or extending beyond certain limits.

- Black's Law Dictionary: restriction or circumspection; settling an estate or property.

- Black's Law Dictionary: Time frame set by legislation where affected parties need to take action, after which they forfeit their right to do so.

Legal definitions of the doctrine of merger with references:

"A common-law doctrine under which one thing is absorbed, or merged, into another thing or right." - Black's Law Dictionary

- "The principle that a final judgment for the plaintiff brings together all parties' claims involved in the lawsuit." - Cornell Law School's Legal Information Institute

"The fusion or absorption of one thing or right into another." - Merriam-Webster's Dictionary of Law

Introduction.

The judicial process in Pakistan, as in many other jurisdictions, involves a meticulous procedural framework to ensure fairness and justice. Once a court decree is passed, its execution is governed by specific legal provisions that dictate the time frame and manner in which it can be enforced. The Civil Procedure Code and the Limitation Act provide the foundation for these procedural aspects. This paper delves into the intricacies of these laws, focusing on the limitation period for filing execution petitions and the doctrine of merger, which affects the status of lower court decrees when reviewed by higher courts. The judicial process in Pakistan, as in many other jurisdictions, involves a meticulous procedural framework to ensure fairness and justice. Once a court decree is passed, its execution is governed by specific legal provisions that dictate the time frame and manner in which it can be enforced. The Civil Procedure Code and the Limitation Act provide the foundation for these procedural aspects. This paper delves into the intricacies of these laws, focusing on the limitation period for filing execution petitions and the doctrine of merger, which affects the status of lower court decrees when reviewed by higher courts.

This research paper aims to clarify the legal proposition regarding the limitation period for the execution of decrees, which is three/six years as per Section 47, 48, 96, 114, 115 and Order 2 Rule 2, order 21 Rule 10,11,22 of the CPC and Article 181 of the Limitation Act 1908. This period starts from the date of the original decree by the civil court, not from the appellate/revisional court's judgment. The trial court's decree does not merge into the appellate or revisional court's decree.

The doctrine of merger, a key principle in Pakistani law, states that lower court decrees merge into appellate or revisional court decrees, becoming final and binding. This paper explores the legal framework and implications of this doctrine. Relevant sections, articles, and case law are provided for reference. Explores the legal framework, case law, and implications of the doctrine of *merger*.

When a higher forum entertains an appeal or revision and passes an order on merit, the doctrine of merger would apply. The doctrine of merger is based on the principles of propriety in the hierarchy of the justice delivery system. The doctrine of merger does not make a distinction between an order of reversal, modification or an order of confirmation passed by the appellate and revisional Courts.[5]

[5] C. P. No. D 27 of 2023 order dated 01.11.2023, HIGH COURT OF SINDH BENCH AT SUKKUR, in C. Mst. Sahja Versus Muhammad Zaman

In Deep Chand v. Mohan Lal[6] (2000) 6 SCC 259 it was held that the purpose of execution proceeding is to enable the decree- holder to obtain the fruits of his decree and even if there is any ambiguity, interpretation which assists the decree-holder should be accepted; the execution of decree should not be made futile on mere technicalities. It was further observed that keeping in view the prolonged factum of litigation resulting in the passing of a decree in favour of a litigant, a rational approach is necessitated and the policy of law is to give a fair and liberal, and not a technical construction, enabling the decree-holder to reap the fruits of his decree.

The phrase Merger Doctrine or Doctrine of Merger is neither a doctrine of constitutional law nor a doctrine that is statutorily recognized. It is also not a doctrine of universal or unlimited application. The said doctrine may refer to one of the several doctrines for e.g. Merger Doctrine (civil procedure code), Merger Doctrine (family law), Merger Doctrine (Intellectual property rights) This paper envisages limiting the discussion of the Merger Doctrine to the civil proceedings only. The paper intends to explain the meaning of the said doctrine in civil proceedings. Further, by way of various observations of the High Courts and Supreme Court, the paper tries to highlight the conditions for the applicability and inapplicability of the said doctrines in various cases. Lastly, the paper also discusses how the Pakistani Courts have engaged with the doctrine of merger and special leave petitions.

The effort required to obtain a decree is much less than the effort required to realize a decree because execution proceedings are more weighed in favor of a judgment debtor than in favor of a Decree Holder. Order 21 of the Code of Civil Procedure deals with the solemn act of execution of the decrees passed by the Courts from grassroots to the top. Ultimately, after the judgment attains finality or where there is no stay in the execution by any Appellate or Revisional Court, it is the Court of original jurisdiction which performs this sacred act of implementation of the execution.

The doctrine of Merger or the Merger doctrine in civil proceedings is a common law doctrine that stems from the idea of maintenance of the decorum of the hierarchy of courts and tribunals. The court in the case of Gojer Bros. (P) Ltd. v. Ratan Lal Singh,[7] correctly summed up the meaning of the doctrine as “the doctrine is based on the simple reasoning that there cannot be, at the same time, more than one operative order governing the same subject matter”. To put it simply, if there are two orders passed on the same subject matter, that is, one passed by a subordinate court like a tribunal and another passed by a superior court like the High Court, the operative part of the order by the subordinate court (tribunal in this instance) may be merged with the order of the

[6] Deep Chand v. Mohan Lal (2000) 6 SCC 259)

[7] [7] (1974) 2 SCC 453 Gojer Bros. (P) Ltd. v. Ratan Lal Singh.

High court.

The Supreme Court of India decision in Kunhayammed v. State of Kerala[8] is perhaps the most significant decision in this regard; it was observed in the later that where an appeal or revision is provided against an order passed by court, tribunal, or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum mergers in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of the law. In there are some exceptions to this doctrine as it is held in A.V. Papayya Sastry v. Govt. of A.P [9]discussed above, the Court laid down an important exception to the doctrine of merger. It observed that where it was established that the order obtained by the successful party was a consequence of fraud such order stood vitiated and could not be held legal, valid or in consonance with law. Such order was necessarily "non-existent", "non est" and could not be allowed to stand.

The Lahore High court in C.M.No.72-C of 2010 in RSA No.146 of 2006 Government of Pakistan through Secretary Ministry of Housing and Works Vs. Muhammad Anwar Khan judgment 26.06.2023[10], while discussing this rule, has observed that; The exception to this rule is where an appeal/revision/writ petition is not disposed of on merits, but on some grounds other than on merits, the exception to the rule of merger comes into field. The rule of merger becomes inapplicable where an appeal etc. has been dismissed on technical ground, such as dismissal for non-prosecution, lack of jurisdiction, lack of competence, barred by law or barred by time. In such a case where controversy falls within the noted exceptions, the forum for an application under Section 12(2) of the CPC is the one against whose decision the matter has come and been disposed of in the above manner by the higher forum. It was also observed Once the court of appeal adjudicates the controversy on point of law, fact or both and affirms, amends, varies or reverses the judgment and decree passed by the trial court, the realizable or executable judgment and decree is the one passed by the appellate court. It is simple for the reason that the judgment and decree passed by the trial court stands absorbed into the judgment and decree passed by the appellate court and the moment the judgment, decree or order is engrossed by higher forum's judgment, decree or order the one passed by the lower court or forum in hierarchy losses its identity as it is swallowed by the deliberation of law or fact appreciated by the higher forum and the judgment, decree or order stands merged into judgment, decree or order passed by the appellate forum.

[8] (2000) 6 SCC 359, 383, 384 Kunhayammed v. State of Kerala
[9] (2007) 4 SCC 221, 236 A.V. Papayya Sastry v. Govt. of A.P.
[10] THE LAHORE HIGH COURT, C.M.No.72-C of 2010 in RSA No.146 of 2006 Government of Pakistan through Secretary Ministry of Housing and Works Vs. Muhammad Anwar Khan[10],

In A.V. Papayya Sastry v. Govt. of A.P [11]the Supreme Court had the occasion to hold that All orders passed by the courts/authorities below, therefore, merge in the judgment of this Court and after such judgment, it is not open to any party to the judgment to approach any court or authority to review, recall or reconsider the order.

In Nasarullah Khan and others vs. Mukhtar-ul-Hassan and others (PLD 2013 SC 478)[12] where our own Supreme Court held that 'merger' of a judgment, decree or order means "that it is integrated, implanted, inculcated, infixed and instilled into decree of the higher forum and becomes the decree/order of the later forum for all legal intents and implications.

Case Studies

Case Study 1:

PLD 2024 489 Anjum Ghulam Mustafa Versus Darul-Islam Society;

Case Study 2:

PLD 2023 Peshawar 19 Rabnawaz Versus Ms. SABU Bibi.

Case study 3:

1992 SCMR 241. Maulvi Abdul Qayyum v. Ali Asghar Shah.

Law involved and discussed

Section 48 of the Civil Procedure Code, 1908, and Article 181 of the Limitation Act, 1908, address the limitation period for the execution of a decree. Section 15 of the Limitation Act, 1908, provides that the period during which proceedings are suspended is excluded from the computation of the limitation period for execution. Article 181 stipulates that applications for which no specific limitation period is provided elsewhere in the schedule or by Section 48 of the Code of Civil Procedure, 1908, shall have a limitation period of three years, beginning from the date when the right to apply accrues

The Supreme Court of Pakistan has consistently applied the doctrine of merger in various cases. In the landmark case of Province of Sindh v. Muhammad Hussain (1994 SCMR 1611)[13] the Court held that the decree of the lower court merges into the decree of the appellate court, and the latter decree is the final and binding decree in the case, Supreme Court in another case, emphasized that a decree remains executable until such

[11] (2007) 4 SCC 221, 236 A.V. Papayya Sastry v. Govt. of A.P.
[12] Nasarullah Khan and others vs. Mukhtar-ul-Hassan and others (PLD 2013 SC 478)
[13] Sindh v. Muhammad Hussain (1994 SCMR 1611)

time as an appeal or revision challenging the decree is filed, or if such proceedings are pending but no stay order has been issued. This pronouncement reinforces the notion that the absence of a stay order does not preclude the execution of a decree, even if a revision application is pending before the High Court. This view has been affirmed in judgment cited as "Bakhtiar Ahmed v. Mst. Shamim Aktar and others"[14] as under:-

"Limitation for filing execution application to commence from date of accrual of right--- Partial decree was passed in favour of plaintiff (petitioner) by the High Court on 17- 3-2003---Defendant (respondent) filed petition for leave to appeal before the Supreme Court, which was dismissed on 31-3-2005 and leave was refused---Execution petition was filed by plaintiff on 3-12-2007 but it was dismissed by the Executing Court being time barred---First Appellate Court and High Court upheld order of Executing Court and dismissed appeals filed by plaintiff---Contention of plaintiff was that after dismissal of defendant's petition for leave to appeal, he filed execution petition within the allowed time of three years, and that under Ss.47 & 48(2), C.P.C. execution petition could be filed within six years. Defendant's petition for leave to appeal was dismissed on 31-3-2005 and no stay was granted by the Supreme Court---Plaintiff could have filed execution petition within three years w.e.f. 17-3-2003, the date of judgment of the High Court which had attained finality--- Under Art.181 of the Limitation Act, 1908, period of limitation of three years for filing of execution application would commence from the date of accrual of right, which, in the present case, was 17.3.2003 when partial decree was passed by the High Court."

In recent case law reported as 2024 M L D 408 [Sindh] ZEBA ILYAS Versus KARACHI METROPOLITAN CORPORATION,[15] In the case where the execution application filed by the petitioners was dismissed as being time-barred, The facts before the court, in brief, were that the suit filed by the petitioner culminated in dismissal at the first instance, prompting the petitioner to file a Civil Appeal. In the appeal, a judgment was entered in her favor with the impugned judgment and decree being set aside, and the suit was decreed as prayed. The appellate decree was then drawn up accordingly on 04.07.2011. The respondent filed a Civil Revision Application, which was dismissed on 18.09.2018, without any interim order for stay or suspension of the Appellate decree ever being made during the pendency of the matter. In that backdrop, the Execution Application came to be filed by the petitioner on 20.04.2019. The case of the petitioner turned on the assertion that the doctrine of merger extended to the proceedings of the revisional forum, and that as the Appellate Decree merged into the final order/judgment of the revisional Court, the period of limitation began to run from the disposal of the Revision Application. It was

[14] Bakhtiar Ahmed v. Mst. Shamim Aktar and others" (2013 SCMR 5)

[15] 2024 M L D 408 [Sindh] ZEBA ILYAS Versus KARACHI METROPOLITAN CORPORATION,

held by the Honorable high court; that "revision was dismissed 18.09.2018 for non-prosecution and no order had been made during proceedings for stay or suspension of the Appellate Decree---As such doctrine of merger sought to be relied upon by the petitioner would not apply Petition was dismissed accordingly"

The Honorable Supreme court of Pakistan in PLD 2024 489 Anjum Ghulam Mustafa Versus Darul-Islam Society[16] while discussing the similar question has observed that' mere filing the a petition for leave to appeal doesn't automatically extend the time for filing of an execution application, However if leave is granted, the petition converted to appeal and allowed in such case, the order of Supreme court will merge into the order of lower forum, thus the period of limitation will start from the order of Supreme court. The Honorable Peshawar High court PLD 2023 Peshawar 19 Rabnawaz Versus Mst. SABU Bibi[17] while discussing same question has observed that provision of the section 15 of the limitation Act (IX 1908) has been made expressly applicable to the application for execution of the decree and it controls section 48 of the CPC, Period of six years has been provided in the section 48 of the CPC, period during which decree of the trial court remains suspended through an injunctive order , that period must be excluded in computing the period of limitation under section 48 of the CPC.

Similarly it will be important to go through Section 15[18] of the Limitation Act. Which signify that when a stay is granted by a court qua execution of a decree, the time of continuance of that order will be excluded from the period of limitation for filing an execution petition. For convenience, the said provision is reproduced hereunder:-

"Exclusion of time during which proceedings are suspended. (1) In computing the period of limitation prescribed for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn, shall be excluded. (2) In computing the period of limitation prescribed for any suit of which notice has been given in accordance with the requirements of any enactment for the time being in force, the period of such notice shall be excluded."

Conclusion.

This paper concludes by summarizing the key findings and offering recommendations for legal reforms to streamline the execution process and clarify the application of the doctrine of merger. It emphasizes the need for greater judicial consistency and legislative clarity to ensure that the enforcement of decrees is fair and efficient. As such, the decrees

[16] PLD 2024 489 Anjum Ghulam Mustafa Versus Darul-Islam Society.
[17] PLD 2023 Peshawar 19 Rabnawaz Versus Mst. Sabu Bibi.
[18] Limitation Act,908

are required to be executed with force, so that the Decree Holder having a document containing declaration of his rights may not feel cheated or helpless having earned no fruits of the lis got settled by him from the Court even after spending decades altogether.

This structured research paper aims to provide a thorough and insightful analysis of the limitation period for filing execution and the doctrine of merger within the Pakistani legal context. In 2023 SCMR 1665 Mst. Mussrat Parveen Versus Muhammad Yousuf,[19] it was observed by the Honorable Supreme court of Pakistan that law providing limitation for various causes reliefs is not matter of mere technicality but foundation of the law so this paper is an effort It addresses both theoretical and practical aspects, contributing to a better understanding and potential improvement of the legal framework governing judicial decree execution. The doctrine of merger has significant implications on the finality and binding nature of decrees and orders of lower courts. Once a decree or order is merged into the decree or order of an appellate or revisional court, it becomes final and binding, and the lower court's decree or order ceases to exist. the doctrine of merger is a crucial aspect of the Pakistani legal system, ensuring the supremacy of appellate and revisional courts and the uniformity of judicial decisions. The legal framework and case law demonstrate the significance of the doctrine in promoting the rule of law and justice in Pakistan.

Challenges and Constraints.

The challenges and constraints in understanding the different limitation periods in the context of the merger of decrees include navigating complex legal precedents, varying jurisdictional interpretations, and ensuring the timely enforcement of decrees within the prescribed statutory timeframe

Legal Ambiguities:

The ambiguity or complications in Article 181 of the Limitation Act, 1906 and under Section 48 of the Civil Procedure Code arise in determining the exact starting point for the limitation period, the applicability of these provisions to various types of decrees and orders, and reconciling differences in interpretation across jurisdictions and case law precedents. The understanding and backing down doctrine of merger of the decree is crucial for both legal practitioners and courts as it ensures finality, clarity, and efficiency in the judicial process. Once an appellate court delivers its judgment, the lower court's decree merges into it, preventing conflicting rulings and streamlining enforcement. This doctrine simplifies legal strategies, reduces duplication of litigation, and contributes to the principle of *res judicata*, ensuring that the same matter cannot be re-litigated. It also

[19] 2023 SCMR 1665 Mst. Mussrat Parveen Versus Muhammad Yousuf,

promotes judicial economy by making the appellate court's decision the only relevant decree, aiding in consistent and predictable case management. Overall, it reinforces the integrity of the legal system in Pakistan in civil and banking matters by preventing unnecessary disputes and providing clear, enforceable outcomes.

Practical Barriers:

In the case of Dr. Muhammad Javaid Shafi Vs. Syed Rashid Arshad and others (PLD 2015 SC 212),[20] The honorable Supreme of Pakistan, has held that the law of limitation requires that a person must approach the Court and take recourse to legal remedies with due diligence, without dilatoriness and negligence and within the time provided by the law, as against choosing his own time for the purpose of bringing forth a legal action at his own whim and desire. Because if that is so permitted to happen, it shall not only result in the misuse of the judicial process of the State, but shall also cause exploitation of the legal system and the society as a whole. This is not permissible in a State which is governed by law and Constitution. It may be relevant to mention here that the law providing for limitation for various causes/reliefs is not a matter of mere technicality but foundationally of the "Law" itself. The doctrine of merger presents significant challenges for litigants executing decrees within the limitation period, as it dictates the finality of the decree and the commencement of the limitation period. Confusion arises when litigants must determine the starting point of the limitation period, which begins after the appellate or revisional court's decision, not the lower court's decree. Stay orders can further complicate this by delaying execution until an appeal is resolved. The Supreme Court has extended the doctrine of merger to revisional jurisdiction, yet difficulties persist in ascertaining whether a revision was decided on merits, a requirement for the doctrine to apply. Additionally, exceptions to the rule, such as dismissals *in limine*, can lead to miscalculations of the limitation period [21] . These complexities, coupled with varying judicial interpretations, highlight the need for legal clarity and potential reforms to aid litigants in the timely execution of decrees. The shift towards alternate dispute resolution (ADR) does not imply that conventional methods of passing decrees and their execution should not be fine-tuned or redefined.

Recommendations

1. Legislative Reforms:

Proposals for amendments to the CPC and the Limitation Act to address identified ambiguities and inconsistencies.

2. Judicial Training:*

Suggestions for enhanced training of judicial officers and advocates on the nuances of

[20] Dr. Muhammad Javaid Shafi Vs. Syed Rashid Arshad and others (PLD 2015 SC 212)

[21] **2009 PLD 397 S.M Sohail Versus Mst. Sitara Kabi-r-udin.**

decree execution and the doctrine of merger.

3. Public Awareness:
Initiatives to educate common litigants and lawyers about their obligations concerning decree execution to restore confidence of the general public.

References

A comprehensive list of legal texts, case law, and scholarly articles referenced throughout the paper.

Bibliography

The article provides an in-depth analysis of the legal challenges encountered by litigants and judges in appellate courts in writing the same help is sought from Pakistani legal sites, of Honorable High Courts, Supreme Court of Pakistan and various research articles.

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