FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory/Review Jurisdiction)

Present:
JUSTICE AMIN-UD-DIN KHAN, CHIEF JUSTICE
JUSTICE ALI BAQAR NAJAFI

F.C.P.L.A.624/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-4634/2022]*	*Capital Development Authority, through its Chairman & another* ***Vs.*** *Maqbool Hussain & others*
F.C.P.L.A.657/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-2759/2024]*	*The Chairman Capital Development Authority & others* ***Vs.*** *Shehnaz Saleh & others*
F.C.P.L.A.720/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1818/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Salman Aftab & others*
F.C.P.L.A.721/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1865/2023]*	*Capital Development Authority (CDA) through its Chairman, Islamabad* ***Vs.*** *Rafigan Bibi Khalid & others*
F.C.P.L.A.722/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-2878/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Muhammad Arif & others*
F.C.P.L.A.723/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1817/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Mumraiz Khan & others*
F.C.P.L.A.724/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-2711/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Muhammad Tufail & another*
F.C.P.L.A.725/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3634/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Shah Zaman Khan & others*
F.C.P.L.A.726/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1819/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Perveen Akhtar & others*
F.C.P.L.A.727/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3393/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Syed Faqir Shah & others*
F.C.P.L.A.728/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3658/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Ashiq Hussain & others*
F.C.P.L.A.729/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1885/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Syed Abid Hussain Shah & others*
F.C.P.L.A.730/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1553/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Yasrab Hussain Malik & others*
F.C.P.L.A.731/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3678/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Nauman Shabir & others*

F.C.P.L.A.732/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3417/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Syed Anwar Hussain & others*
F.C.P.L.A.733/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3897/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Ghulam Rasool & others*
F.C.P.L.A.734/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-2840/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Aamir Khan & others*
F.C.P.L.A.735/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1867/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Ghulam Mustafa & others*
F.C.P.L.A.736/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3462/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Syed Zaigham Hussain & others*
F.C.P.L.A.737/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1816/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Syed Nasir Sajjad Gardezi & others*
F.C.P.L.A.738/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1704/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Mr. Malik Asif & others*
F.C.P.L.A.739/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1815/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Ghulam Muhammad Awan & others*
F.C.P.L.A.740/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-3866/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Muhammad Riaz & others*
F.C.P.L.A.741/2026 *[against the judgment dated 18.11.2025 passed by the Islamabad High Court, Islamabad in W.P.-1820/2023]*	*Capital Development Authority (CDA) through its Chairman & another* ***Vs.*** *Tariq Mehmood Awan & others*

For the Petitioner(s) : Mr. Amir Latif Gill, ASC

For the Respondent(s) : Syed Qamar Hussain Sabzwari, ASC
Mr. Umair Baloch, ASC
Mr. Arif Khan, ASC
Mr. Usman Ali, ASC
Mr. Muhar Farooq S/o Shah Zaman, In-Person

Research Assistance by : Dr. Muhammad Mumtaz, Research Officer

Date of Hearing : 15.10.2026

JUDGMENT

AMIN-UD-DIN KHAN, CJ.- These petitions have been filed under Article 175(F)(1)(C) of the Constitution of the Islamic Republic of Pakistan, 1973 ("the Constitution") challenging the judgment dated 18.11.2025 passed by the Islamabad High Court

in different writ petitions by way of common judgment, whereby the writ petitions filed by the respondent(s) were disposed of.

2. Briefly stated, the respondents approached the Islamabad High Court concerning land acquired for Sectors C-13 to C-16 under the award dated 02.12.2008 and CDA's land-sharing policy. Alleging uncompensated dispossession and damage to built-up properties ("BUPs"), they sought compensation at prevailing market rates and inclusion of their structures in the BUP award dated 17.08.2023. The learned Single Judge disposed of twenty-five connected writ petitions and one contempt petition through the impugned consolidated judgment. CDA challenges that judgment on the grounds that post-acquisition structures were ineligible for compensation, statutory remedies were available, and the directions for reassessment and interest exceeded the governing statutory framework.

3. We have heard the learned counsel for the parties and examined the contention advanced before us.

4. These petitions challenge the consolidated judgment dated 18.11.2025 of the Islamabad High Court in Writ Petition No. 4634/2022 and connected matters concerning compensation and rehabilitation claims arising from the acquisition of 14,944 kanals and 9 marlas in four revenue estates for Sectors C-13 to C-16, Islamabad. Proceedings initiated under Directive No. 1337 dated 25.02.2008 and its addendum culminated in the land award dated 02.12.2008, providing monetary compensation and developed plots under the applicable land-sharing arrangements, followed by a separate award for built-up properties ("BUPs") dated 17.08.2023. The claimants approached the High Court alleging unpaid compensation, exclusion of structures, denial of rehabilitation benefits and unlawful demolition. After obtaining surveys and a court-appointed commission's report, the High Court disposed of twenty-five writ petitions and one contempt petition through directions concerning payment, plot allotment, market reassessment, additional compensation under section 32-A of the Capital Development Authority Ordinance, 1960 ("the Ordinance"), and recourse to statutory remedies followed by declaratory suits. CDA assails these directions insofar as they reopen settled

compensation, extend eligibility beyond the prescribed criteria or otherwise exceed the statutory scheme.

5. The questions arising for determination are whether delay in satisfying an acquisition award warrants substitution of prevailing market value for the compensation determined therein without lawful modification of the award; whether the inclusion of a structure in a subsequent survey, by itself, establishes entitlement to compensation or rehabilitation benefits; whether a court-appointed commission's report can conclusively determine statutory eligibility; and whether the remedies directed by the High Court conform to the scheme of the Ordinance.

6. The power of compulsory acquisition carries a corresponding duty to compensate those whose proprietary interests are acquired.[1] Articles 4, 23 and 24 of the Constitution of Pakistan 1973 safeguards against arbitrary deprivation of property, while Article 10-A guarantees fair adjudication of disputed civil rights. These guarantees require compensation in accordance with law; they do not empower the Court to substitute a compensation mechanism of its own for that prescribed by the legislature. The distinction between enforcing statutory compensation rights and independently reassessing the adequacy of compensation must therefore be maintained, particularly having regard to Article 24(4). Judicial intervention must rest upon an identifiable legal entitlement and a corresponding duty enforceable against the acquiring authority.

7. The acquisition in question is governed by the Ordinance. Section 22 identifies property liable to acquisition within the specified areas, while section 25 confers the power of acquisition. Sections 26 to 28 prescribe the procedure for identification, notice, inquiry and award; sections 29 to 31 govern compensation and the relevant valuation considerations; and section 32 provides for vesting and 32-A deals with additional compensation. Sections 36

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[1] (Constitution of the Islamic Republic of Pakistan, 1973, Art.24(2): compulsory acquisition must be for a public purpose under a law providing for compensation and fixing its amount or prescribing the principles and manner of its determination and payment).

and 36-A supply the remedial and evidentiary machinery[2]. This special statutory framework cannot be displaced by treating the acquisition as proceedings under the Land Acquisition Act, 1894. Recourse to that Act must be founded upon an applicable statutory reference, including section 2(k)(iii) of the Ordinance, and confined to the scope of that reference. The principles examined by this court in CPLA Nos.5316/2021 and 5680/2024 concerning finalities of awards, statutory eligibility and prescribed remedies remain relevant, subject to the distinct context of the present acquisition of 2008. Earlier valuation provisions cannot be applied mechanically; their applicability depends upon the governing law, the interest concerned and the relevant valuation date.[3]

8. An acquisition award determines the rights and entitlements of the persons concerned; its implementation gives effect to that determination. Failure to pay compensation lawfully awarded may warrant a direction for payment, together with such additional compensation as the statute permits. Mere delay, however, neither alters the applicable valuation date nor enlarges the entitlement determined under the award. Conversely, CDA cannot invoke the finality of an award to evade its corresponding obligation to satisfy it. A subsisting award binds both parties and cannot be disregarded merely because its consequences have become inconvenient. The principle of finality binds the acquiring authority and the claimant alike.

9. The alternative-remedy objection must be assessed against the record, which discloses an appeal against the BUP award and review applications by numerous claimants. A blanket finding that statutory remedies were bypassed is therefore unwarranted. The error lay in granting uniform relief without distinguishing established entitlements from disputed claims requiring competent adjudication. Consolidation did not erase those distinctions. Section 36 provides an appeal and a limited power of review, subject to the prescribed period and restrictions on enhancement,

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[2] (s.36 and 36-A, providing for appeal and review and conferring specified powers of a civil court upon the Deputy Commissioner and Commissioner.)
[3] (Capital Development Authority Ordinance, 1960, s.2(k)(i)–(iii), read with s.30(1), first clause, fixing the valuation date by reference to the acquisition order under s.25)

save for correction of specified errors. A general direction for reconsideration cannot enlarge that jurisdiction. Nor does a challenge to the BUP award of 2023 place the land award of 2008 in issue or revive limitation for reopening concluded matters. Jurisdiction and limitation must be determined with reference to the particular decision challenged.

10. A statutory remedy does not invariably bar relief under Article 199 where jurisdictional excess, material denial of due process or inadequacy of the remedy warrants intervention. The need to record evidence does not itself establish such inadequacy: section 36-A empowers the acquisition authorities to summon witnesses, obtain records and conduct local investigations. Disputes concerning ownership, measurements, the age of structures and overlapping claims ordinarily require individual adjudication through that machinery. Paragraph 42(ii) of the impugned judgment further conflates valuation with compensation for delayed payment by treating delay since 2008 as a basis for market reassessment. Section 30(1), read with section 2(k)(iii), fixes the legally relevant valuation date. Administrative delay neither alters that date nor, by itself, permits reopening an operative award at prevailing market rates.

11. The potentiality of the acquired property must be assessed as at the legally relevant valuation date; it cannot justify incorporating subsequent appreciation attributable to Islamabad's development into a subsisting award. Any omission of a legally relevant characteristic from the original assessment required challenge before the competent statutory forum. Reassessment founded solely on the passage of time circumvents both the governing valuation rule and the prescribed remedies. Whether framed as an expectation or a binding direction, it affords no lawful basis for reopening the award. *Capital Development Authority case*[4] relied upon by the learned High Court, does not authorize revaluation at prevailing market rates merely because compensation remains unpaid. The case concerned lawful valuation and the exercise of review jurisdiction over an earlier

[4] *Capital Development Authority v. Sub. Faqir Shah and others* (PLD 2002 SC 243),

determination. The requirement to consider the land's characteristics and potentiality must be read within the statutory valuation framework and with reference to the legally relevant date. It cannot sustain unrestricted reassessment seventeen years after the award.

12. The land-sharing component required separate consideration. The award contemplated developed plots under the Capital Development Authority Land Acquisition and Rehabilitation Regulation, 2007 (Land Sharing Basis). Monetary compensation, land-sharing entitlement and any additional rehabilitation benefit must each be traced to the governing provisions and the award. The land-sharing formula neither renders valuation irrelevant nor entitles an owner to every benefit contemplated by the scheme. The qualifying holding, permissible pooling, applicable mode of compensation and benefits already received must be examined to avoid duplicate satisfaction of the same interest.

13. The Capital Development Authority (Amendment) Act, 2025, published on 02.01.2026 as Act No. I of 2026, also requires consideration. Section 29-A addresses rehabilitation and resettlement cases pending on 30.10.2024 by reference to the policy applicable at the relevant time, while section 30(4) prescribes safeguards for non-monetary compensation. These provisions neither confer automatic entitlement upon occupants nor authorize revaluation of subsisting awards at prevailing market rates. Although enacted after the impugned judgment, their express application to specified pending claims must be given effect within their terms, without presuming retrospective validation of every earlier administrative act. Each claim must be determined under the applicable provision, relevant policy and subsisting award. No wider ruling on retrospectivity is necessary.

14. Eligibility for BUP benefits must be established at the date prescribed by the governing award and rehabilitation scheme. A subsequent survey may assist in reconstructing earlier conditions but cannot itself create entitlement arising from later construction, expansion or subdivision. CDA relies on 02.12.2008 as the cut-off date; its applicability and the existence and extent of any

qualifying structure must be determined from the acquisition record, contemporaneous surveys, revenue entries, utility records and other reliable evidence. Neither the 2021 survey nor the 2023 award independently creates eligibility. Equally, post-acquisition construction cannot be presumed. Land ownership alone does not prove a structure's existence or dimensions, nor does a structure establish separate rehabilitation entitlement for every occupant. Each claim requires a reasoned determination before payment or allotment.

15. The satellite imagery and commission's report are evidentiary aids, not substitutes for adjudication. The image dated 19.01.2009 postdates the award of 02.12.2008, while comparison with the image dated 10.03.2020 may disclose physical changes without establishing individual title, household status or construction dates. Authenticated imagery and available SUPARCO analysis may assist; a request for technical assistance is not expert verification. Likewise, under section 75 and Order XXVI, rules 9 and 10 CPC, the commission's report informs adjudication but cannot itself determine title or statutory entitlement. Although the learned High Court noted the absence of objections, CDA's participation and the opportunity for further scrutiny, factual acceptance cannot confer jurisdiction or override statutory restrictions. Any admission must receive due evidentiary weight, while each claim remains subject to the governing law. Where CDA itself demolished a structure, it cannot insist on physical inspection as the sole means of proof. Its existence and dimensions may be established through earlier surveys, photographs, utility records, testimony and technical evidence. Demolition does not, however, prove every subsequent assertion; the competent forum must assess the material and record reasoned findings. Any separate claim arising from unlawful demolition must be established before the competent forum and does not, by itself, confer entitlement under the acquisition award.

16. The directions concerning declaratory suits are unduly broad. Civil jurisdiction under section 9 CPC is subject to statutory exclusion; sections 49-E and 36 of the Ordinance therefore required consideration before directing recourse to a civil suit

following an unsuccessful statutory challenge. A claim asserting an independent civil right or challenging action without lawful authority may raise a distinct jurisdictional question. Civil suits cannot, however, be prescribed as a general appellate remedy, nor can their outcome or consequential benefits be predetermined. Jurisdiction must be determined by the particular cause of action and the governing law.

17. A share in shamlat land does not, by itself, establish exclusive title to a particular site or entitlement to a separate plot. Section 28 requires identification of the persons entitled, their respective interests and the appropriate apportionment. These matters must be determined from the revenue record, the nature and extent of common rights and any established individual interest. Neither the communal character of the land nor mere occupation dispenses with proof of the compensation or rehabilitation entitlement claimed.

18. The power to mould relief did not authorize the learned High Court to confer benefits without establishing statutory entitlement. Although compensation and rehabilitation were expressly claimed, recording a property, accepting a survey or declaring a civil interest could not, by itself, establish entitlement under the governing scheme. Section 32-A likewise operates upon fulfilment of its conditions. Under its earlier text, additional compensation at eight per cent per annum accrued from actual possession where compensation remained unpaid or undeposited; the substituted provision also retains possession as the operative event. Neither vesting nor announcement of the award establishes that date, and voluntary surrender is unnecessary where possession is taken compulsorily. Paragraph 42(iii) fixes no contrary commencement date and therefore requires clarification rather than treatment as an unconditional award of interest. The competent authority must determine the compensable interest, possession date, payments or deposits and applicable basis and period of calculation. In land-sharing claims, the outstanding obligation must first be identified. Liability is mandatory once the statutory conditions are met, but no uniform calculation from 2008 or on reassessed present-day values follows.

19. Interference is, therefore, warranted. The impugned judgment conflated enforcement of acknowledged liabilities with enlargement of disputed entitlements. Its directions for market reassessment, general recourse to civil suits and treatment of the commission's material as binding beyond its evidentiary value cannot be sustained. This conclusion does not validate any unlawful exclusion by CDA. Disputed claims must be adjudicated under the governing law, while established lawful entitlements remain enforceable.

20. Consequently, leave to appeal is granted, these petitions are converted into appeals and allowed. The impugned judgment dated 18.11.2025 is set aside to the extent challenged herein concerning the respondents. The awards dated 02.12.2008 and 17.08.2023 shall remain operative, subject to lawful variation by a competent forum; delay alone shall not justify revaluation at prevailing market rates. Disputed claims shall be determined expeditiously through competent statutory proceedings, subject to jurisdiction, limitation, the governing awards and applicable amendments. CDA shall discharge verified, subsisting liabilities and determine additional compensation under section 32-A upon fulfilment of its conditions. Possession and removal measures shall comply with statutory safeguards. Concluded proceedings and persons or matters beyond this appeal remain unaffected. No order as to costs.

CHIEF JUSTICE

JUDGE

Announced in Open Court at Islamabad on 17/11/2026.

Approved for reporting

RajaAhsan/-