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

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

C.As.993 to 1010/2016.

[against the judgment dated 15.01.2016 passed by the Lahore High Court, Lahore in W.Ps.1820/2015, 33643/2015, 8173/2014, 10092/2014, 11267, 11269, 13875, 13880/2015, 7200, 13184, 13187, 15095, 24914, 25960/2014, 5712, 5714 to 5716/2015.]

National Transmission and Despatch Company, Lahore *[in all cases]*

...Appellant

Versus

Noor Muhammad (decd) thr. his LRs & others *[in C.A.993/2016]*
Bulanda (decd) thr. his LRs & others *[in C.A.994/2016]*
Tufail Mohammad (decd) thr. his LRs & others *[in C.A.995/2016]*
Nawab Din (decd) thr. his LRs & others *[in C.A.996 & 1003/2016]*
Alam Bibi (decd) thr. his LRs & others *[in C.A.997/2016]*
Ali Muhammad (decd) thr. his LRs & others *[in C.A.998/2016]*
Mst. Hasani (decd) thr. her LRs & others *[in C.A.999/2016]*
Ahmed Din (decd) thr. his LRs & others *[in C.A.1000/2016]*
Anayat (decd) thr. his LRs & others *[in C.A.1001/2016]*
Sher Muhammad & others *[in C.A.1002/2016]*
Misri Khan (decd) thr. his LRs & others *[in C.A.1004/2016]*
Fazal Kareem (decd) thr. his LRs & others *[in C.A.1005/2016]*
Tufail Muhammad Khan (decd) thr. his LRs & others *[in C.A.1006/2016]*
Anwar Bibi alias Noor Bibi (decd) thr. her LRs & others *[in C.A.1007/2016]*
Muhammad Sharif (decd) thr. his LRs & others *[in C.A.1008/2016]*
Wali Muhammad (decd) thr. his LRs & others *[in C.A.1009/2016]*
Ali Ahmed (decd) thr. his LRs & others *[in C.A.1010/2016]*

...Respondents

For the Appellant : Sh. Zamir Hussain, Sr. ASC
Mr. M. Munir Paracha, ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondents : Mian Abdul Qudoos, ASC
Mian Shafaqat Jan, ASC
Mr. Wasim Mumtaz Malik, Addl.AG

Research Assistance by : Dr. Muhammad Mumtaz,
Research Officer

Date of Hearing : 30.09.2026

JUDGMENT

AMIN-UD-DIN KHAN, CJ.- These appeals arise out of petitions originally filed under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973 ("the Constitution") before the Supreme Court of Pakistan assailing the judgment dated 15.01.2016 passed by the learned Single Judge of the Lahore High Court in Writ Petition Nos.1820/2015, etc., whereby the writ petitions were allowed. Following the Constitution (Twenty-seventh Amendment) Act, 2025, the matter stood transferred to this Court for adjudication in accordance with law.

2. Briefly stated, the controversy emanates from the acquisition of land measuring 236 acres situated in Chak No. 203-RB, Tehsil and District Faisalabad, for a thermal power project, subsequently taken over by WAPDA. The acquisition proceedings were initiated through a notification dated 02.07.1958 under section 4 of the Land Acquisition Act, 1894 ("the Act"), followed by a declaration dated 23.02.1968 under section 6, culminating in an award dated 07.10.1968. The landowners received compensation and subsequently withdrew their references under section 18 of the Act. However, the Lahore High Court, vide judgment dated 11.06.1991 in Writ Petitions Nos. 762 and 823 of 1970, declared the acquisition proceedings unlawful. WAPDA's appeals against the said judgment were dismissed as time-barred, while its subsequent review petitions and restoration applications also proved unsuccessful. Relying upon the aforesaid adjudication, the respondent, claiming through Noor Mohammad (deceased), instituted Writ Petition No.1820/2015, which was allowed by the Lahore High Court vide impugned judgment dated 15.01.2016, directing initiation of fresh acquisition proceedings within ninety days. Aggrieved thereby, the appellant company, claiming entitlement through the restructuring of WAPDA, has invoked the appellate jurisdiction of this Court.

3. We have heard learned counsel for the parties and carefully examined the record in light of their respective submissions.

4. The principal question is whether the respondents, claiming through landowners who received compensation under the award dated 07.10.1968, invoked the reference jurisdiction and subsequently withdrew their references on 02.04.1970, could obtain a direction for fresh acquisition more than four decades later merely by relying upon relief granted to other landowners. The determination of this question required consideration of the respondents' subsisting entitlement, the legal consequences of their predecessors' conduct, the explanation for the intervening delay and the precise scope of the earlier adjudication.

5. The statutory consequences of an award, payment of compensation and possession must first be distinguished. Section 12 of the Land Acquisition Act, 1894 accords finality to the award, subject to the remedies provided by the Act, concerning the matters specified therein. Section 16 provides for vesting upon possession being taken after the award, whereas section 18 enables a person who has not accepted the award to seek a reference concerning measurement, compensation, the person entitled thereto or its apportionment. Section 31 regulates payment and expressly distinguishes receipt under protest from unconditional acceptance for purposes of a reference. These provisions do not make receipt of compensation an absolute answer to every jurisdictional objection; nevertheless, acceptance of compensation, withdrawal of the statutory challenge and subsequent acquiescence are material considerations when discretionary constitutional relief is sought.

6. In the present case, the predecessors of the respondents received compensation under the award and pursued references which were subsequently withdrawn by order dated 02.04.1970. The withdrawal brought those proceedings to an end without any adjudication disturbing the award. Although withdrawal of a reference concerning compensation does not, by itself, amount to a judicial determination of the validity of the acquisition, it remains a significant manifestation of the course consciously adopted by the persons directly affected. The respondents could not obtain fresh acquisition without satisfactorily explaining why

that settled position should be reopened after the lapse of several decades.

7. The unexplained delay is independently decisive in the circumstances before us. The award was announced in 1968 and the references were withdrawn in April 1970, whereas the constitutional petitions were instituted more than four decades thereafter. During this period, possession remained with the acquiring authorities and the land was devoted to an established electricity project. No satisfactory explanation has been furnished for the prolonged failure to challenge the acquisition. A favorable judgment obtained by other landowners may furnish an argument in support of a claim, but it does not, merely upon its discovery or invocation, create a fresh cause of action or erase the consequences of earlier acquiescence. The learned High Court was required to examine this objection before directing the reopening of a completed acquisition.

8. The objection of laches must be examined within the framework of Article 199 of the Constitution. Its opening words provide that a High Court "may, if it is satisfied that no other adequate remedy is provided by law" grant the relief specified therein. Although the Article prescribes no fixed limitation period, the discretionary character of the remedy requires consideration of the claimant's diligence, acquiescence and the consequences of belated interference. Laches is therefore distinct from the statutory bar under section 3 of the Limitation Act, 1908; a limitation period prescribed for another remedy cannot simply be transposed into constitutional proceedings.[1]

9. The acquisition statute itself attaches legal significance to acceptance of compensation. The second proviso to section 31(2) of the Land Acquisition Act, 1894 provides:

"Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18."

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[1] (Constitution of Pakistan, Article 199(1); Limitation Act, 1908, section 3.)

The provision specifically governs entitlement to a reference; it does not extinguish every possible jurisdictional objection to acquisition. Nevertheless, it demonstrates that acceptance of compensation is a legally material act. Where acceptance is followed by withdrawal of references and prolonged inaction, those circumstances require consideration before discretionary relief reopening the acquisition can be granted[2]. The equitable foundation of the objection is explained in *Lindsay Petroleum Company v. Hurd* (1874) LR 5 PC 221, at pages 239–240. The Privy Council identified as material:

> *"the length of the delay and the nature of the acts done during the interval"*

The inquiry thus extends beyond elapsed time to conduct amounting to acquiescence and circumstances making belated enforcement inequitable. This approach requires an assessment of what occurred during the delay and how granting relief would affect the parties.[3]

10. A comparable principle receives express statutory recognition in England and Wales. Section 31(6) of the Senior Courts Act 1981 permits refusal of judicial-review relief following undue delay where its grant would cause substantial hardship, substantially prejudice another person's rights or be detrimental to good administration. The provision expressly refers to relief which:

> *"would be detrimental to good administration."*

Section 31(7) preserves the operation of separate statutory or procedural time limits. These provisions illustrate the distinction between a prescribed limitation period and the consequences of undue delay. They are relevant by comparison, rather than as provisions governing proceedings under Article 199.[4]

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[2] (Land Acquisition Act, 1894, section 31(2), second proviso.)
[3] . (*Lindsay Petroleum Company v. Hurd* (1874) LR 5 PC 221, 239–240; passage reproduced in *James v. Scudamore* [2023] EWHC 996 (Ch), paragraph 117)
[4] (Senior Courts Act 1981, sections 31(6)–(7), England and Wales)

11. Nor does describing possession as a continuing wrong conclude the inquiry. Section 23 of the Limitation Act, 1908 provides:

> *"In the case of a continuing breach of contract and in the case of a continuing wrong independent of contract, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be, continues."*

Its application presupposes an established continuing wrong. The respondents must therefore demonstrate a subsisting right and continuing unlawful interference with it; the provision does not itself establish either proposition. In the present case, acceptance of compensation, withdrawal of references and the scope of the earlier judgment must first be examined before continued possession can furnish an answer to the objection of laches[5].

12. The contention merits acceptance to the extent that the learned High Court could not extend the reasoning of the judgment dated 11.06.1991 without examining the subsequent pronouncement in *Messrs Mehraj Flour Mills*[6]. In that case, the Supreme Court affirmed the declaration that Rules 7 and 8 of the Punjab Land Acquisition Rules, 1983 were inconsistent with the Land Acquisition Act, 1894. Consequently, the prescribed period under those Rules could not furnish an independent basis for treating acquisition proceedings as having automatically lapsed. The Court nevertheless clarified that the statutory expression "at any time" contemplated action within a reasonable time, to be assessed in the circumstances of each case. The distinction between the finality of an adjudication and the continued authority of its underlying reasoning is material. The subsequent declaration of law did not, by itself, reopen the judgment dated 11.06.1991 or extinguish rights conclusively determined between the parties thereto. Equally, however, the finality of that judgment did not entitle persons whose claims had not been adjudicated therein to obtain identical relief upon a legal premise subsequently displaced. Their entitlement required independent

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[5] (Limitation Act, 1908, section 23)
[6] *(Messrs Mehraj Flour Mills and others v. Provincial Government and others* (2001 SCMR 1806))

examination under the governing statutory provisions and the law applicable when their petitions were decided. Accordingly, insofar as the impugned judgment treated the acquisition as having lapsed merely through non-compliance with the periods prescribed by the invalidated Rules, its reasoning cannot be sustained. A finding of unreasonable delay required consideration of the acquisition proceedings as a whole, including the legal effect of the notification issued in 1967; it could not follow automatically from the elapsed period. Failure to consider a directly applicable binding pronouncement would render the impugned judgment *per incuriam* on that particular issue. The infirmity, therefore, lies in extending the earlier reasoning without examining the intervening declaration of law, rather than in treating the judgment dated 11.06.1991 as having ceased to exist.

13. The judgment dated 11.06.1991 in Writ Petitions Nos. 762 and 823 of 1970 could not dispense with that inquiry. Three distinct matters arise: the finality of the relief granted to the parties to those proceedings, the precedential value of the legal reasoning and the reach of the operative directions. Dismissal of WAPDA's appeals as time-barred left the High Court's judgment undisturbed between the parties concerned; it did not constitute an affirmation of its reasoning on merits by the Supreme Court. The respondents' entitlement consequently depended upon the actual scope of that judgment and its application to their circumstances.

14. We are unable to concur with the learned High Court's characterization of the judgment dated 11.06.1991 as a judgment *in rem*. The inclusion of several properties in common acquisition notifications did not, by itself, confer that character upon a judgment rendered on individual claims. Articles 55 and 56 of the Qanun-e-Shahadat Order, 1984 distinguish judgments having conclusive effect from judgments concerning matters of a public nature, which may be relevant without being conclusive. Although an express annulment of a notification in its entirety may have consequences beyond the parties, the earlier judgment has not been shown to have affected a general annulment encompassing the respondents' land. Furthermore, the earlier

judgment failed to consider the notification dated 08.12.1967 No.10638/67/3295-LA, issued under section 17(4) under Land Acquisition Act, a material instrument bearing directly upon the validity of the acquisition proceedings. A conclusion invalidating the acquisition as a whole required examination of all relevant notifications and cogent reasons identifying the defect that vitiated the entire proceedings. The omission to consider that notification materially impaired the reasoning supporting such a sweeping conclusion and rendered it an insufficient basis for automatically extending relief to other landowners. The respondents' entitlement to relief, therefore, required independent determination, including consideration of their acceptance of compensation, withdrawal of references and unexplained delay in approaching the Court. Relief granted to the earlier petitioners could not, without such examination, furnish a sufficient basis for allowing the respondents' claims.

15. The notification dated 08.12.1967, whereby urgency powers were invoked to dispense with the requirements of sections 5 and 5-A, constituted a material part of the record. Its validity and applicability to the land in question were not successfully impugned by the respondents, nor was any finding invalidating it recorded in the earlier litigation. Before treating non-compliance with those provisions as fatal to the acquisition, it was necessary to examine the notification's legal effect under the statutory provisions then in force, including the competence of the issuing authority and the extent of the dispensation granted. The judgment dated 11.06.1991 did not undertake that examination. Its conclusion that the acquisition was unlawful for want of compliance with sections 5 and 5-A was, therefore, reached without addressing a material instrument capable of bearing directly upon that conclusion and was not supported by adequate reasoning.

16. Constitutional jurisdiction under Article 199 requires a judicial appraisal of the entitlement asserted and the circumstances attending the relief sought. The public purpose of an electricity project cannot, by itself, validate an acquisition undertaken without lawful authority. Equally, a direction for

fresh acquisition cannot follow solely because another landowner previously obtained such relief. Here, the original owners received compensation, withdrew their references and allowed the acquisition and possession to remain unchallenged for decades. Their successors furnished no adequate explanation for that conduct or the ensuing delay, and established no independent basis for reopening the acquisition. Considered cumulatively, these circumstances disentitled them to the discretionary relief granted.

17. The learned High Court extended the benefit of the earlier judgment without adequately determining these material questions. Its direction for fresh acquisition thus proceeded without first establishing that the respondents possessed a subsisting and enforceable entitlement warranting such relief. The impugned judgment cannot, therefore, be sustained.

18. For the foregoing reasons, these appeals are allowed. The impugned judgment dated 15.01.2016 passed by the Lahore High Court in Writ Petition No. 1820 of 2015,etc is set aside. No order as to costs.

CHIEF JUSTICE

JUDGE

***Announced in Open Court at Islamabad on* 13/11/2026.**

Approved for reporting

RajaAhsan/-