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

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

C.P.L.A.3829/2025
[against the order dated 16.06.2025 passed by the Lahore High Court, Lahore in W.P. No.23141/2022]

Rana Muhammad Sher ***...Petitioner(s)***

Versus

Shujah Akber Khan and others ***...Respondent(s)***

For the Petitioner(s)	:	Mr. Idrees Ashraf, ASC
For Respondent No.1	:	Mr. Nayab Hassan Gardezi, ASC
For Respondent Nos.2-5	:	Nemo
Research Assistance by	:	Dr. Muhammad Mumtaz, *Research Officer*
Date of Hearing	:	28.10.2026

JUDGMENT

AMIN-UD-DIN KHAN, CJ.- The instant petition, originally instituted before the Supreme Court of Pakistan under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973 ("the Constitution") assails the order dated 16.06.2025 passed by the learned Single Judge of the Lahore High Court in Writ Petition No.23141/2022, whereby the writ petition was dismissed. Following the Constitution (Twenty-seventh Amendment) Act, 2025, the matter stood transferred to this Court for adjudication in accordance with law.

2. The petitioner instituted a suit for specific performance of an agreement to sell dated 17.11.2016 concerning land measuring 31 Kanals and 3 Marlas, situated in District Sargodha, along with cancellation of a subsequent sale deed executed in favour of Respondent No. 1. During pendency of the suit, the learned Trial Court, vide order dated 03.12.2020, dismissed the application for temporary injunction and, suo motu, partially rejected the plaint

against Defendants Nos. 2 to 5. The petitioner's application for recall of the said order was dismissed on 01.03.2022, followed by dismissal of his civil revision on 24.03.2022. The Lahore High Court, vide impugned judgment dated 16.06.2025, dismissed the constitutional petition, holding that the order partially rejecting the plaint was appealable and could not be challenged through review or recall. Hence, the instant petition.

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

4. The pivotal question arising for our determination is whether the jurisdiction conferred upon a civil court under Order VII, Rule 11 of the Code of Civil Procedure, 1908 ("CPC"), admits of a selective or piecemeal rejection of a plaint qua certain defendants while permitting its prosecution against the remaining defendant, notwithstanding that the reliefs of specific performance of an antecedent agreement to sell and cancellation of a subsequent conveyance emanate from intrinsically interwoven transactions involving substantially overlapping proprietary rights. Incidental thereto arise the questions concerning the permissible contours of the jurisdiction of review and recall under section 114 read with Order XLVII, Rule 1 CPC, the statutory permissibility of joinder of causes of action and parties, and whether the impugned orders, in fragmenting an otherwise composite lis and foreclosing adjudication of interdependent claims, suffer from jurisdictional infirmity, material misdirection in law or procedural impropriety warranting interference by this Court.

5. At the outset, it is imperative to delineate the precise outlines of the jurisdiction exercisable under Order VII, Rule 11 CPC, which constitutes a circumscribed statutory power, amenable to invocation only upon the existence of grounds expressly enumerated therein. The exercise of such jurisdiction necessitates a meaningful and holistic examination of the averments contained in the plaint, which must be read in their entirety, without recourse to the defense or premature adjudication of disputed questions of fact. The determinative consideration is whether the plaint, on its own assertions, discloses a legally cognizable cause of

action, and not whether the plaintiff would ultimately succeed in substantiating the claim. A fundamental juridical distinction must, therefore, be maintained between the disclosure of a cause of action and its eventual proof; the former falls within the domain of pleadings, whereas the latter constitutes a matter for evidentiary adjudication. Any conflation of these distinct inquiries would contravene the statutory limitations of Order VII, Rule 11 CPC and impermissibly convert a preliminary scrutiny of maintainability into an adjudication on merits.

6. Equally significant is the distinction between rejection of a plaint under Order VII, Rule 11 CPC and dismissal of a claim upon adjudication on merits. The jurisdiction under the said provision is confined to rejection of the plaint on expressly prescribed statutory grounds and does not authorize its partial rejection against selected defendants or in respect of particular reliefs. The legislative expression “plaint” denotes the pleading as a whole, rather than its individual claims or parties. Thus, where the plaint, read in its entirety, discloses a legally cognizable cause of action arising from interconnected transactions, its selective rejection against certain defendants, on a tentative assessment of the plaintiff’s entitlement to relief, would exceed the statutory confines of Order VII, Rule 11 CPC and amount to a premature adjudication of substantive rights.

7. The governing principle is that where the plaint, read in its entirety, discloses a sustainable cause of action or contains a relief legally capable of adjudication, it cannot be subjected to piecemeal rejection. The rationale underpinning this principle lies in the indivisible character of the plaint for purposes of Order VII, Rule 11 CPC, which mandates its consideration as a whole rather than through artificial segregation of claims, reliefs or defendants. Tested on the touchstone of this settled jurisprudence, the course adopted by the learned Trial Court in rejecting the plaint qua certain defendants while permitting its continuation against another constitutes a patent misconstruction of the statutory provision and an impermissible exercise of jurisdiction, rendering the impugned determination legally unsustainable.

8. Adverting to the facts of the instant case, the plaint discloses that the petitioner sought specific performance of the agreement to sell dated 17.11.2016, along with cancellation of a subsequent registered sale deed concerning the disputed property. The enforceability of the prior agreement, legality of the subsequent alienation, knowledge of the concerned parties and plea of bona fide purchase without notice involve interconnected questions of law and fact, requiring determination upon framing of issues and appreciation of evidence. In these circumstances, the learned Trial Court, while exercising jurisdiction under Order VII, Rule 11 CPC, could not have selectively rejected the plaint against Defendants Nos. 2 to 5 on a tentative assessment of their liability or the petitioner's entitlement to relief. Such partial rejection amounted to an impermissible fragmentation of a composite plaint and premature adjudication of disputed questions, thereby exceeding the statutory confines of Order VII, Rule 11 CPC.

9. The learned Courts below also failed to appreciate the scope and cumulative effect of Order II, Rule 3, read with Order I, Rules 3, 9 and 10 CPC, which govern the joinder of causes of action and parties to facilitate complete and effectual adjudication of disputes. These provisions are intended to prevent multiplicity of litigation, avoid conflicting judicial determinations and ensure comprehensive resolution of interconnected controversies. They must, therefore, be construed harmoniously, keeping in view that procedural law serves as an instrument of substantive justice rather than an impediment thereto. Where reliefs arise from interrelated transactions involving common questions of law and fact, their artificial segregation on technical grounds would defeat the legislative object and undermine the effective administration of justice.

10. In the circumstances of the instant case, the relief of cancellation of the subsequent registered sale deed is intrinsically connected with the principal relief of specific performance of the prior agreement to sell. The identity of the disputed property, validity and effect of the subsequent alienation, and the transferee’s claim of bona fide purchase for valuable consideration

without notice involve interdependent questions of law and fact, requiring examination of the relevant revenue record, title documents and surrounding circumstances. Such controversies cannot be conclusively determined through summary proceedings under Order VII, Rule 11 CPC without framing appropriate issues and affording the parties an opportunity to adduce evidence. Any premature determination thereof would amount to an impermissible adjudication on merits at the preliminary stage, contrary to the procedure prescribed by law.

11. The aforesaid legal position is further reinforced by sections 12, 21, 22 and 27(b) of the Specific Relief Act, 1877, read, where applicable, with sections 39 and 42 thereof. Significantly, section 27(b) permits enforcement of specific performance against a subsequent transferee, except one who establishes acquisition for valuable consideration, paid in good faith and without notice of the prior contract. Such statutory protection is conditional upon proof of its essential ingredients through admissible evidence. Consequently, the plea of bona fide purchase without notice constitutes a substantive defense involving disputed questions of fact, rather than an independent ground for rejection of the plaint under Order VII, Rule 11 CPC. The learned Trial Court, by accepting such defense at the threshold without evidentiary scrutiny, exceeded its statutory jurisdiction and prematurely adjudicated substantive rights.

12. Equally significant is the legal nexus between the principal relief of specific performance and the consequential relief of cancellation of the subsequent registered sale deed. Although specific performance does not ipso facto invalidate an intervening conveyance, where both transactions concern the same property, the reliefs may become intrinsically interconnected. The validity and legal effect of the subsequent transfer, particularly where the transferee claims protection as a bona fide purchaser for valuable consideration without notice, cannot be determined independently of the plaintiff's antecedent contractual rights. Such competing claims require comprehensive adjudication upon evidence, rather than artificial fragmentation of the proceedings, which may result

in conflicting determinations, multiplicity of litigation and denial of complete and effectual relief.

13. A distinction must also be maintained between a necessary party and a proper party under Order I, Rule 10(2) CPC. A necessary party is one without whom no effective and binding decree can be passed, whereas a proper party is one whose presence facilitates complete and effectual adjudication of the controversy. In disputes involving competing contractual and proprietary rights, a subsequent transferee whose registered title is directly challenged ordinarily constitutes a necessary party, as any determination affecting such title cannot effectively be made in his absence. Consequently, exclusion of such a party at the threshold, despite the existence of interconnected questions of law and fact, would defeat the object of Order I, Rule 10 CPC and impede complete and effective adjudication of the dispute.

14. Tested against the foregoing principles, Respondent No. 1, being the beneficiary of the impugned registered sale deed, and the other defendants allegedly involved in its execution could not have been excluded without determining their status as necessary or proper parties. Significantly, Respondent No. 4, being an alleged attesting witness to the prior agreement to sell, raises a material question concerning his knowledge of the antecedent contractual obligation and its effect upon the subsequent transfer. Whether such knowledge is attributable to the subsequent transferee, and whether the latter qualifies as a bona fide purchaser for valuable consideration without notice, are disputed questions requiring evidentiary adjudication. The learned Trial Court, by prematurely excluding the concerned defendants, foreclosed determination of these interconnected issues and thereby misconstrued the scope of Order I, Rule 10 read with Order VII, Rule 11 CPC. Such an exercise constitutes a material misapplication of law and cannot be sustained.

15. We now advert to the reasoning of the learned High Court, which declined interference on the premise that the order dated 03.12.2020, being appealable, could not be challenged through review or recall. Although rejection of a plaint constitutes a decree

under section 2(2) CPC, appealable under section 96 thereof, section 114 read with Order XLVII, Rule 1 CPC (The Code of Civil Procedure, 1908, section 114(1)(a), read with Order XLVII, Rule 1(1)(a). These provisions expressly recognize review of an appealable decree or order where no appeal has been preferred, subject to the prescribed grounds for review expressly permits review notwithstanding the availability of an appellate remedy, provided no appeal has been preferred and a legally recognized ground for review exists. Thus, the mere availability of an appeal does not, ipso facto, bar review jurisdiction. The learned High Court, by treating appealability as an absolute bar without examining the statutory grounds invoked by the petitioner, misconstrued the governing provisions and committed a material error of law.

16. The jurisdiction of review, however, is exceptional and circumscribed, and cannot be invoked as a substitute for appeal or rehearing on merits. Its exercise is confined to the grounds prescribed under Order XLVII, Rule 1 CPC, including discovery of new and material evidence, error apparent on the face of the record, or any other sufficient reason. In the instant case, the petitioner specifically questioned the jurisdictional competence of the learned Trial Court to reject the plaint suo motu against selected defendants while considering an application for temporary injunction. Such objection concerned the legality of the jurisdiction exercised, rather than the mere correctness of the decision. The learned Courts below were, therefore, required to examine whether the partial rejection of the plaint constituted an error apparent on the face of the record warranting review. Their failure to undertake such examination, solely on account of the availability of an appellate remedy, amounted to a misapplication of the governing statutory provisions and failure to exercise jurisdiction in accordance with law.

17. Furthermore, the inherent jurisdiction under section 151 CPC, though intended to secure the ends of justice and prevent abuse of process, cannot override or circumvent express statutory provisions. Nevertheless, an order suffering from a patent

jurisdictional defect or fundamental procedural illegality may, in appropriate circumstances, warrant recall within the permissible limits of law. A distinction must, therefore, be maintained between an erroneous decision rendered within lawful jurisdiction, ordinarily correctable through prescribed remedies, and an order vitiated by an inherent jurisdictional infirmity. Consequently, the maintainability of an application for recall must be determined by the nature of the defect alleged and the substance of the relief sought, rather than its nomenclature. Any contrary approach would elevate procedural form over substantive justice and unduly restrict the Court's authority to rectify jurisdictional or procedural illegality.

18. The impugned exercise must also be examined in light of Article 10A of the Constitution, which guarantees fair trial and due process in the determination of civil rights and obligations. These constitutional safeguards require that judicial authority be exercised within lawful jurisdiction, ensuring a meaningful opportunity to establish disputed claims through admissible evidence, subject to statutory exceptions permitting summary disposal. In the instant case, the premature exclusion of defendants, despite disclosure of a legally cognizable cause of action involving interconnected questions of law and fact, deprived the petitioner of an opportunity to substantiate his contractual and proprietary claims through trial. Such exercise, being beyond the statutory confines of Order VII, Rule 11 CPC, is inconsistent with the constitutional guarantees of fair trial and due process enshrined in Article 10A of the Constitution.

19. Of particular significance is the jurisdictional error committed by the learned Trial Court, which, while considering an application for temporary injunction under Order XXXIX, Rules 1 and 2 CPC, proceeded suo motu to partially reject the plaint against certain defendants. The jurisdiction governing interlocutory relief is distinct from that under Order VII, Rule 11 CPC. While the former involves a tentative assessment of a prima facie case, balance of convenience and irreparable injury, the latter is confined to the statutory grounds expressly prescribed therein.

Although rejection of a plaint may be considered suo motu, such power must be exercised strictly in accordance with the statutory prerequisites and procedural fairness. The learned Trial Court, by converting a provisional assessment into a conclusive determination and selectively rejecting the plaint without satisfying the prescribed grounds, exceeded the permissible limits of its jurisdiction and prematurely adjudicated disputed rights. The impugned exercise, therefore, suffers from material misapplication of law and cannot be sustained.

20. Upon cumulative consideration of the foregoing principles, we hold that the learned Trial Court misconstrued the scope of Order VII, Rule 11 CPC by partially rejecting the plaint against Defendants Nos. 2 to 5 while allowing proceedings to continue against Defendant No. 1. The plaint, read as a whole, disclosed interconnected causes of action arising from the prior agreement to sell and subsequent registered conveyance. The questions concerning identity of the property, enforceability of the agreement, validity of the subsequent transfer and competing proprietary rights required determination upon evidence rather than summary adjudication. The partial rejection of the plaint, therefore, amounted to an impermissible fragmentation of the proceedings and premature determination of substantive rights, rendering the impugned order legally unsustainable.

21. We further hold that the learned High Court erred in treating the availability of an appellate remedy as an absolute bar to review under section 114 read with Order XLVII, Rule 1 CPC, without examining whether the jurisdictional defect alleged constituted a valid ground for review. Likewise, the learned Additional District Judge failed to address the fundamental illegality attending the partial rejection of the plaint and exclusion of parties necessary for complete adjudication of the dispute. The settled legal position under section 114 read with Order XLVII, Rule 1 CPC is that the mere availability of an appellate remedy does not, by itself, bar an application for review, provided no appeal has been preferred and the application establishes a statutory ground for review. The impugned orders, being founded upon misconstruction of the

governing statutory provisions and non-consideration of material legal questions, suffer from material errors of law and cannot be sustained.

22. For the foregoing reasons, we reiterate the settled principle that a plaint must be read as a whole and cannot be partially rejected under Order VII, Rule 11 CPC where it discloses a legally cognizable cause of action involving interconnected claims requiring evidentiary adjudication. The learned Trial Court, by selectively rejecting the plaint against Defendants Nos. 2 to 5, transgressed the statutory limits of its jurisdiction.

23. Consequently, leave to appeal is granted, the petition is converted into an appeal and allowed. The judgment dated 16.06.2025 of the Lahore High Court, revisional order dated 24.03.2022 of the learned Additional District Judge, and orders dated 01.03.2022 and 03.12.2020 of the learned Trial Court, to the extent of partial rejection of the plaint and refusal to restore proceedings against Defendants Nos. 2 to 5, are set aside. The suit shall stand restored against all defendants. The learned Trial Court shall frame appropriate issues and decide the controversy in accordance with law, after affording the parties due opportunity to adduce evidence, preferably within six months. Any pending application for temporary injunction shall be decided independently on its own merits. The observations herein shall not prejudice the substantive rights of the parties. No order as to costs.

CHIEF JUSTICE

JUDGE

Islamabad,
28.10.2026
APPROVED FOR REPORTING
RajaAhsan/-