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

PRESENT:
Justice Ali Baqar Najafi
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

Civil Appeal No. 9-L of 2010
[against the impugned judgment dated 24.09.2001 passed by Lahore High Court, Lahore, in W.P.No.258-R/1981]

Iftikhar Ahmad etc. **.... Appellant (s)**

Versus

Chief Settlement Commissioner etc. .... **Respondent (s)**

For the Appellant (s)	:	Mr. Muhammad Shahzad Shaukat, ASC
For the Respondent(s)	:	Mr. Subah Sadiq Wattoo, ASC (for respondent No.1) Mr. Salman Mansoor, ASC (for respondents No.3 to 7)
Date of Hearing	:	05.11.2026

JUDGMENT

ALI BAQAR NAJAFI, J. The appeal in hand comes from the petition originally instituted before the Supreme Court of Pakistan under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, prior to the 27th Amendment in the Constiution, seeking leave to appeal against the judgment dated 24.09.2001 passed by the Lahore High Court in W.P.No.258-R/1981. Through the impugned judgment, the learned High Court while exercising its constitutional jurisdiction declared the impugned order of Settlement Commissioner, the correction of mutation No.70, sanctioned on 17.03.1972 and all proceedings leading to it, as well as the report dated 12.08.1971 of Patwari, whereby the allotment was made in favour of the respondents Karam Elahi and Noor Muhammad and subsequent alienation in favour of Iftikhar

Ahmad/appellant and Malik Zahoor Ahmad, as void, illegal and without lawful authority.

2. Briefly, the facts leading to the filing of this appeal are that Ch. Muhammad Akmal, the predecessor of the respondents No. 3, 4, 5 and 6 was a displaced person, who submitted his claim and after the verification of his claim form No. 10601/QPRV, certificate for 17,111 PI units, was issued on 15.01.1960 for Sheikhupura District. Consequently, land equal to 1,800 PI units was allotted to him in village Thatha Khudayar, Sheikhupura and was also confirmed in the year 1960 on khata No. 23 and 26 of RL-2, whereas the balance unadjusted units were sent to Lahore, where he obtained allotments in three villages. However, upon promulgation of MLR-89, the claim of said Muhammad Akmal was scrutinized, and MRV No. 590C9/R/XXX for 3,461 units was issued on 23.09.1961 and consequently the allotments made in in khata No. 23 and 26 stood cancelled by operation of law. But, under the said MRV, land measuring 1,045 kanals 4 marlas was proposed for adjustment in khata No. 27 of RL-2 of Thatha Khudayar. However, for the adjustment of 2,549 units and the remaining 912 units claims were sent to Mandila. The allotment was however incorporated in the revenue record. On 08.08.1971, the Patwari Halqa recorded the report that although the land at khata No. 27 stood proposed to said Ch. Muhammad Akmal, but there was no order of confirmation and this land be therefore, restored to the Central Government which raised the controversy. Later, on 05.11.1971, the Deputy Commissioner allowed the correction and consequently, mutation No. 7 was sanctioned on 03.09.1972, whereby the said land reverted to the Central Government which was successfully agitated by the by said Ch. Muhammad Akmal and his successor-in-interest before the High Court.

3. With this background, the land was then proposed to the respondent and others at khata No. 7 on 28.06.1972 and was confirmed on 12.07.1972, whereas the remaining land was proposed to Iftikhar Ahmad, the appellant in Khata No.6. Against this

correction of mutation, Ch. Muhammad Akmal had filed an appeal before the Additional Commissioner, which was dismissed on 22.05.1973, and a revision was also dismissed by the Chief Settlement Commissioner (**CSC**)/Member Board of Revenue (**MBR**) on 06.06.1973. Ch. Muhammad Akmal then filed W.P.No.287 of 1973, which was allowed, vide judgment dated 30.11.1976, and the case was remanded back to the Settlement Commissioner/MBR for the entrustment to a competent officer for re-examination of the entire case and fresh decision in accordance with law. In the post-remand proceedings, the matter went to the Chief Settlement Commissioner, who vide order dated 30.06.1981, proceeded to uphold the said correction mutation, and consequently, allotment to the respondent 2 and 3 and its sale by them to the petitioner and others was upheld. However, High Court reversed these findings.

4. Learned counsel for the appellant contends that the orders of the settlement authorities could not be upset by the High Court; the facts already found correct by the settlement authorities could not be changed without discussing the details thereof; the presumption attached to the record of the settlement authorities was rebutted without cogent reasons, and therefore, prays for setting aside of the impugned order.

5. Conversely, learned counsel for the respondents submits that the matter has been decided in favour of the respondents, and attained finality in the Supreme Court; non-recording of a fact by the settlement authorities would not change or deny a fact, which only needed an acknowledgment or incorporation in the record, a duty cast upon them which needed an acknowledgment and therefore, prays for the dismissal of the appeal.

6. Arguments heard. File perused.

7. Admittedly, the land was firstly allotted to Ch. Muhammad Akmal, the predecessor of the respondents, against the verified claims whereby 17,111 PI units were revised and reduced to 3,467 PI units under MLR-89 and the land was proposed against the

verified but revised certificate. The said 3,461 PI units were cancelled vide order dated 11.12.1976 by the OSD Central Record Room whereafter no fresh allotment certificate was issued. The concerned Patwari had admitted that the adjustment of the said PI units were made afresh since the allotment at khata No. 27 was made, thus, it is not denied that land was proposed and confirmed in said village Thatha Khudayar, in favour of Ch. Muhammad Akmal in khata No. 23 & 26. The land was, however, cancelled by operation of law and land measuring 1,045 kanals 4 marlas was proposed for allotment to Ch. Muhammad Akmal at khata No. 27 against 2,549 PI units. This order dated 11.12.1976 was challenged by said Ch.Muhammad Akmal in W.P.No.982 of 1977, which was allowed on 28.10.1991 and said order was set-aside. Relevant extracts are reproduced as under:-

> *"4. I have heard learned counsel for the parties and perused the contents of the impugned order. In my view, the respondent No.1 passed the impugned order in purported exercise of the jurisdiction, not vested in him. On the strength of the law laid down in Raunaq Ali's case cited above read with the provisions of para 12 of Martial Law Regulation No.89, the impugned order is not sustainable for want of jurisdiction. It is thus declared having been passed without jurisdiction and of no legal effect.*
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> *Learned counsel for the Settlement Department raised no objection to the other terms of the agreement reached between the parties to this petition. This writ petition is, therefore, allowed and disposed of in accordance with the rest of the terms reached between the parties as mentioned in C.M.No.723/88, with no order as to costs."*

8. It is also notable that under para 7(i) of MLR-1989, the cancellation of entitlement certificate provides that fresh order for allotment of land be issued under paragraph No. 6. It may be noted here that vide order dated 30.11.1976 passed in W.P.No. 287 of 1973, all the proceedings based on the report of the Patwari were set aside and the **CSC** was required to pass a fresh order in view of the entitlement of the petitioners therein. But in the order dated 04.04.1981, it was concluded that land confirmed and entered at khata No. 23 and 26, was ultimately cancelled in khata No. 27, from the name of Ch. Muhammad Akmal and that the statement by Ahlmad in charge of RL-2 and the statement of Patwari fully coordinate this fact. Therefore, reversion of the land to the Central Government and its approval by the competent authority, i.e. Collector, vide order dated 05.11.1971 was approved. However, it

may be mentioned here that instead of looking into law and to administer the guidelines of legal observations contained in the said judgment, the Chief Settlement Commissioner preferred and opted to go by the statement of the Patwari. If the statement of the Patwari had serious lapses, fresh allotment order in accordance with law was required to be passed. By bulldozing the said requirement of law, the appellant and the respondents No. 4 and 5 were allotted the land, which illegality was corrected by the High Court in the impugned order. For the allotment of land in favour of Ch. Muhammad Akmal, non-existence of a confirmation order would not derogate and deny the right of the interested party in the said allotment, therefore, impugned order is un-exceptionable. In Ahmad Bakhsh's case[1], it was held that the statutory duty of the settlement authority to pass formal order of confirmation of land proposed in favour of the claimant after the expiry of 15 days was essential. No valid reason existed to cancel the allotment in khata No. 27 in the name of Ch.Muhammad Akmal. In the impugned order, the erroneous view of law was rightly corrected.

9. Despite our best efforts, we have not been able to persuade us to set aside the order which is legal and was passed in accordance with the settlement laws.

10. In this view of the matter, this appeal is found meritless which is **dismissed**.

JUDGE

JUDGE

JUDGE

Islamabad
05.11.2026
NOT APPROVED FOR REPORTING
A.Qadoos*

[1] "Ahmad Bakhsh Vs. Mehru" (1998 SCMR 462)