**In the Federal Constitutional Court of Pakistan**
(Appellate Jurisdiction)

**Present:**
Justice Ali Baqir Najafi
Justice Syed Arshad Hussain Shah

**C.P.L.A. Nos.97-L of 2017 and 938-L of 2017**
(On appeal from Order & judgment of the Lahore High Court, Lahore dated 16.11.2016 and 08.03.2017 passed in Writ Petitions No.35947/2016 and 35695/2016 respectively)

Bahadur Khan (in both petitions)

Petitioner

Versus

Additional Commissioner (Coordination) & others (in C.P. No.97-L/2017)
Mehr Khatoon & others (in C.P. No.938-L of 2017)

Respondents

| | |
|---|---|
| For the petitioner:<br>(in both petitions) | Mian Muhammad Nawaz, ASC<br>Mr. Aamir Majeed, ASC |
| For the respondent No.5:<br>(in C.P. No.97-L/2017) | Malik Saleem Iqbal, ASC |
| For the respondent No.16:<br>(in C.P. No.938-L/2017) | Malik Saleem Iqbal, ASC |
| Other respondents: | N.R. |
| Date of hearing: | 19.10.2026 |

**Judgment**

**Syed Arshad Hussain Shah, J**: – These connected petitions arise from partition proceedings and involve common questions of law and fact. Although they relate to different khatas and khasra numbers, they have been instituted by the same petitioner and raise substantially similar legal and factual issues. Accordingly, for the sake of convenience and to avoid repetition, we deem it appropriate to dispose of these petitions through this common judgment.

2. Learned counsel for the petitioner contended that the petitioner was condemned unheard in the partition proceedings, which culminated in C.P.L.A. No.97-L of 2017. He submitted that, having purchased the share of respondent No.4 through mutation dated

01.10.2013. Thereafter, during the pendency of appeal before the Additional Commissioner (Coordination) Sargodha Division, he moved an application seeking impleadment, which was dismissed vide order dated 29.06.2015. His subsequent revision petition before the Board of Revenue and constitutional petition before the High Court were also unsuccessful through orders dated 19.10.2016 and 16.11.2016 respectively.

3. Adverting to C.P.L.A. No. 938-L of 2017, the learned counsel for the petitioner contended that the petitioner, having set the law in motion by initiating the partition proceedings, has been unlawfully deprived of his due share in Khasra No.3071. It was further pressed that the said Khasra number, by virtue of its prime location abutting the roadside, has significantly higher commercial and market value. In view of the foregoing, the learned counsel craved the indulgence of this Court for the grant of leave to appeal in both petitions, enabling the petitioner to assail the operation of the impugned judgment and order.

4. Conversely, the learned counsel appearing on behalf of contesting respondent No.5 in C.P.L.A. No.97-L of 2017 and respondent No.16 in C.P.L.A. No.938-L of 2017 vehemently controverted the submissions advanced by the learned counsel for the petitioner. It was contended that in the underlying partition proceedings from which C.P.L.A. No.97-L of 2017 arises, the petitioner had moved an application for impleadment before the learned Additional Commissioner during the pendency of the revision petition on the ground that he had purchased share of respondent No.4 from his legal heirs. The said application was dismissed as the petitioner had purchased the land on 1.10.2013 while the partition of joint khata was made on 31.10.2012. The said order of dismissal has since been concurrently upheld up to the level of the High Court. Adverting to C.P.L.A. No.938-L of 2017, the learned counsel for the

respondents submitted that upon the petitioner's application, the formal mode of partition was duly approved, which attained finality as it remained unchallenged by any party. He further contended that in strict compliance with the said approved mode of partition, the corresponding lots (*vandajats*) were prepared for the respective co-sharers. Due regard was given to all essential revenue parameters, including the parties' long-standing previous possessions, their respective legal entitlements, the precise classification of the land, the available means of irrigation and the existing paths or rights of way. Premised on these submissions, the learned counsel implored that both the instant petitions, being utterly devoid of merit, are liable to be dismissed.

5. We have heard the learned counsel for the parties and perused the record. Facts, necessary for disposal of these petitions, are given in the succeeding paragraphs.

6. **C.P.L.A. No.97-L of 2017:** On 14.02.2012, Bashir Ahmad Khan, respondent No.5, filed an application for the partition of a joint *khata* comprising 174 *kanals* and 14 *marlas*, bearing Khata No.2326 and Khasra Nos.3423, 3425, and 3429, situated in Mouza Musa Khel Janubi, Tehsil and District Mianwali. He claimed his ownership of 87 kanals 7 marlas vide sale mutation dated 26.4.2011. The matter was processed and fixed for orders on 31.10.2012, at which stage the petitioner moved an application for impleadment as a party, which was declined and final order was announced. Aggrieved by this order, one of the legal heirs of respondent No.4 preferred an appeal before the District Collector, Mianwali, which was dismissed vide order dated 23.01.2013. This order was subsequently challenged through a revision petition before the Additional Commissioner (Coordination), Sargodha Division, which was dismissed for non-prosecution vide order dated 29.06.2015. During the pendency of the said

revision petition, the petitioner moved an application for impleadment on 13.03.2015, which was also rejected. Relevant portion from the order of the Additional Commissioner (Coordination), Sargodha Division is reproduced below:-

> "4. I have gone through the record. The learned Counsel for Respondent No.1 submitted an application on 02-09-2013 before this court, stating therein that the present appeal has not been filed by Zafar Ali. On his behalf, some other persons interested in appeal "Bahadur Khan versus Mst. Mehr Khatoon" have submitted the present appeal. The written reply of this application was submitted by Counsel for the appellant on 22-10-2013, stating therein that the appeal has been instituted by Zafar Ali. Now Zafar Ali has sold land to Bahadur Khan by honoring the agreement of his father. This reply has not been signed by Zafar Ali. From that date, uptill now, Zafar Ali has not appeared in this court. Which means he has no interest in the instant appeal. According to the application of Bahadur Khan, he has purchased land on 01-10-2013. He submitted application to become party in the instant appeal on 30-03-2015 after a delay of about one year & six months. No justification has been given by the applicant. Furthermore, he has purchased the land from Zafar Ali after partition of the land. Which clearly means that he has purchased land from the Wanda of Zafar Ali. The transposition has been explained by the learned Counsel for respondent. According to him, the transposition can be made within the parties of the case. No outsider can be made party without any 'justification. The appellant Zafar Ali is not coming in this court, which means that he has no interest in it. The present appellant was not party in the court of Tehsildar and District Collector. He can't be allowed to step into the shoes of appellant Zafar Ali.
>
> In view of above discussion, the application of Bahadaur Khan is rejected. Moreover, the appellant is not attending the Court. Thus, the present appeal is dismissed due to non-prosecution by the appellant."

Nobody challenged the order passed in appeal. However, the petitioner approached the Board of Revenue to challenge the dismissal of his impleadment application. His revision petition (ROR) was dismissed by the Member (Judicial-IV), Board of Revenue, vide order dated 19.10.2016. Aggrieved therewith, the petitioner filed a writ petition before the High Court, which was also dismissed through the impugned order.

7. **C.P.L.A. No.938-L of 2017:** This petition arises out of partition proceedings initiated by the petitioner, vide an application dated 07.01.2002, for the partition of joint land measuring 141 Kanals and 16 Marlas, comprising Khata No.1724/1723, Khatooni Nos.4862 & 4863, and

Khasra Nos.3070, 3071, 3076, 3896/3067, 3898/3069, according to the Jamabandi for the year 1998–99, situated at Mouza Musa Khel Janubi, Tehsil and District Mianwali. Subsequent to the sanction and approval of the mode of partition, the final partition proceedings were concluded by the Tehsildar, Mianwali, vide order dated 30.12.2009. Being aggrieved by and dissatisfied with the aforementioned order dated 30.12.2009 passed by the Tehsildar, Mianwali, the petitioner persistently assailed its legal validity across the revenue hierarchy as well as before the High Court. However, the petitioner's successive remedies were concurrently declined. His appeal was dismissed by the District Officer Revenue, Mianwali, vide an order dated 28.03.2011; the subsequent revision petition was dismissed by the Additional Commissioner (Coordination), Sargodha Division, vide an order dated 02.11.2015; the ROR was dismissed by the Member (Judicial-IV), Board of Revenue, Punjab, vide an order dated 19.10.2016; and ultimately, his writ petition preferred was also dismissed by the High Court vide impugned judgment dated 08.03.2017.

8. It is a well-settled principle of law that concurrent findings of fact recorded by the forums below are not ordinarily to be interfered with by the superior courts merely because another view of the matter may also be possible. Such findings carry due weight and should not be disturbed unless they are shown to be perverse, arbitrary, based on misreading or non-reading of material evidence, or suffer from patent illegality, material procedural irregularity or jurisdictional defect. In Mst. Farzana Zia and others v. Mst. Saadia Andaleeb and others (**2024 SCMR 916**), the Court reiterated that concurrent findings founded upon relevant evidence cannot be lightly displaced by a revisional court, particularly where the matter has already attained a degree of finality through successive adjudications. The same principle, subject to the recognized exceptions, was in United Bank

Limited (UBL) through its President and others v. Jamil Ahmed and others (**2024 SCMR 164**), wherein it was observed that concurrent findings are not immune from correction where they disclose a patent violation of law, jurisdictional defect or disregard of material evidence. Likewise, in Mst. Faheeman Begum (deceased) through L.Rs. and others v. Islam-ud-Din (deceased) through L.Rs. (**2023 SCMR 1402**), the Court explained the limited scope of interference with concurrent findings and recognised that such findings may be corrected where they suffer from misreading or non-reading of evidence, illegality or jurisdictional error. Further in *Mohibullah & Co. v. Bahauddin* (**1990 SCMR 1070**), *Mahmooda Begum v. Taj Din* (**1992 SCMR 809**), *Muhammad Suleman v. Zubaida Bibi* (**1996 SCMR 1965**), *Haider Khan v. Mustareen* **(PLD 2001 SC 207**), *Lehrasab Khan v. Aqeel-un-Nisa* (**2001 SCMR 338**), *Arshad Mahmood v. Additional District Judge* (**2001 SCMR 516**) and *Muhammad Sadiq v. Elahi Bakhsh* **(2006 SCMR 12**), almost same principle has been elaborated.

9. So far as partition proceedings under the Land Revenue Act, 1967 are concerned, the Supreme Court in Muhammad Umar Khan and another v. Senior Member, Board of Revenue, NWFP and others **(PLJ 2004 SC 427**), while interpreting Sections 135 and 137 of the Act, explained the statutory procedure governing the issuance of notices to co-sharers who have not joined the partition application. The Court emphasized the obligation of the Revenue Officer to consult the revenue record and issue appropriate notices or proclamations to the interested co-sharers. The legal effect of any alleged defect in service must, therefore, be examined in the light of the statutory procedure and the facts established on the record.

10. Applying the foregoing principles to the cases in hand, we find that the petitioner has failed to demonstrate any such patent illegality, material procedural irregularity or jurisdictional defect as would warrant

interference with the concurrent findings recorded by the revenue authorities and maintained by the High Court. In C.P.L.A. No. 97-L of 2017, the petitioner claims his interest through a subsequent purchase from the legal heirs of respondent No.4 on 1.10.2013, whereas the partition proceedings had already culminated in a final order dated 31.10.2012. His subsequent acquisition of an interest in the property could not, by itself, confer upon him an independent right to reopen the concluded partition proceedings or invalidate the orders already passed therein. Significantly, the legal heirs of respondent No.4, who had filed appeal before the appellate and revisional remedies against the partition order, did not carry the matter any further after dismissal of the revision petition for non-prosecution. The petitioner's subsequent application for impleadment was also considered and declined by the competent revenue forum, and the said decision was maintained by the successive forums. In these circumstances, no material has been brought to our notice to establish that the concurrent decisions suffer from any jurisdictional defect or patent illegality warranting interference. As regards *C.P.L.A. No. 938-L of 2017*, the petitioner himself had initiated the partition proceedings through an application dated 07.01.2002, which culminated in the final partition order dated 30.12.2009. The said order was thereafter examined by the successive appellate, revisional and judicial forums, and the petitioner's challenges remained unsuccessful. The mere fact that the petitioner is dissatisfied with the manner in which the partition was affected does not, in the absence of any demonstrable illegality, perversity, misreading or non-reading of material evidence, furnish a lawful ground for interference. The objections regarding non-impleadment of co-sharers and violation of the principles of natural justice have also been considered in the light of the available record; however, no specific material has been identified before us to establish that any such procedural defect materially vitiated the partition proceedings or

resulted in an unlawful determination of the petitioner's rights. The concurrent findings, therefore, do not call for interference by this Court in the exercise of its appellate jurisdiction.

11. As a corollary to the reasons recorded above, these petitions, being devoid of merit, are hereby dismissed and leave to appeal is accordingly refused.

Judge

Judge

**Islamabad**
19th October, 2026
Approved for reporting
Riaz