FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Review Jurisdiction)

Present:
Justice Aamer Farooq
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

F.C.R.P.128/2026 IN F.C.P.L.A.1267/2026
(Review against order dated 19.05.2026, passed by this Court in F.C.P.L.A.1267/2026)

Balochistan Trading Company Pvt Ltd Quetta …*Petitioner(s)*

Versus

Government of Balochistan through Secretary Industries & Commerce Department Quetta & others another …*Respondent(s)*

For the Petitioner(s)	:	Malik Qamar Afzal, ASC
For the Respondent(s)	:	N.R.
Assisted by	:	Ms. Javeria Anwaar Hashmi (Law Clerk)
Date of Hearing	:	07.10.2026

JUDGMENT OF THE COURT

JUSTICE AAMER FAROOQ: - The petitioner seeks review of order of this Court dated 19.05.2026, in F.C.L.P.A No.1267/2026, whereby the judgment of the High Court of Balochistan in C.P. No.99/2026 was put to challenge.

2. Learned counsel for the petitioner, *inter alia,* contended that the judgment handed down by this Court is not well-reasoned, whereas detailed reasoning ought to have been given considering the nature of the controversy. It was argued that under sections 112 and 114 of the Transfer of Property Act, 1882, since arrears of rent were paid on the order of the Court, forfeiture of the lease was not attracted, and the petitioner was entitled to the restoration of lease as well as the possession for the rest of the tenancy period. Learned counsel contended that the payment of rent was made only with the

understanding that upon payment of the same, the lease shall stand restored.

3. Heard.

4. The instant petition is in the nature of a review application which jurisdiction is conferred upon this Court under Article 175G of the Constitution of Islamic Republic of Pakistan, 1973 (**the Constitution**). The referred Article of the Constitution does not spell out the grounds on which the review of the judgement/order can be made by this Court. However, Part IV of the Federal Constitutional Court (Practice and Procedure) Rules, 2026 (**the Rules**) deals with the subject in some detail. In this behalf, Order XXVII Rule 1 confers on this Court power of review and Rule 1(b) *ibid* provides that the grounds on which a civil review application can be made or the judgment or order reviewed are analogous to the ones provided in Order 47 of the Code of Civil Procedure. The referred rule is *pari materia* to the corresponding rule in Supreme Court (Practice and Procedure) Rules, 2025 and their predecessor. It is only after Twenty Seventh (Constitutional Amendment) Act, 2025 that this Court came in existence and initially adopted the Supreme Court Rules but the Rules were notified in the Gazette of Pakistan on September 16, 2026. Since the contents of the provisions governing practice and procedure qua review applications in the Rules and Supreme Court Rules are exactly the same, hence the case law elaborated on the subject is squarely applicable. It is not out of place to mention here that the judgments of the Supreme Court are not binding on us, but carry persuasive value and where the jurisprudence laid down by it appeals or seems to be in consonance with the law and the Constitution, may be followed. A significant judicial deliberation, on the subject, has resulted in the evolution of the jurisprudence as to the

scope of a review petition or the grounds on which a successful review application can be made. The crux of the jurisprudence on the subject is that the review jurisdiction of this Court is quite limited and is circumscribed; being confined to the errors apparent on the face of the record or mistakes/shortcomings which would result in the miscarriage of justice. Recent trends show that litigants/lawyers treat review jurisdiction as another opportunity to reargue the case; by no means while hearing a review application the Bench is rehearing the matter, it is only to see if there is an apparent error/mistake on the face of the record. Rule 4 of Order XXVII of the Rules, clearly provides that the Advocate-on-Record (**AOR**) or the party, along with the review application shall append a certificate, in the form of a reasoned opinion, stating that, in the opinion of the AOR or the party, as the case may be, the application is maintainable and that a review is justified in accordance with the law and the practice of the court. The party or the AOR should exercise utmost care in handing down the certificate or opining on the issue as wrong certificate can have grave repercussions. It is reiterated that the practice to file review application as a matter of course, wherein the ground(s) for review are not attracted, does not find favour with this Court and is deprecated inasmuch as mostly the review applications are nothing but rehearing of the matter. We expect the litigant(s) and legal community to exercise caution and file review applications only in cases where it is genuinely felt that the grounds are attracted. The reason we are expressing in lucid manner the caution which the party and AOR is to exercise is because of the ramifications provided in the Rules with respect to frivolous and vexatious review applications. In this behalf, under the Rules where the court comes to the conclusion that review application is frivolous or vexatious, it can impose costs of not less than Rupees 25000/- or the AOR can be

susceptible to disciplinary proceedings, as well (Rule 5(a) of the Rules). Likewise, where there is no legal representation and the court comes to the conclusion that the application is vexatious or frivolous, the party shall be liable to costs of not less than Rupees 25000/-. No application for review is to be entertained, as per Rule 6 of the Rules, unless the applicant deposits sum of Rupees 50,000/- as security in the designated account of the court. Rule 6(2) empowers the court to forfeit the sum deposited as security, if the review application is dismissed or found to be frivolous or vexatious. Since review is an extraordinary jurisdiction in the sense that the grounds on which it can be filed are too restricted, this Court, in appropriate cases, may dispose of a review application by circulation without oral hearing, unless it considers that a hearing is essential. The sole purpose of citing all the relevant rules pertaining to the review jurisdiction of this Court is only to sensitize the litigants and the legal fraternity about its constricted scope and the consequences provided in the Rules for frivolous and vexatious applications.

5. In the instant petition, the order under review was passed in petition for leave to appeal. The referred jurisdiction of this Court is provided in Article 175F(1)(c) of the Constitution. For sake of brevity, the relevant Article is reproduced below:

> *"175F(1) The Federal Constitutional Court shall have jurisdiction to hear and determine appeals from judgments, decrees, final orders or sentences of a High Court as provided herein below*
>
> *(a) ……..*
>
> *(b) ……..*
>
> *(c) from a judgment or an order of a High Court made under Article 199 only if the Federal Constitutional Court grants leave to appeal."*

The concept of the jurisdiction which this Court exercised under Article 175F(1)(c) is that the party has to obtain permission or leave of the court for its appeal to be heard. Prior to incorporation of Article 175F(1)(c) in the Constitution through Twenty Seventh (Constitutional Amendment) Act, 2025, this jurisdiction was exercised by the Supreme Court of Pakistan under Article 185(3) of the Constitution. After the abovementioned constitutional amendment, this Court was created and its appellate jurisdiction*, inter alia*, included hearing petitions for leave to appeal from the decisions/orders of the High Court under Article 199 of the Constitution. The jurisprudence which the Supreme Court of Pakistan evolved, in this regard, which is not binding on us but wisdom can be drawn from it, is that leave can only be allowed if there is any question of law in the matter or indulgence is required to prevent miscarriage of justice. In the words of Supreme Court of India in ***Kunhayammed and others versus State of Kerala and another (AIR 2000 SC 2587)***; it is an untrammelled reservoir of power incapable of being confined to definitional bounds; the discretion conferred on the Supreme Court being subjected to only one limitation, that is, the wisdom and good sense or sense of Justice by the Judges. However, as noted above, the jurisprudence evolved with respect to adjudicating the petitions for leave to appeal is perhaps different in Pakistan and definitely has parameters. By no means, petition for leave to appeal, is appeal as of right and only if leave is allowed then the petition acquires the status of appeal and is to be heard like one. While hearing leave applications this Court is looking for a question of law arising either from the judgment impugned or from the *lis* which requires determination. When the court dismisses the application/petition for leave to appeal, it does not necessarily endorse

the order against which leave is sought. While adjudicating leave application, the court is not required to give reasons for its decision. If the court is of the view that no case for grant of leave is made out, it can hold so simply through a non-speaking order. Like-wise, while allowing leave to appeal the same can be done without a speaking order. On the question of the requirement to assign reasons for an order, a distinction has to be kept in mind between a judgment of a court whose order/judgment is not subject to further challenge and the court whose orders/judgment, under the law, can be further challenged. In the case of latter, the desirability to assign reasons stems from the fact that the higher court should be aware of the reasons which led to the conclusion by the court. Though it is generally desirable that reasons must be assigned for every order/judgment handed down by the courts but this is not imperative for this Court to do so and in case it passes a non-speaking order or the one without reasons, the same does not provide a ground for challenge in review.

6. The leave jurisdiction conferred upon this Court, under the Constitution is special, it is when a party approaching the court has not yet entered through the doors of appeal jurisdiction of this Court but rather is knocking to be let through. The court if refuses leave is denying the petitioner entry but where the leave is granted the entry is allowed into the appellate realm of this Court. In case where leave application is refused, the order impugned does not merge into the leave refusal order and for all legal purposes order/judgment of the High Court is the final order. However, where the leave is allowed and the petition is converted into appeal then the order/judgment passed in appeal is the final one and the judgment/order of the High Court merges into the order/decision of this Court. See *Sahabzadi*

Maharunisa and another versus Mst. Ghulam Sughran and another (PLD 2016 Supreme Court 358).

7. In the matter in hand, insofar as the submission of learned counsel for the petitioner with respect to the detailed reasons is concerned, there is no requirement under the Rules that a detailed judgment is to be handed down while hearing a petition for leave to appeal. The Court, while determining leave to appeal, has to hand down a categorical declaration or resolve the matter by stating that whether leave is allowed or refused and for the said purpose, no reasoning is required and the same can be done through a non-speaking order. In this regard, the jurisprudence already stands settled as mentioned hereinabove.

8. Insofar as the submission of learned counsel for the petitioner regarding applicability of sections 112 and 114 of the Transfer of Property Act, 1882 is concerned, the same is not absolute. The examination of the order dated 01.12.2025 as well as 15.12.2025, passed in CPLA No.4765/2025 reflects that the offer to make payment was voluntarily, and there was no understanding on part of the respondents that they waived the right of forfeiture or that lease arrangement between the parties shall stand restored. When the referred position was confronted, learned counsel for the petitioner contended that it was implicit in the order that this was the understanding. We do not subscribe to the referred submission of learned counsel for the petitioner inasmuch as since the offer to make payment was made in the presence of respondents, and in case the payment was being made with the understanding that the lease arrangement would be restored, an express statement to the effect ought to have been recorded but was not done so. The learned High

Court, while deciding the writ petition filed by the petitioner (C.P. No.99/2026) has elaborately dealt with the issue and stated correctly that the petition for leave to appeal was disposed of as not pressed on the offer to make payment. In the said order, nowhere it is stated that the lease would be restored or that order impugned before this Court in the said petition for leave to appeal shall be set aside. It is reiterated in the judgment dated 24.09.2025 that petitioner filed CPLA No.4765/2025, which was disposed of as not pressed and did not set-aside the judgment of the Balochistan High Court dated 24.09.2025. Even otherwise, with respect to the leasehold rights and entitlement of the petitioner to hold the property on lease and pay rent stood finally adjudicated as per the judgment of the Balochistan High Court in C.P. No.99/2026.

9. We observe with dismay that in the instant petition, no error on the face of the record was pointed out but there was reiteration of the grounds agitated before us while seeking leave to appeal.

10. For the above reasons, the instant review petition is dismissed. The security deposited is ordered to be forfeited under Rule 6 of the Rules.

Judge

Judge

Judge

Islamabad
07.10.2026
Misal Shah/*
APPROVED FOR REPORTING