In the Federal Constitutional Court of Pakistan
(Appellate Jurisdiction)

Present:
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

C.P.L.A. No.2118-L of 2016
(On appeal from Judgment of the Lahore High Court, Lahore dated 27.4.2016 passed in Writ Petition No.14460 of 2013)

Mst. Anwari daughter of Dilawar Shah through legal heirs

Petitioner

Versus

Province of Punjab through Additional Collector & others

Respondents

For the petitioner: Mr. Tariq Masood, ASC

Respondents: N.R.

Date of hearing: 2.10.2026

Judgment

Syed Arshad Hussain Shah, J:– Through this petition for leave to appeal, the petitioner, Mst. Anwari, through her legal heirs (hereinafter referred to as the "decree-holder"), calls into question the judgment dated 27.04.2016 passed by the Lahore High Court, Lahore, whereby the writ petition filed by the decree-holder challenging the judgment dated 03.01.2013 passed by the Revisional Court, was dismissed. Relevant portion from the impugned judgment is reproduced below for ease of reference:—

> "I have noticed that in paragraph Nos.6 & 7 the learned executing court has minutely scrutinized the matter and observed that in result of consolidation proceedings the petitioner went up to the august Supreme Court of Pakistan and when failed then through this execution petition petitioner wants to re-agitate the same matter. Even before this Court the learned counsel has tried to demonstrate that how Khasra No.84/8/3 and 11 can be allocated to the land under the school. I am of the opinion that when same area is constructed one and a Khasra number is bifurcated through small numbers and that too by the consolidation authorities, they can assign any number to the land bifurcated from the main khasra numbers available in series in rectangle. It seems that through this petition petitioners want that number assigned to the land under

> the School be changed which in my view is not permissible. While exercising constitutional jurisdiction this Court cannot go into the factual controversies as well as scrutinize the consolidation proceedings which have been finalized even up to the august Supreme Court of Pakistan as mentioned in the judgment/order passed by the learned Executing Court. In this view of the matter, the prayer made through this writ petition is not tenable. This writ petition having no substance stands dismissed."

2. Learned counsel for the decree-holder, with considerable vehemence, contended that the impugned judgment is the result of misreading and non-reading of the material available on record and, therefore, cannot be sustained in law. He submitted that the High Court fell into serious error while dismissing the writ petition on the basis of the facts referred to in paragraphs No.6 and 7 of the order of the Executing Court, despite the fact that the said findings had not been approved by the Revisional Court. According to learned counsel, once the Revisional Court had interfered with and set aside the relevant findings of the Executing Court, the same ceased to have any legal efficacy and could no longer be relied upon or treated as part of the operative record for any purpose whatsoever. He further contended that the High Court failed to properly appreciate and consider the material documentary evidence available on record, particularly the Aks-Shajra, Parcha and Killa Bandi, which, according to him, had a direct and material bearing upon the controversy. It was argued that, had the said documents been duly considered in their true perspective, the High Court would have arrived at a different conclusion. Learned counsel maintained that the impugned judgment, being contrary to the law, the facts and the material evidence available on record, suffers from illegality, misreading and non-reading of evidence. He, therefore, prayed that the impugned judgment be set aside.

3. Heard the learned counsel and perused the record. The facts necessary for determination of the *lis* are that the dispute relates to the

identity and possession of land upon which a girls' school was constructed. The decree holder was owner of land measuring 41 kanals 13 marlas, comprising Killa Nos.2/1, 3 and 8 in Rectangle No.84 and Killa Nos.1/3, 2 and 3 in Rectangle No.85, situated in Village Shah Alam Dagar, Tehsil Kalurkot, District Bhakkar. One Shera Khan, who also owned land in the Rectangle No.84, donated land measuring 3 kanals 16 marlas for construction of a girls' school. The decree holder asserted that instead of land owned/donated by Shera Khan, the school was constructed on her land comprised in Rectangle No.84. She consequently instituted a suit for declaration with an alternative relief of possession.

4. During the course of the litigation, consolidation proceedings were initiated in respect of the relevant deh and concluded. The decree holder challenged those proceedings before the competent forums and ultimately the matter came before the Supreme Court of Pakistan. While dealing with the question of allocation/reallocation of the fields, the Supreme Court observed as follows:-

> "We find that the question of allocation/reallocation of the fields in a revenue state is primarily the function of the Consolidation Authorities. In the absence of some very exceptional circumstances, we are not expected to substitute the findings recorded by the consolidation authorities.".

The determination of Consolidation Authorities thus remained undisturbed and attained finality.

5. The decree-holder initiated the execution proceedings seeking enforcement and implementation of the judgment and decree dated 20.02.2001, passed in her favour, with a view to securing the relief granted to her thereunder. During the course of execution proceedings, the Executing Court directed the concerned revenue official to ascertain the factual position at the spot. Pursuant to the said direction, the Girdawar

Halqa inspected the site and submitted his report, wherein it was categorically stated that *"the school is built in the correct portion of land according to the consolidation report and the execution is inoperable."* In view of the aforesaid report and the factual position emerging therefrom, the Executing Court, vide order dated 07.01.2011, disposed of the execution petition, holding that the decree was incapable of execution in the manner sought by the decree-holder. Relevant portion of the order is reproduced hereunder:-

> "For the above discourse, the land of the decree holder has been confirmed after demarcation in consolidation and she is not entitled to claim anything else in addition thereto, therefore the execution petition in hand being accomplished already is hereby disposed of in terms of completion. File be consigned after due completion."

6. The aforesaid order passed by the Executing Court was assailed by the decree-holder by filing a Civil Revision Petition on 15.03.2011. The Revisional Court, after examining the matter and considering the contentions raised by the parties, dismissed the said Civil Revision Petition vide judgment dated 03.01.2013. For ease of reference and proper appreciation of the controversy involved, paragraph Nos.12 and 13 of the judgment rendered by the Revisional Court are reproduced hereinbelow:-

> "12. I am of the considered opinion that in view of the wordings of decree, the execution petition should have been outrightly rejected because that was not maintainable in the given form. However, the trial court made hectic (and futile) efforts for helping the decree holder. The warrant of possession was issued. The Revenue staff, i.e., Patwari and Girdawar, had prepared a report and submitted that the warrant of possession could not be executed. That report was forwarded to the executing court by Tehsildar who had acted like a postman. It is out of context to observe that the Collector had to execute the warrant of possession but the prevailing malpractice has deteriorated the situation to such an extent that now a days, a Patwari prepares report and the courts accept these reports. The executing court should have summoned the Collector and the Tehsildar for warning them about their malfeasance and misfeasance. However, the matter under consideration in this revision petition, is whether the executing court had failed to 'exercise its jurisdiction, or had wrongly exercised that, or had committed any irregularity and illegality. As

> I have earlier observed that there was no need to proceed with an ambiguous execution petition, so despite the fact that the impugned order is not within four corners of law, I am of the view that the execution petition was not maintainable. I have observed that the impugned order is not within the four corners of law because there is no explanation in it, from where the learned executing judge had collected facts about the Consolidation proceedings, the orders of the Revenue hierarchy and the Honourable High Court, whereas there was nothing on the record on those lines. Another reason for said observation, is that instead of dismissing the execution proceedings the executing court had wrongly observed that the petition was being disposed of in terms of completion as that was already accomplished. The terms, "already accomplished and disposed of", are aliens one.
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> 13. In view of above discussed facts, this revision petition is devoid of any force because on the basis of decree granted to the petitioner, no prayer for warrant of possession could be made. This revision petition is dismissed.".

The writ petition filed by the decree-holder challenging the aforesaid judgment of the Revisional Court was also dismissed. Aggrieved thereby, the decree-holder has now approached this Court through the instant petition, seeking leave to appeal against the impugned judgment.

7. The grievance of the decree-holder is that the school building has been constructed over her land situated in Rectangle No.84, which, according to her, was shown and demarcated in the consolidation proceedings as being owned by Shera Khan. Be that as it may, upon the consolidation proceedings attaining finality, the rights and interests of the decree-holder in the land in question stood determined in accordance with the final adjudication made by the consolidation authorities. It is pertinent to note that the consolidation proceedings did not result in any reduction in the decree-holder's total landholding.

8. So far as the findings recorded by the Executing Court i.e. '*where according to the consolidation proceedings the decree-holder has been granted with her determined and specified portion of land and where the consolidation proceedings are final, the execution in hand being infructuous is not operatable according to the pre-consolidation state of land'*

are concerned, it suffices to observe that the Executing Court is under a legal obligation to ensure the effective and meaningful execution of the decree, to the extent practicable, in accordance with its true import and tenor. However, while exercising its jurisdiction, the Executing Court cannot travel beyond the scope of the decree, go behind the judgment upon which it is founded, or vary, modify, or enlarge the rights and liabilities conclusively determined by the Court passing the decree. In this regard, reference may be made to the cases reported as Sardar Ahmed Yar Khan Jogezai and others v. Province of Balochistan through Secretary, C&W Department **(2002 SCMR 122)**, Messrs Haji Ahmad & Co. versus Muhammad Saddique & others **(PLD 1965 Kar. 293)**, Ghanaya Lal & others versus Punjab National Bank Ltd. Lahore **(AIR 1932 Lah. 534),** Abdul Khaliq versus Haji **(PLD 1983 Lah. 445)** and Topanamal versus Kundonal Gangaram **(AIR 1960 SC 388)** the principle has repeatedly been elaborated "*that an executing Court cannot modify or alter a decree which has attained finality" and "A court executing a decree cannot go behind the decree*.". Therefore, the Executing Court was justified in declining the prayer made by the learned counsel for the decree-holder for setting aside the consolidation proceedings and the acquisition of the land, as, such relief would fall beyond the permissible scope of execution proceedings.

9. So far as the exercise of constitutional jurisdiction in matters relating to the allotment, allocation, or reallocation of land during consolidation proceedings is concerned, it is a well-settled principle of law that the determinations made by the consolidation authorities, upon attaining finality in accordance with law, are not ordinarily amenable to interference in constitutional jurisdiction. The aforesaid legal principle has been consistently reiterated and affirmed by the superior Courts in a

catena of judgments, such as (i) Ghulam Qadir v. Member, Board of Revenue, West Pakistan, Lahore and others **(1970 SCMR 292)**, the Court held *that the question as to which Killa number should have been given to the parties was within the exclusive jurisdiction of the Revenue Authorities.* (ii) Allah Rehman and others v. Amtul Qayyum and another **(1989 SCMR 1817)**, *it has already been held by this Court that the orders made by the consolidation authorities with regard to allocation of land are not fit matters which can be agitated in writ jurisdiction.* (iii) Asad Riaz v. Member, Board of Revenue, Punjab, Lahore and others **(1997 SCMR 1611)**, wherein it was observed that *the High Court, in Constitutional jurisdiction, cannot sit in judgment against decisions of Revenue Authorities in such matters.* Hence it is established that constitutional jurisdiction is not intended to provide a further forum for reappraisal of factual determinations entrusted to specialized statutory authorities. Interference may nevertheless be warranted where a recognized legal ground, such as want of jurisdiction or an established illegality, is made out. In the present case, the allocation and reallocation of the land had already been examined in the earlier round of litigation, which ultimately reached the Supreme Court, and the determination of the consolidation authorities remained undisturbed. The controversy could not, therefore, be reopened merely by disputing the identification of the land or the Khasra numbers assigned to it, in the absence of an independent and legally sustainable ground for interference.

10. It is pertinent to observe that, in the first round of litigation, the matter arising out of the consolidation proceedings was carried up to the Supreme Court. Now, in the second round of litigation, substantially the same issue has been raised in the execution proceedings. The law does not countenance repeated and vexatious litigation, nor does it permit a

litigant to perpetuate a dispute by re-agitating matters which have already been adjudicated upon by the competent courts. Courts have consistently deprecated the practice of indulging in vexatious and luxurious litigation, particularly where the *lis* has already been examined and decided by the competent judicial forums. In this regard, this Court, while deciding **C.P.L.A. No.1161-L of 2022**, has recently reiterated the aforesaid principle in the following terms:-

> "13. The question of finality has been determined by the superior Courts in a number of cases and it has been held that litigation cannot be kept alive indefinitely through successive proceedings. In this regard a reference is made to the case reported as Muhammad Raqeeb v. Government of Khyber Pakhtunkhwa through Chief Secretary and others **(2023 SCMR 992)**, in which it was held as under:-
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> > "The doctrine of finality is primarily focused on a long-lasting and time-honored philosophy enshrined in the legal maxim "Interest reipublicae ut sit finis litium" which recapitulates that "in the interest of the society as a whole, the litigation must come to an end" or "it is in the interest of the State that there should be an end to litigation". Finality of judgments culminates the judicial process, proscribing and barring successive appeals or challenging or questioning the judicial decision keeping in view the rigors of the renowned doctrine of res judicata explicated under section 11 of the Code of Civil Procedure, 1908. The Latin maxim "Re judicata pro veritate occipitur" expounds that a judicial decision must be accepted as correct. This doctrine lays down the principle that the controversy flanked by the parties should come to an end and the judgment of the Court should attain finality with sacrosanctity and imperativeness which is necessary to avoid opening the floodgates of litigation. Once a judgment attains finality between the parties it cannot be reopened unless some fraud, mistake or lack of jurisdiction is pleaded and established. The foremost rationale of this doctrine is to uphold the administration of justice and to prevent abuse of process with regard to the litigation turn out to be final and it also nips in the bud the multiplicity of proceedings on the same cause of action.".

Similarly, the principle has been reaffirmed by this Court in its judgments passed in the cases titled Fazale Haq College Mardan versus Sanober Khan and others in **Civil Appeal No.192-P of 2010 and others** and Niamat Ali and others versus Chairman, Federal Land Commission and others in **Civil Appeals No.382-L of 2012 & others.".**

11. Upshot of the foregoing discussion is that we see no illegality, infirmity, misreading or non-reading in the findings of the fora below warranting interference by this Court. Resultantly, this petition is dismissed and leave to appeal is refused.

Judge

Judge

Islamabad
2nd October, 2026
Approved for reporting
Riaz