

In the Federal Constitutional Court of Pakistan
(Appellate Jurisdiction)

Present:

Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

C.P.L.A. No.1161-L of 2022

(On appeal from Judgment of the Lahore High Court, Lahore
dated 8.3.2022 passed in Writ Petition No.13915 of 2022)

Mazhar Riaz

Petitioner

Versus

Member Federal Land Commission & others

Respondents

For the petitioner: Malik Noor Muhammad Awan, Sr. ASC

For respondents No.2-4: Mr. Waseem Mumtaz Malik,
Additional Advocate General, Punjab

For respondents No.5-6: Mr. Zulfiqar Ali Hanjra,
Advocate High Court (with permission)

Other respondents: N.R.

Date of hearing: 15.09.2026

Judgment

Syed Arshad Hussain Shah, J. – Petitioner seeks leave to appeal against the judgment dated 8.3.2022 passed by the Lahore High Court, whereby his writ petition was dismissed and the orders dated 24.2.2020 and 17.2.2022 passed by the Chief Land Commissioner, Punjab, and the Federal Land Commission, Islamabad, respectively, were upheld.

2. Learned counsel for the petitioner vehemently contended that the impugned judgment is contrary to law, facts, and the material available on record. He submitted that, after scrutinizing the matter afresh by the Head of Inspection Team, no further proceedings could lawfully be initiated, as, by that time, the law under which the land was resumed, was

declared un-Islamic. Further that the total excess land was resumed exclusively from the share of the petitioner, rather than being resumed proportionately from the respective shares of all the legal heirs of the declarant. It was further contended that, upon the demise of the petitioner's father and grandfather, the property situated in Mouza Mahmoonwali, District Sheikhpura, devolved upon the petitioner in his capacity as their legal heir. It was, therefore, argued that, upon reassessment of the resumed land by the Head of Inspection Team, the entire land ought to have been restored to the petitioner. According to the learned counsel predecessors-in-interest of the petitioner were not afforded an opportunity of further choice in accordance with the law laid down in 2008 SCMR 886. He also placed reliance upon the cases reported as 1978 SCMR 281, 2008 SCMR 1272 and PLD 1990 SC 626 in support of his contentions. He further contended that the principal grievance of the petitioner is that the assessment made by the inspection team was erroneous, resulting in the illegal resumption of excess land, as the PIUs of the garden had been incorrectly calculated. His further submission was that the matter involves important questions of law requiring authoritative determination by this Court. It was, therefore, contended that the case is a fit one for grant of leave to appeal.

3. Conversely, learned Additional Advocate General submitted that the submissions advanced by learned counsel for the petitioner are misconceived, legally untenable, and contrary to the material available on the record. He submitted that the resumption had been finalized during the lifetime of the declarant, at his own choice, and that the resumed land was subsequently allotted to the tenants under Section 15 of the Land Reforms Act, 1977 (hereinafter referred to as "the Act of 1977"). According

to the learned Law Officer, the legal heirs of the declarant agitated the matter after an unexplained delay of 19 years, 6 months and 22 days.

4. So far as the grievance of the petitioner regarding 213 PIUs is concerned, the learned Law Officer submitted that the Chief Land Commissioner, Punjab has already directed the Deputy Land Commissioner, Sheikhupura, to determine whether 213 PIUs were resumed in excess and, if so, to restore the excess land to the legal heirs of the declarant according to their shares. The learned Law Officer further submitted that the allotment of the resumed land was made in 2015 and has attained finality up to the Federal Land Commission. Nevertheless, as per submissions of learned Law Officer as well as the submissions of the learned counsel for respondents No.5 and 6, the petitioner, under the cover of various orders/proceedings, was able to take possession of the resumed land and retain it illegally. With regard to the case reported as 2008 SCMR 886, relied upon by learned counsel for the petitioner, the learned Law Officer submitted that the issue before the Court in the cited case pertained to the right of the legal heirs of a deceased declarant to be afforded an opportunity to identify additional excess land. He, therefore, contended that the ratio laid down in the said precedent has no application to the facts and circumstances of the instant case.

5. Learned counsel appearing on behalf of respondents Nos.5 and 6, who are the allottees of the resumed land, contended that the said respondents were lawful tenants of the subject land and, therefore, bona fide claimants entitled to consideration for allotment in accordance with the applicable law and the prevailing allotment policy.

6. Heard learned counsel for the parties and perused the record. Brief facts, necessary for determination of the *lis*, are that upon

promulgation of the Act of 1977, every landowner holding land in excess of 8,000 PIUs was required to file the requisite declaration on or before 25.05.1977. The predecessor-in-interest of the petitioner, namely, Ch. Muhammad Afzal (hereinafter referred to as “the declarant”), failed to submit the requisite declaration within the prescribed period. However, upon service of notice, the declarant submitted his declaration on 10.07.1977. His landholding situated in the districts Kasur and Sheikhupura was thereafter scrutinized. Whereupon an area measuring 544 PIUs was found to be in excess of the permissible ceiling of 8,000 PIUs. The declarant exercised his option to surrender the excess land measuring 544 PIUs situated in Mouza Mahmoonwali, District Sheikhupura, which was accordingly resumed by the Deputy Land Commissioner, Sheikhupura. Consequently, the process of resumption stood concluded in accordance with law in the life time of the declarant.

7. The declarant subsequently died in the year 1979. During scrutiny of the case by the Head of the Inspection Team, Federal Land Commission, the excess holding of the declarant was recalculated and determined to be 757 PIUs, as the PIUs of the garden/orchard situated at Mouza Kot Majhi Khan, District Kasur, were calculated at one-and-a-half times the prescribed PIU value. Pursuant to the recommendations of the Head of the Inspection Team, the Land Commissioner, Lahore Division, took up the matter in suo motu revision and, vide order dated 02.08.1980, directed the resumption of 757 PIUs as excess land. Consequently, Mutation No.171 was sanctioned on 06.06.1982. Subsequently, in light of the provisions contained in the notification dated 23.05.1972, which provide that PIUs for a garden are to be calculated at the rate applicable to the soil on which the garden is situated, the Senior Member, Federal

Land Commission, vide order dated 28.08.1990, withdrew the notice issued in the suo motu revisional proceedings.

8. Thereafter, land measuring 94 kanals and 14 marlas, situated in Mouza Mahmoonwali, District Sheikhupura, which had been resumed from the declarant at his choice, was allotted to M/s Nazir and Bashir, sons of Mahal, being the tenants, vide order dated 04.03.2000. The said allotment was challenged before the Executive District Officer (Revenue), Sheikhupura, by one Barkat Ali, who claimed to be the senior tenant of the resumed land, through Appeal No.56. Upon consideration of the matter, the appellate authority, vide order dated 20.11.2001, remanded the case to the Deputy Land Commissioner, Sheikhupura, with a direction to reconsider the matter afresh and to make the allotment/grant of the land in accordance with the provisions of Section 15 of the Act of 1977.

9. Upon remand, the Deputy Land Commissioner, Sheikhupura, after reconsideration of the matter, allotted land measuring 51 kanals and 19 marlas in favour of M/s Nazir and Bashir and 28 kanals and 4 marlas in favour of one Anwar, vide order dated 06.05.2015. Aggrieved by the aforesaid order of allotment of the resumed land, the petitioner, Nazir and others, Muhammad Hanif, and Barkat Ali preferred separate appeals before the Land Commissioner, Lahore Division. The said appeals were dismissed vide order dated 11.02.2017. Thereafter, one Muhammad Boota filed an application under Section 12(2) of the Code of Civil Procedure, 1908 ("CPC"), challenging the aforesaid order, which was dismissed vide order dated 08.07.2017.

10. The order dated 11.02.2017 passed by the Land Commissioner, Lahore Division, was assailed by the petitioner through Revision Petition No.3 of 2017 before the Chief Land Commissioner,

Punjab. Likewise, Muhammad Boota preferred Revision Petition No.38 of 2017, impugning the order dated 08.07.2017 whereby his application under Section 12(2) of the CPC had been dismissed. The Chief Land Commissioner, Punjab, after affording an opportunity of hearing to the parties and examining the record, decided Revision Petition No.3 of 2017 vide order dated 24.02.2020, in the following terms:—

- “i) DLC Sheikhpura to determine if 213 PIUs were resumed in excess from the declarant Muhammad Afzal. If so, the excess may be returned to his legal heirs as per entitlement/share.
- ii) Petitioner cannot claim any right in the land resumed under Land Reforms Act 1977 and allotted as per law. His prayer is rejected being devoid of merit.
- iii) Allotments made by DLC to the respondents, Nazir, Bashir and Anwar, as per law, to remain intact.

Revision Petition No. 38 of 2017 was dismissed as being devoid of merit.

The aforesaid order dated 24.02.2020 passed by the Chief Land Commissioner, Punjab, was assailed by the petitioner before the Member, Federal Land Commission, Islamabad, by filing a revision petition. The Member, Federal Land Commission, after hearing the parties and examining the record, found no sufficient ground warranting interference with the order passed by the Chief Land Commissioner, Punjab, and accordingly dismissed the revision petition vide order dated 17.02.2022. The operative part of this order is reproduced hereunder for ready reference:—

“I do not find any weightage in the instant petition as the petitioner wants to prolong his unauthorized possession over land in question and hence distracting the matter into unnecessary litigation. First question by court is whether a matter directly and substantially in issue had been resolved by the court of competent jurisdiction, could be reagitated through fresh cause of action. Absolutely, law does not permit this conduct when a matter finally concluded and attained finality. Luxury of frivolous litigation by vested interests could hardly be afforded by courts administering justice. When only one issue pertaining to excess land of 213 PIUs was involved, which could have been resolved at very initial stage of determination, such prolonged litigation was not required on the part of the petitioner by involving some other unwanted issues, which were settled during

lifetime of the declarant. In the case in hand, the matter of resumption stood finalized when the choice was filed by the original declarant (grandfather of the petitioner) and order was passed for resumption of excess land. The question of scrutiny of holding of the declarant by the Inspection Team of FLC was only relating to the excess land measuring 213 PIUs from the land of present petitioner, which only needs determination and for this point the learned CLC, Punjab, has already passed his orders in para 13(a)(i) of the Order dated 24.02.2020. I do not find any legal infirmity in the order impugned before this court passed by the learned Chief Land Commissioner, Punjab, Lahore, which is accordingly upheld with the directions to learned Deputy Land Commissioner, Sheikhupura to immediately proceed for implementation and deliver the possession of the allotted land to the tenants, who have been allotted the resumed vide order dated 06.05.2015. Order accordingly with no orders as to cost.”.

11. Ultimately, the petitioner assailed both the aforesaid orders, by invoking the constitutional jurisdiction of the Lahore High Court. The High Court dismissed the writ petition vide impugned judgment dated 08.03.2022 and upheld the orders passed by the Chief Land Commissioner, Punjab, and the Federal Land Commission. Aggrieved by the said judgment, the petitioner has approached this Court through the instant petition, seeking leave to assail the impugned judgment.

12. From the facts and circumstances narrated hereinabove, it is abundantly clear that the resumption proceedings, to the extent of 544 PIUs, had attained finality and do not warrant any further interference. The resumed land had thereafter been duly allotted in accordance with law. However, despite concurrent findings recorded by the fora below against the petitioner as well as the finality of the resumption proceedings during the life time of the declarant, the petitioner is still in possession of the resumed land.

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:-

“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”.

This principle has recently 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.**

14. The issue regarding 213 PIUs is separate from the concluded resumption of 544 PIUs and should not be mixed up with it. While deciding Revision Petition No.3 of 2017, the Chief Land Commissioner, Punjab, vide order dated 24.02.2020, specifically directed the Deputy Land Commissioner, Sheikhpura, to determine *whether 213 PIUs had been resumed in excess and, if so, to restore the excess land to the legal heirs of the declarant according to their entitlement/shares*. The petitioner shall have the opportunity to establish his claim before the said forum, namely, the Deputy Land Commissioner, Sheikhpura. So far as the cases referred to by the learned counsel for the petitioner are concerned, it may be

observed that the principles laid down therein are not applicable to the facts and circumstances of the present case.

15. For the foregoing reasons, we find no illegality, jurisdictional defect or irregularity in the impugned judgment of the Lahore High Court or in the orders passed by the fora below warranting interference by this Court. The resumption of 544 PIUs, completed during the lifetime of the declarant as per his own choice, and the subsequent allotments made in accordance with the Act cannot be reopened.

16. Upshot of the above is that the petitioner has failed to make out a case warranting interference with the impugned judgment dated 08.03.2022. The petition for leave to appeal is accordingly dismissed and leave to appeal is refused. However, the issue pending before the Deputy Land Commissioner, Sheikhpura, regarding the excess area of 213 PIUs, shall be decided without being influenced by any observation made herein.

Judge

Judge

Islamabad

15th September, 2026

Approved for reporting

Riaz