

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

Present:

JUSTICE AMIN-UD-DIN KHAN, CHIEF JUSTICE
JUSTICE SYED ARSHAD HUSSAIN SHAH

Civil Appeals. 382-L & 383-L/2012

*[against the judgments dated 09.10.2008 & 28.01.2008 passed by
the Lahore High Court, Lahore in W.P. No.7799/1996 & 1751/2004]*

AND

C.M.As.1604-L & 2278-L/2021 in C.A.382-L/2012

[for impleadment as party]

AND

C.M.A.1605-L/2021 in C.A.383-L/2012

[for impleadment as party]

Niamat Ali, etc.

*[in C.A.382-L/2012 &
C.M.As.1604-L & 2278-L/2021]*

Muhammad Musa, etc.

*[in C.A.383-L/2012 &
C.M.A.1605-L/2021]*

...Appellants/Applicants

Versus

Chairman Federal Land
Commission, Islamabad & others

[in all cases]

...Respondent(s)

For the Appellants : Mr. Shehzad Shaukat, ASC
[Assisted by Mr. Taha Shaukat, Adv]
[in C.A.382-L/2012]

Mian Zafar Iqbal, ASC
[in C.A.383-L/2012]

For the Applicants : Syed Al-e-Muhammad, ASC
[in C.M.A.1604-L & 1605-L/2021]

Nemo.
[in C.M.A.2278-L/2021]

For Federal Land : Mr. SA Mehmood Sadozai,
Commission ASC/Legal Advisor

For Govt. of Punjab : Mr. Khalid Masood Ghani, Addl. AG
Mr. Tariq Nazir, L.O. BOR

For private respondents : Malik Noor Muhammad Awan, ASC

Research Assistance By : Dr. Muhammad Mumtaz,
Research Officer

Date of Hearing : 03.07.2026

JUDGMENT

AMIN-UD-DIN KHAN, CJ.- The appeals in hand emanate from petitions originally instituted before the Supreme Court of Pakistan under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973 ("the Constitution"), prior to the advent of the Constitution (Twenty-seventh Amendment) Act, 2025 ("the 27th Amendment"), seeking leave to appeal against the judgments dated 09.10.2008 & 28.01.2008 rendered by the Lahore High Court in Writ Petitions No.7799/1996 and 1751/2004. Through the impugned judgments, the learned High Court, while exercising its constitutional jurisdiction, dismissed the writ petitions preferred by the present appellants. Subsequent to the constitutional reconfiguration brought about through the promulgation of the 27th Amendment, and in view of the transitional framework envisaged therein, the instant matter, notice whereof had already been issued to the contesting respondents by the Supreme Court, stood transmitted to this Court and now falls for consideration and adjudication in accordance with law.

2. The dispute concerns land measuring 535 Kanals and 4 Marlas situated in Village Haleem Khichi, Tehsil Mailsi, District Vehari ("the property in dispute"). The appellants claim that they have been cultivating the land as tenants since before Kharif 1971. Following the promulgation of the Land Reforms Regulation, 1972 (MLR No.115), the land was resumed by the Provincial Government pursuant to the declaration of Brigadier Attah Muhammad, rendering the appellants Government tenants. However, due to protracted proceedings before the revenue authorities, the land could not be finally allotted to them under paragraph 18 of the Regulation.

3. The second limb of dispute is that Mst. Hashmat Habib ur Rehman, mother of respondents No. 3 to 5, was the recorded owner of 1,796 kanals and 11 marlas of land situated in Fatehpur Janubi Tehsil Ali Pur, District Muzaffargarh. Upon promulgation of MLR No. 115 of 1972, she and her husband each claimed ownership of the entire land. Her claim, along with that of her husband, for separate land ceilings on the plea of benami

ownership was rejected by the Deputy Land Commissioner on 28.05.1972, and the dismissal of their appeal on 29.06.1972 rendered the matter final. In 1977, the Federal Land Commission directed an inquiry regarding alleged additional land owned by Mst. Hashmat. The inquiry concluded on 24.04.1990 that she owned no other land and no further action was required. The earlier resumption orders remained untouched. Subsequently, the legal heirs (respondents No. 3 to 5) filed a belated revision before the Chairman, Federal Land Commission, who condoned the delay, set aside the 1972 resumption orders, restored 336 kanals and 16 marlas, and directed allotment of 535 kanals and 4 marlas at Village Haleem Khichi, Vehari, and 12 kanals and 10 marlas at Mouza Niaz Baig, Lahore, as alternate land vide order dated 22-08-1996.

4. The appellants challenged the order dated 22.08.1996 of the Chairman, Federal Land Commission, whereby 535 kanals and 4 marlas in Village Haleem Khichi, Tehsil Mailsi, District Vehari, were allotted to the predecessor-in-interest of respondents No. 3 to 5 as alternate land. Claiming entitlement to allotment as tenants under the Land Reforms Regulation, 1972, they assailed the order and consequential Mutation No. 590 dated 29.10.1996 through two writ petitions, which were dismissed by the Lahore High Court on 28.01.2008 and 09.10.2008. Hence, these appeals.

5. We have heard the learned counsel for the parties at length and have carefully examined the record of the case.

6. The Land Reforms Regulation, 1972 (MLR No.115) was promulgated with the object of dismantling the concentration of agricultural land in a few hands, promoting social and economic justice, and ensuring a more equitable distribution of agricultural holdings. The Regulation sought to eliminate feudal landholding patterns by prescribing ceilings on individual ownership, resuming surplus land, and redistributing such land amongst landless tenants and cultivators. The scheme of the Regulation was founded on three principal components. First, every landowner was required to submit a declaration of his agricultural holdings before the Land Reforms Authority. Secondly, the competent authority

was empowered to determine whether the declarant possessed land in excess of the prescribed ceiling and, if so, to resume the surplus area in favour of the Government. Thirdly, the resumed land was intended to be allotted to eligible tenants and landless cultivators in accordance with the criteria prescribed under the Regulation and the rules framed thereunder. The Regulation recognized the concept of an independent declarant and prescribed separate ceilings for persons entitled to maintain distinct holdings under its provisions. It also provided a complete statutory mechanism for filing declarations, determination of surplus area, adjudication of disputes by the Land Reforms Authorities, appeals, revisions, and restoration of land where an order of resumption was found to be illegal or without lawful authority. The overarching objective of the Regulation was not merely to impose ceilings on land ownership but to secure agrarian reform by balancing the proprietary rights of landowners with the constitutional goal of distributive justice through the resumption and redistribution of surplus agricultural land. In *Qazalbash Waqf v. Chief Land Commissioner, Punjab* (PLD 1990 SC 99), the Shariat Appellate Bench of the Supreme Court held that the provisions of the Land Reforms Regulation, 1972 (MLR No. 115) and the Land Reforms Act, 1977 imposing ceilings on agricultural landholdings and providing for compulsory resumption of surplus land were repugnant to the Injunctions of Islam, as Islam recognizes and protects the right to private ownership of lawfully acquired property. The Court ruled that the State cannot deprive a person of agricultural land merely because it exceeds a statutory ceiling, unless such deprivation is justified by a recognized principle of Islamic law. At the same time, the judgment did not authorize the reopening of proceedings or transactions that had already attained finality under the land reform laws, and vested rights created under concluded proceedings remained protected. Thus, the case established both the constitutional invalidity of compulsory land ceiling provisions under Islamic law and the principle that finalized land reform actions are not automatically disturbed by the declaration of repugnancy. Moreso, resumption of land under Land Reforms Laws has been saved in the judgment of *Qazalbash's* case, so the

original land owners though after resumption has no concern whatsoever with the resumed land.

7. The principal controversy in these appeals is whether land validly resumed by the State under the Land Reforms Regulation, 1972 (MLR No.115) and in respect whereof the tenants had acquired a statutory right to consideration for allotment could subsequently be restored to the original declarants pursuant to the order dated 22.08.1996 passed by the Chairman Federal Land Commission, thereby extinguishing the tenants' accrued rights. The determination of this issue necessarily requires examination of the nature of the appellants' tenancy rights, the legal effect of the original order of resumption, and the consequences flowing from the subsequent order restoring the resumed land to the declarants. The appellants were allegedly tenants over land measuring 535 kanals and 4 marlas, situated in Village Khichi, Tehsil Mailsi, District Vehari, since before Kharif 1971, and their tenancy stood duly reflected in the *Khasra Girdawari* of Kharif 1971. Upon the promulgation of the Land Reforms Regulation, 1972 (MLR No. 115), the original owner, Brigadier Atta Muhammad, submitted the prescribed declaration, whereupon the land in dispute was resumed in favour of the Provincial Government as surplus area. Although the appellants continued to be recorded as tenants and became eligible for allotment under the land reforms scheme, such allotment remained withheld owing to the pendency of various proceedings, including ROR No.40 of 1989, wherein an order maintaining status quo remained operative.

8. On the other side, Mst. Hashmat Habib-ur-Rehman, a government servant in the Health Department, and her husband, who was serving as an Executive Engineer in the Irrigation Department, had jointly purchased agricultural land measuring 1,796 kanals and 11 marlas through registered sale deeds dated 24.03.1964 and 10.04.1964 from their joint earnings in Fatehpur Janubi Tehsil Ali Pur, District Muzaffargarh. Out of the said land, 26 kanals and 12 marlas were subsequently acquired by WAPDA, leaving 1,768 kanals and 12 marlas in their ownership and possession. Following the enforcement of MLR No.115, the Land Reforms Authorities treated the entire holding as exclusively owned

by Mst. Hashmat Habib-ur-Rehman solely because the title stood in her name and, applying paragraph 10 of the Regulation, held that the holding exceeded the prescribed ceiling. Consequently, land measuring 969 kanals and 7 marlas was resumed through order dated 28.05.1972, while the appeal preferred thereagainst was dismissed on 29.06.1972. Subsequently, the Inspection Team of the Federal Land Commission ("FLC") concluded that the declarants owned no agricultural land in any other district. Although suo motu proceedings initiated in 1975 remained pending, no adjudication on the merits was undertaken. Upon the declarants approaching the competent authority, the delay was condoned and the matter was finally decided through order dated 22.08.1996, whereby it was held that Mst. Hashmat Habib-ur-Rehman and her husband were separate declarants, each owning an equal share in the land acquired from their joint resources, and that neither exceeded the ceiling prescribed under paragraph 10 of the Land Reforms Regulation, 1972 (MLR No. 115), Consequently, the earlier order of resumption was declared unsustainable and the resumed land measuring 969 kanals and 7 marlas was ordered to be restored to the declarants.

9. We have given our anxious consideration to the legality and propriety of the order passed by the Federal Land Commission ("FLC") as well as the judgments rendered by the learned High Court. The crucial question requiring determination is whether the Chairman, FLC could, after the lapse of more than two decades, reopen the proceedings culminating in the orders dated 28.05.1972 and 29.06.1972, which had attained finality, and consequently direct restoration of the resumed land and allotment of alternate land to respondents No.3 to 5. In our considered view, the answer must be in the negative. The record leaves no manner of doubt that the declarations submitted by Mst. Hashmat Habib ur Rehman and her husband under the Land Reforms Regulation, 1972 (MLR No.115), claiming separate ceilings on the plea that the land standing in the name of Mst. Hashmat was held benami to the extent of one-half share for her husband, were expressly rejected by the Deputy Land Commissioner through order dated 28.05.1972. The appeal preferred there against was dismissed by the Land Commissioner on 29.06.1972, thereby affirming the

findings recorded by the Deputy Land Commissioner. Significantly, neither declarant questioned the legality of the said orders before any higher forum. On the contrary, they accepted the determination and permitted the matter to attain finality.

10. It is a settled principle of law that where a competent authority decides a matter within its jurisdiction and the aggrieved party elects not to pursue the remedies provided by law, the decision attains conclusiveness and binds the parties. The doctrine of finality is founded upon sound considerations of public policy, reflected in the maxim *interest reipublicae ut sit finis litium*—it is in the interest of the State that there should be an end to litigation. Endless reopening of concluded matters would destroy certainty in legal relations, undermine public confidence in judicial and quasi-judicial adjudications, and render rights perpetually unstable. The law, therefore, does not countenance revival of matters that have become past and closed transactions except where such reopening is expressly authorized by statute or where the original order is shown to be a nullity for want of jurisdiction or tainted by fraud. The orders dated 28.05.1972 and 29.06.1972 were passed by authorities admittedly competent under the Land Reforms Regulation, 1972. No allegation of fraud was ever established, nor was it demonstrated that the authorities lacked jurisdiction. Consequently, those orders remained valid, operative and binding for all legal purposes.

11. The subsequent proceedings initiated by the Member, Federal Land Commission in the year 1977 do not alter this legal position. Those proceedings originated solely on the basis of a report submitted by the Inspection Team indicating that Mst. Hashmat Habib ur Rehman might possess agricultural land in other districts. The inquiry, therefore, was confined to determining whether any further surplus land was liable to resumption on account of additional holdings. The proceedings neither purported to reopen nor had the effect of setting aside the original orders of resumption passed in 1972. This position is further reinforced by the report submitted by the Deputy Land Commissioner on 24.04.1990, categorically concluding that the declarants possessed no additional land and that no further action was called for. Thus,

even the Suo motu proceedings did not disturb the finality attached to the original orders of resumption.

12. Equally untenable is the premise adopted by the Chairman, FLC while passing the impugned order dated 22.08.1996. The entire exercise proceeded on the assumption that Mst. Hashmat Habib ur Rehman and her husband were entitled to separate ceilings because the property had been acquired from their joint resources and that Mst. Hashmat merely held part of the land benami for her husband. This very contention had been specifically raised before, and rejected by, the competent Land Reforms Authorities in 1972. That finding had attained finality decades earlier. In the absence of any decree of a competent Civil Court declaring the transaction to be benami or recognizing any beneficial ownership in favour of the husband, the Chairman, FLC could not, in collateral proceedings, substitute his own opinion for a determination that had long since become conclusive. Questions relating to title, beneficial ownership and benami character involve adjudication of civil rights and cannot be reopened administratively after final determination under the Land Reforms law.

13. It is equally significant that by the time the order was passed, the appellants had continued in possession of the disputed land as Government tenants since the resumption effected under MLR No.115. Their tenancy, originating before Kharif 1971 and continuing thereafter under the Provincial Government, entitled them to consideration for allotment under the statutory scheme of the Regulation. These statutory rights had accrued by operation of law and could not be defeated by reviving a claim which had already become extinct by reason of the final adjudication rendered in 1972.

14. Viewed from any angle, therefore, the Chairman, Federal Land Commission acted without lawful authority in reopening a matter that had attained finality more than twenty years earlier. The order dated 22.08.1996, insofar as it sets aside the concluded resumption proceedings and directs restoration and consequential allotment of alternate land to respondents No.3 to 5, is contrary to

the scheme of the Land Reforms Regulation, 1972, violative of the doctrine of finality of judicial and quasi-judicial determinations, and cannot be sustained. The learned High Court failed to appreciate these settled legal principles.

15. The subsequent proceedings initiated before the Federal Land Commission in the year 1977 were of a limited and specific character. Their scope was confined to determining whether Mst. Hashmat Habib ur Rehman possessed any additional landholdings in districts other than those already examined for the purposes of the Land Reforms Regulation, 1972 (MLR No.115). The said proceedings did not constitute a reopening of the resumption proceedings finalized in 1972, nor did they confer jurisdiction upon the authorities to review, vary or set aside the resumption orders that had already attained finality. The jurisdiction exercised in the subsequent inquiry was distinct from, and independent of, the earlier proceedings culminating in the resumption orders.

16. It is a settled principle that where the jurisdiction of a statutory authority is confined to a particular subject-matter, its findings cannot, by implication, be construed as nullifying or modifying an earlier order passed within a different jurisdiction unless such power of review or recall is expressly conferred by the statute. Equally well established is the rule that a judicial or quasi-judicial determination, once it has attained finality, continues to remain operative unless set aside by a competent forum in accordance with law. Mere initiation of subsequent proceedings on a different issue neither suspends nor obliterates the legal effect of the earlier determination.

17. The record unequivocally demonstrates that no order was ever passed by the Federal Land Commission or any competent authority rescinding, modifying or declaring illegal the resumption orders of 1972. Rather, the inquiry culminated in the report of the Deputy Land Commissioner dated 24.04.1990, wherein it was concluded that no further land owned by Mst. Hashmat Habib ur Rehman was liable to resumption. This finding merely established that no excess land remained undisclosed in other districts; it neither diluted nor displaced the resumption already effected

under the earlier proceedings. Consequently, the legal effect of the report dated 24.04.1990 was only to close the inquiry regarding the existence of additional surplus land. It did not revive any land already resumed, restore ownership to the erstwhile landowner, or create any fresh rights inconsistent with the resumption orders of 1972. To attribute such consequences to the subsequent proceedings would amount to reading into the statute a power of review which it does not confer and would undermine the well-established doctrine of finality of judicial and quasi-judicial proceedings.

18. We are, therefore, of the considered view that the subsequent proceedings of 1977 and the report dated 24.04.1990 left the resumption orders of 1972 wholly untouched. Those orders continued to remain valid, operative and binding for all legal purposes, and every right flowing therefrom, including the rights accrued in favour of the tenants under the land reforms regime, remained unaffected. Any contention that the later proceedings impliedly annulled or superseded the earlier resumption orders is, therefore, misconceived and legally unsustainable.

19. The Chairman, Federal Land Commission, therefore, lacked lawful authority to nullify, through the order dated 22.08.1996, the resumption orders that had attained finality decades earlier. It is a settled principle of law that once an order passed by a competent authority has become final, either because no statutory remedy has been availed within the prescribed period or because all available remedies have been exhausted, such order acquires conclusiveness and cannot subsequently be reopened except under an express statutory provision conferring such power. Finality of litigation is not merely a rule of procedure; it is a fundamental principle underpinning the administration of justice, ensuring certainty, stability and repose in legal relations. Any departure from this principle must be founded upon clear legislative authority and not upon equitable considerations or administrative discretion. In the present case, the record unequivocally demonstrates that the resumption orders were passed by the competent revenue authorities in 1972 under the applicable land reforms law. Those orders were never challenged by the declarants

before any appellate, revisional or constitutional forum. Their failure to invoke the remedies available under the statute within the prescribed period rendered the resumption orders final and binding. The prolonged silence maintained by the declarants for nearly two decades constitutes a clear acquiescence in the legality of the resumption proceedings and attracts the equitable doctrine that the law assists the vigilant and not those who sleep over their rights (*vigilantibus non dormientibus jura subveniunt*). Rights which have been abandoned by prolonged inaction cannot ordinarily be revived to the prejudice of persons whose interests have crystallized on the strength of concluded proceedings. The reference may be given of the Province of Punjab Case.¹

20. The subsequent Suo motu proceedings initiated before the Federal Land Commission do not advance the case of the declarants. Those proceedings were commenced in or about 1975 for a limited and specific purpose, namely, to ascertain whether the declarants possessed surplus land in districts other than those already examined. Their scope was confined to investigating the existence of additional holdings and determining whether further land was liable to resumption under the land reforms regime. They neither questioned the legality of the resumption orders passed in 1972 nor conferred jurisdiction upon the Federal Land Commission to reopen matters that had already attained finality. Jurisdiction must be exercised strictly within the limits prescribed by law, and a statutory authority cannot enlarge the scope of proceedings by assuming powers not conferred upon it.

21. Significantly, even after the commencement of the Suo motu proceedings in 1975, the declarants still did not challenge the validity of the 1972 resumption orders. Thus, for nearly three years following the resumption and for approximately fifteen years during the pendency of the Suo motu inquiry, no grievance whatsoever was raised regarding the legality of the earlier orders. Such prolonged and unexplained inaction is wholly inconsistent with the conduct of a party asserting a subsisting legal right. The Deputy Land Commissioner's report dated 24.04.1990 also remained confined to the question whether any further land was

¹ (Province of Punjab etc. Vs Member FLC etc. 2015 SCMR 1000)

liable to resumption and did not recommend or authorize reopening of the concluded resumption proceedings. Consequently, neither the pendency nor the culmination of the *Suo motu* proceedings had the effect of reviving a cause of action that had long since become extinct.

22. The impugned order dated 22.08.1996 unmistakably demonstrates that the Chairman, Federal Land Commission, travelled beyond the questions that legitimately arose in the *suo motu* proceedings. Instead of confining himself to determining whether additional land was available for resumption, he proceeded to reconsider the correctness of the resumption orders passed in 1972, although neither the validity of those orders nor any prayer for setting them aside formed part of the proceedings prior to this forum. It is a settled proposition that a statutory tribunal/forum cannot assume jurisdiction over matters not placed before it or travel beyond the scope of the reference or proceedings from which its jurisdiction originates. An order passed in excess of jurisdiction is a nullity in the eyes of law, irrespective of the merits of the conclusions recorded therein.

23. Equally untenable is the very foundation upon which the order dated 22.08.1996 rests. The Chairman, Federal Land Commission proceeded on the assumption that Mst. Hashmat Habib ur Rehman was merely a *benamidar* of her husband and that the lands ostensibly standing in her name, in fact, belonged to him. Such an assumption was wholly impermissible in law. The record reveals that this very contention had been specifically examined and rejected by the competent revenue authorities while deciding the land reforms proceedings in 1972. Upon due scrutiny of the evidence and the declarations submitted under the Land Reforms Regulation, the competent authorities treated Mst. Hashmat Habib ur Rehman as the owner of the land standing in her name and, on that basis, determined her surplus area and ordered resumption accordingly. Those findings, having remained unchallenged, attained finality and became conclusive between the parties. It is a settled principle that findings of fact recorded by a competent statutory forum, if allowed to attain finality, cannot subsequently be ignored or contradicted by another authority

exercising limited statutory jurisdiction. The Chairman, Federal Land Commission was not sitting in appeal over the orders passed in 1972, nor was he vested with any power of review to reassess the evidence or substitute his own conclusions on questions already finally determined. In the absence of express statutory authority, he could not reopen concluded findings merely because he entertained a different perception of the factual position.

24. Moreover, the version of *benami* ownership is not a matter capable of being presumed or inferred on conjecture. Whether a transaction is *benami* is a mixed question of law and fact requiring determination on the basis of cogent evidence. Such a declaration can only be rendered by a court or forum possessing the requisite jurisdiction after affording the parties an opportunity to lead evidence and contest the claim. Admittedly, no competent Civil Court, nor any other judicial forum, ever declared that Mst. Hashmat Habib ur Rehman was merely a *benamidar* of her husband or that the beneficial ownership vested elsewhere. Equally, there exists no judicial determination displacing her legal title or recognizing any separate beneficial ownership in favour of her husband.

25. In these circumstances, the Chairman, Federal Land Commission could not, by a mere administrative assumption, overturn findings that had attained conclusiveness decades earlier. The order dated 22-08-1996, insofar as it proceeds upon the premise that Mst. Hashmat Habib ur Rehman was only a *benamidar*, is founded upon a factual and legal proposition that had neither been established before a competent forum nor survived the final adjudication rendered in 1972. Such an approach amounts to substituting speculation for adjudication and is wholly inconsistent with the settled principles governing finality of judicial and quasi-judicial determinations. Consequently, the very premise upon which the order has been built is legally unsustainable, rendering the conclusions drawn therefrom equally without lawful authority.

26. It is an admitted and undisputed position on the record that the appellants had been in cultivating possession of the disputed

land as tenants since Kharif 1971, a fact duly reflected in the contemporaneous revenue record. Upon the resumption of the land under the Land Reforms Regulation, 1972 (MLR No.115), their status did not come to an end; rather, they continued in possession as Government tenants under the statutory scheme governing resumed land. Their possession was, therefore, not merely de facto but was recognized and protected by law. The Land Reforms Regulation was enacted with the avowed objective of dismantling concentration of land ownership and advancing agrarian reforms by securing the interests of cultivating tenants. The statutory protection extended to such tenants was intended to translate actual cultivation into a preferential right of allotment, thereby fulfilling the socio-economic objectives underlying the legislation. Once the land stood validly resumed and vested in the Government, the legal relationship between the former landowner and the tenants came to an end, and the rights of the cultivating tenants thereafter flowed exclusively from the statutory framework governing resumed land. Their entitlement to be considered for allotment was not a matter of executive grace or administrative discretion but constituted a valuable statutory right accruing by virtue of their continuous cultivation and recognized tenancy.

27. In the instant case, the allotment of the very resumed land, or land in substitution thereof, in favour of respondents No. 3 to 5 pursuant to the order dated 22.08.1996 directly prejudiced the appellants' accrued statutory rights. Since we have already held that the Chairman, Federal Land Commission lacked jurisdiction to reopen the concluded resumption proceedings and to direct restoration or alternate allotment in favour of the declarants or their successors, every consequential action taken in implementation of that order is rendered devoid of legal foundation. The respondents could not derive a better title from an order which itself was without lawful authority, for it is a settled principle that when the foundation falls, the superstructure built upon it must necessarily collapse (*sublato fundamento cadit opus*). Accordingly, the statutory rights of the appellants, having accrued upon the lawful resumption of the land and their continued status as Government tenants, could not be lawfully displaced by an allotment made pursuant to an order passed *coram non judice*. Any

such allotment is incapable of defeating the appellants' preferential entitlement under the Land Reforms Regulation and cannot be sustained in the eye of law.

28. We have also taken note of another significant legal infirmity which goes to the very maintainability of the proceedings before the Chairman, Federal Land Commission. The petition, styled as a revision, was admittedly instituted after an extraordinary and unexplained lapse of time. The resumption orders had attained finality in 1972, whereas the matter was sought to be reopened only after several years, without any satisfactory explanation for such prolonged inaction. The proceedings were, therefore, *ex facie* barred by limitation. It is a settled principle of law that where a statute creates a special forum and simultaneously prescribes a period of limitation for invoking its jurisdiction, the authority constituted thereunder is bound by the statutory framework and cannot assume powers not expressly conferred upon it. Limitation, in such cases, is not a mere rule of procedure but goes to the very exercise of jurisdiction. Unless the statute expressly authorizes extension or condonation of delay, the authority lacks competence to entertain a petition instituted beyond the prescribed period. The power to condone delay is not an inherent power; it must emanate from the statute itself and cannot be assumed on equitable or discretionary considerations.

29. The Land Reforms Regulation 1972, being a special law, constitutes a self-contained code regulating the rights, liabilities and remedies of the parties. Neither the provisions of the Regulation nor the rules framed thereunder confer any general power upon the Chairman, Federal Land Commission to condone an inordinate delay in preferring a revision or to revive proceedings that had long since attained finality. Consequently, the assumption of jurisdiction over a despondently time-barred petition was itself without lawful authority, rendering the entire exercise legally unsustainable. Another substantial question raised by the learned counsel for the appellants also merits careful examination, namely, whether the Chairman, Federal Land Commission, acting singly, was competent under the Land Reforms Regulation to entertain and decide a matter involving

concluded resumption proceedings after such an extraordinary lapse of time. Since this question directly concerns the jurisdiction and composition of the authority competent to exercise revisional powers under the Regulation, it requires an examination of the relevant statutory provisions. For a proper appreciation of the issue, paragraph 29 of the Land Reforms Regulation, 1972 (MLR No.115) is reproduced hereunder:

“[29. Revisional powers of the Federal Government.– The Federal Government, or any person authorized by it in that behalf, may at any time, of its or his own motion or otherwise, call for the record of any case or proceedings under this Regulation which is pending or in which a Commission or any other authority appointed under this Regulation, other than the Federal Land Commission constituted under paragraph 4–A, has passed an order, for the purpose of satisfying itself or himself about the correctness, legality or propriety of such an order, and may pass such order in relation thereto as the Federal Government or, as the case may be, such person thinks fit:

Provided that the Federal Government may, from time to time, specify the cases or class of cases in which it desires to pass final orders:

Provided further that no order shall be passed under this paragraph revising or modifying an order affecting any person unless such person has been afforded an opportunity of being heard:

Provided further that the record of any case or proceedings in which a Commission or other authority has passed an order shall not be called for under this paragraph by the Federal Government or the person authorized by it–

(a) of its or his own motion, after the [31st day of March, 1976] or

(b) on the application of any aggrieved person made after the expiration of sixty days from the date of such order or from the enactment of the Land Reforms (Amendment) Act, 1973, whichever is later, excluding the time requisite for obtaining a copy of such order.]”

30. A textual reading of paragraph 29 of the Land Reforms Regulation, 1972 (MLR No.115) clearly indicates that the revisional jurisdiction conferred thereunder is neither absolute nor unbridled. The substantive provision is expressly circumscribed by the three provisos appended thereto, which define both the scope and the temporal limits of the revisional power. These provisos are not merely procedural in character but constitute substantive restrictions upon the exercise of jurisdiction, and any action taken in disregard thereof is rendered without lawful authority. The first proviso empowers the Federal Government to specify the cases or classes of cases in respect whereof the revisional jurisdiction may be exercised. The second proviso embodies the fundamental

principle of *audi alteram partem* by prohibiting any modification or reversal of an order affecting the rights of a party unless such party has first been afforded a reasonable opportunity of being heard. The third proviso, however, assumes decisive significance in the present controversy. It places an absolute embargo upon the exercise of *Suo motu* revisional jurisdiction after 30 November 1976. More importantly, it further provides that where the revisional jurisdiction is invoked at the instance of a party, such jurisdiction can only be exercised if the revision is preferred within sixty days of the order sought to be revised or from the commencement of the Land Reforms (Amendment) Act, 1973, whichever is later, subject only to the exclusion of the period consumed in obtaining a certified copy of the impugned order. The legislative intent is manifest: the power of revision was designed to be exercised within a strictly defined period so that proceedings under the land reforms laws attain certainty and finality. The scope and effect of paragraph 29 have been explained by Supreme Court in *Government of N.W.F.P case*.² The decision thus recognizes that the expiry of the statutory period extinguishes not merely the remedy of the aggrieved party but also the very jurisdiction of the revisional authority to entertain the matter.

31. Applying the above principles to the facts of the present case, it becomes abundantly clear that the proceedings culminating in the order dated 22.08.1996 were wholly incompetent. The last effective order against the predecessor-in-interest of respondents No. 3 to 5 had been passed by the competent appellate authority in 1972. That order remained unquestioned within the period prescribed under paragraph 29 and consequently attained finality. Once the statutory period of limitation expired, the revisional jurisdiction under paragraph 29 stood exhausted and became incapable of invocation. The Chairman, Federal Land Commission, therefore, could not, after the lapse of nearly two decades, assume jurisdiction to reopen a matter that had long since become final. Such an exercise was plainly contrary to the express mandate of the Regulation and in direct conflict with the law declared by Supreme Court in *Government of N.W.F.P case ibid*.

² *Government of N.W.F.P. v. Federation of Pakistan* (1998 SCMR 36).

32. There is yet another jurisdictional defect which strikes at the validity of the order dated 22-08-1996. Even assuming, for the sake of argument, that the revisional jurisdiction under paragraph 29 of the Land Reforms Regulation, 1972 (MLR No.115) could still be invoked, the matter could not have been decided by the Chairman, Federal Land Commission, sitting alone. The statutory scheme unmistakably contemplates that the revisional jurisdiction delegated by the Federal Government is to be exercised by the Federal Land Commission as duly constituted under the Regulation and not by its chairman acting in his individual capacity.

33. Paragraph 4-A of MLR No.115 provides for the constitution of the Federal Land Commission and stipulates that it shall consist of the Federal Minister for Law, nominated by the Federal Government as its Chairman, together with not more than three other members. The language employed by the legislature is of considerable significance. The delegatee of the Federal Government is the Federal Land Commission as a statutory body, and not the Chairman alone. The Chairman is merely the presiding functionary of the Commission and cannot be equated with the Commission itself. Had the legislature intended to confer independent adjudicatory powers upon the Chairman, it would have employed express language to that effect. No such authority can be gathered either from paragraph 4-A or from paragraph 29 of the Regulation.

34. The provisions of paragraphs 4-A and 29, when read harmoniously, unmistakably demonstrate that the revisional powers vested in the Federal Government, when delegated, are exercisable by the Commission acting as a collective statutory body. The Chairman, acting singly, cannot assume the jurisdiction of the Commission in the absence of an express statutory provision authorizing him to do so. It is a settled canon of interpretation that where a statute creates a multi-member tribunal or commission to discharge judicial or quasi-judicial functions, the powers so conferred must ordinarily be exercised by the body constituted under the statute and not by one of its members acting individually, unless the statute expressly provides otherwise. Any contrary interpretation would amount to rewriting the statutory

scheme and defeating the legislative intent underlying the constitution of a collegial decision-making body.

35. Viewed from every conceivable angle, therefore, the order passed by FLC dated 22.08.1996 is vitiated by multiple jurisdictional defects. Firstly, the purported revision was hopelessly barred by limitation under the third proviso to paragraph 29 of the Land Reforms Regulation, 1972, whereby the statutory jurisdiction to entertain a revision at the instance of a party ceased upon the expiry of the prescribed period. Secondly, the Chairman, Federal Land Commission lacked authority to revive a jurisdiction which had already become extinct by operation of law. Thirdly, and independently, the Chairman, acting singly, was incompetent to exercise the revisional jurisdiction vested in the Federal Land Commission as a statutory body constituted under paragraph 4-A of MLR No.115.

36. The cumulative effect of these defects is that the Chairman assumed a jurisdiction which the statute neither preserved nor conferred. It is trite that jurisdiction cannot be acquired by consent, waiver, acquiescence or equitable considerations; it must emanate solely from the statute creating the authority. Where the assumption of jurisdiction itself is contrary to the express provisions of law, every consequential order is rendered coram non judice, void ab initio, and incapable of creating, extinguishing or altering legal rights. Since the order dated 22.08.1996 was passed by an authority lacking both temporal jurisdiction under paragraph 29 and institutional competence under paragraph 4-A of the Regulation, it is without lawful authority, of no legal effect, and liable to be set aside even on this ground alone.

37. There is yet another fundamental infirmity which renders the order dated 22.08.1996 legally unsustainable. The Federal Land Commission proceeded to direct allotment of the disputed land in favour of respondents No. 3 to 5 without issuing notice to, or affording an opportunity of hearing to, the present appellants, notwithstanding that they had been in continuous cultivating possession of the land since Kharif 1971 and were Government tenants after its resumption under the Land Reforms Regulation,

1972. The order directly affected their existing possession and their accrued statutory right to be considered for allotment of the resumed land. It was, therefore, incumbent upon the Commission to implead the appellants and provide them a meaningful opportunity to contest the claim before passing any order prejudicial to their rights. The failure to do so constitutes a patent violation of the principles of natural justice and, on that ground alone, vitiates the entire proceedings.

38. The doctrine of *audi alteram partem*, literally meaning "hear the other side", is one of the cardinal principles of natural justice and forms an indispensable component of every judicial, quasi-judicial and administrative process affecting civil rights. The principle mandates that no person shall be condemned, deprived of his rights or prejudicially affected without prior notice of the case against him and an effective opportunity of being heard. Unless expressly excluded by statute, this requirement is read into every law as an implied safeguard against arbitrary exercise of power. Equally fundamental is the allied maxim *nemo judex in causa sua*, which requires that the decision-maker act fairly, impartially and free from any appearance of bias. Together, these principles ensure that the exercise of public power conforms to fairness, transparency and the rule of law. The importance of the rule of fair hearing has repeatedly been recognized by constitutional courts across jurisdictions. Mr. Justice Frankfurter eloquently observed³:

"Audi alteram partem--hear the other side!--a demand made insistently through the centuries, is now a command, spoken with the voice of the Due Process Clause of the Fourteenth Amendment, against state governments, and every branch of them--executive, legislative, and judicial--whenever any individual, however lowly and unfortunate, asserts a legal claim. It is beside the point that the claim may turn out not to be meritorious. It is beside the point that delay in the enforcement of the law may be entailed."

39. Likewise, the Supreme Court of the United States⁴ held that the minimum requirement of due process is that any deprivation of life, liberty or property must be preceded by notice and an opportunity of hearing appropriate to the nature of the case.

³ (*Caritativo v. California* (357 U.S. 549 (1958)))

⁴ ((*Mullane v. Central Hanover Bank & Trust Co.* (339 U.S. 306 (1950)))

40. The jurisprudence settled by Supreme Court of Pakistan is fully consistent with these universally accepted principles. In *University of Dacca through Vice Chancellor case*⁵ the Court held that even where a statute is silent, the elementary requirements of fairness demand that a person likely to be affected must be apprised of the allegations against him and afforded a fair opportunity to explain, contradict or controvert any material adverse to his interest. Likewise, in *Mrs. Anisa Rehman case*⁶ it was held that the maxim *audi alteram partem* applies not only to judicial proceedings but equally to administrative and quasi-judicial actions and shall be read into every statute unless expressly excluded by legislative command.

41. These principles have now acquired constitutional status in Pakistan. Article 10-A of the Constitution⁷ guarantees to every person the fundamental right to a fair trial and due process, while Article 4⁸ secures the inalienable right of every individual to be dealt with strictly in accordance with law, and Article 25⁹ mandates equality before law and equal protection of law. These constitutional guarantees are not confined to proceedings before regular courts but extend equally to adjudications undertaken by statutory tribunals, administrative authorities and quasi-judicial bodies whenever their decisions affect the civil rights or legitimate interests of individuals. Consequently, any order passed in violation of these constitutional and legal safeguards is rendered constitutionally infirm.

42. In the instant case, the impugned order not only deprived the appellants of their continued possession but also defeated their accrued statutory right to be considered for allotment of the resumed land. Yet, the appellants were never impleaded as parties, no notice was issued to them, and no opportunity was afforded to contest the claim advanced by respondents No. 3 to 5. The Federal Land Commission thus determined valuable civil rights behind the

⁵ (*University of Dacca through Vice Chancellor v. Zakir Ahmed* (PLD 1965 SC 90),

⁶ (*Mrs. Anisa Rehman v. P.I.A.C.* (1994 SCMR 2232),

⁷ (Article 10A, Constitution of the Islamic Republic of Pakistan, 1973 (inserted through the Constitution (Eighteenth Amendment) Act, 2010 (Act X of 2010), section 5)

⁸ (Article 4, Constitution of the Islamic Republic of Pakistan, 1973.)

⁹(Article 25, Constitution of the Islamic Republic of Pakistan, 1973.)

back of the very persons whose interests stood directly affected. Such a course of action is wholly incompatible with the elementary requirements of fairness and due process and cannot receive judicial approval.

43. It is by now a settled proposition that a decision rendered in violation of the principles of natural justice is no decision in the eye of law. Where an authority proceeds to determine rights without affording an effective opportunity of hearing to the affected persons, the resultant order stands vitiated irrespective of the merits of the controversy. Fair hearing is not an empty formality but a substantive safeguard intended to ensure that justice is not only done but manifestly seen to be done.

44. Since the appellants were condemned unheard and deprived of valuable statutory rights without notice or opportunity of hearing, the proceedings before the Federal Land Commission suffer from a fatal procedural illegality. The order dated 22.08.1996, having been passed in flagrant disregard of the constitutional guarantees contained in Articles 4, 10-A and 25 of the Constitution and the settled principles of *audi alteram partem*, cannot be sustained. It is, therefore, liable to be declared void, without lawful authority and of no legal effect on this ground as well.

45. Having examined the impugned judgment of the learned High Court in the light of the record and the applicable legal principles, we are persuaded to hold that the writ petition preferred by the appellants was dismissed upon an unduly narrow and technical approach to the question of locus standi, without adverting to the real controversy involved. The learned High Court appears to have confined its inquiry to the formal question of whether the appellants possessed a legally enforceable title to the land, while overlooking the undisputed fact that they had been in cultivating possession of the resumed land since Kharif 1971, had continued thereafter as Government tenants, and had acquired valuable statutory rights under the Land Reforms Regulation, 1972. Such rights were directly and substantially prejudiced by the

order dated 22.08.1996, thereby conferring upon the appellants a clear and undeniable legal interest to question its validity.

46. It is by now a settled principle that locus standi is not to be determined on the basis of a narrow or technical formula but with reference to whether the impugned action has adversely affected the legal rights, lawful interests or legitimate expectations of the person invoking the constitutional jurisdiction of the Court. Where an administrative or quasi-judicial order operates to divest a person of an accrued statutory right or otherwise prejudicially affects his civil consequences, such person cannot be denied access to judicial review merely because he is not the direct beneficiary or addressee of the impugned order. Constitutional jurisdiction exists to prevent unlawful exercise of statutory power and to protect persons whose legal rights stand infringed thereby. The learned High Court also failed to appreciate the legal consequences flowing from the finality of the resumption proceedings concluded in 1972. Those proceedings had attained conclusiveness decades earlier and could not lawfully be reopened by the Chairman, Federal Land Commission in the absence of statutory authority. Likewise, the High Court overlooked the fact that no competent judicial forum had ever declared Mst. Hashmat Habib ur Rehman to be a benamidar of her husband, nor was there any adjudication displacing the findings recorded by the competent authorities under the Land Reforms Regulation. The assumption of a benami arrangement, which formed the very basis of the impugned order, was therefore wholly unsupported by any judicial determination and could not legally justify reopening settled proceedings. Equally significant is the failure of the learned High Court to consider the accrued statutory rights of the appellants as Government tenants in possession of the resumed land. The impugned order dated 22.08.1996, passed without notice to the appellants and in violation of the principles of natural justice, directly impaired those rights by directing allotment of the land in favour of respondents No. 3 to 5. These were substantial legal issues going to the root of the matter, yet they remained unaddressed in the impugned judgment.

47. In these circumstances, we are constrained to hold that the learned High Court misdirected itself both on facts and in law. By adopting an unduly restrictive view of the appellants' locus standi and by failing to examine the jurisdictional infirmities attending the order of the Federal Land Commission, the finality of the resumption proceedings, the absence of any lawful basis for the plea of benami, and the vested statutory rights of the appellants, the learned High Court committed a manifest error of law.

48. The cumulative effect of the foregoing discussion admits of only one irresistible conclusion: the order dated 22.08.1996, passed by the Chairman, Federal Land Commission, purporting to reopen the resumption proceedings that had attained finality in 1972 and directing the allotment of 535 kanals and 4 marlas of land situated in Village Haleem Khichi, Tehsil Mailsi, District Vehari, in favour of respondents No. 3 to 5, was wholly without jurisdiction, without lawful authority, and incapable of being sustained in law. The impugned order is vitiated by a series of jurisdictional and procedural defects of a fundamental nature. It sought to reopen proceedings that had attained finality decades earlier, contrary to the settled doctrine of finality of litigation; it proceeded on assumptions directly inconsistent with the findings and determinations already recorded by the competent authorities, which had attained conclusiveness; it entertained and allowed a revision that was hopelessly barred by limitation in disregard of paragraph 29 of the Land Reforms Regulation, 1972 (MLR No. 115); it was rendered by the Chairman acting singly despite the absence of any statutory authority empowering him to exercise the revisional jurisdiction vested in the Federal Land Commission; and, most significantly, it was passed in patent violation of the principles of natural justice by divesting the appellants of their vested and accrued rights as Government tenants without issuing notice to them or affording them an opportunity of hearing. The order is, therefore, tainted by jurisdictional error, illegality, procedural impropriety, and denial of due process. Each of these defects is independently sufficient to invalidate the impugned order; taken cumulatively, they admit of only one conclusion—that the order dated 22.08.1996 is void, without legal effect, and liable to be set aside.

49. For the foregoing reasons, these civil appeals are allowed. The judgments of the Lahore High Court dated 09.10.2008 and 28.01.2008, as well as the order of the Chairman, Federal Land Commission dated 22.08.1996 and the consequential mutation No.590 dated 29-10-1996 are set aside. The legal position shall, therefore, revert to that which existed immediately prior to the issuance of the order dated 22-08-1996 passed by the Chairman Federal Land Commission. The rights of the appellants as tenants under the Land Reforms Regulation, 1972 shall remain protected and their entitlement for allotment shall be considered strictly in accordance with law by the competent authority/ forum. All pending miscellaneous applications shall stand disposed of accordingly. There shall be no order as to costs.

CHIEF JUSTICE

JUDGE

Announced in Open Court at Islamabad on 21/07/2026.

RajaAhsan/-

Approved for reporting