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

Present:
JUSTICE AMIN-UD-DIN KHAN, CHIEF JUSTICE
JUSTICE ALI BAQAR NAJAFI

C.P.L.A.5182/2024
[against the judgment dated 11.09.2024 passed by the Peshawar High Court, Peshawar in W.P. No.4361-P/2021 with IR]

M/s Adil International (Pvt.) Ltd. ***...Petitioner(s)***

Versus

The Secretary Industries, Commerce & Technical Education Department, Khyber Pakhtunkhwa and others. ***...Respondent(s)***

For the Petitioner(s)	:	Mr. Muhammad Munir Paracha, ASC Mr. Abdul Sattar Khan, ASC Syeda B.H. Shah, AOR
For the Respondent(s)	:	Mr. Muzamil Khan, Addl. AG Mr. Waqar Muhammad, A.D (L)
Research Assistance by	:	Dr. Muhammad Mumtaz, *Research Officer*
Date of Hearing	:	09.06.2026

JUDGMENT

AMIN-UD-DIN KHAN, CJ.- The case in hand emanates from a petition 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 judgment dated 11-09-2024 rendered by a learned Peshawar High Court in Constitutional Petition No.4361-P of 2021. Through the impugned judgment, the learned High Court, while exercising its constitutional jurisdiction, dismissed the constitutional petition preferred by the petitioner. 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 gist of the dispute is that the petitioner company purchased the assets of Adamjee Papers & Board Mills through a court-supervised auction in 2000 for Rs. 220 million, free from all encumbrances. As the factory had become unusable, the company dismantled the structure after obtaining necessary approvals and sought conversion of the land into a housing scheme. When the authorities refused to grant the required NOC, the petitioner successfully obtained orders from the High Court and the Supreme Court directing the authorities to consider and issue the NOC. Eventually, the NOC was granted, and the petitioner developed the housing scheme, sold plots, and construction commenced. Subsequently, certain government authorities issued directions restricting the use and transfer of the land, leading to refusal of registration and attestation of sale deeds. The petitioner challenged these actions through W.P. No. 4361-P/2021, seeking declarations that the impugned actions were unlawful and directions for registration of sale transactions. However, vide judgment dated 11.09.2024, the High Court dismissed the writ petition, prompting the petitioner to seek leave to appeal.

3. Being aggrieved by, and dissatisfied with, the impugned judgment dated 11.09.2024, the petitioner has invoked the jurisdiction of this Court through the instant Petition for Leave to Appeal.

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

5. Land acquisition is the legal process by which the State compulsorily takes private land for a public purpose in exchange for compensation. In Pakistan's legal lexicon it is the statutory expression of the doctrine of Eminent Domain — the sovereign prerogative of the State to appropriate private property for the greater public good, subject to conditions imposed by law. The law relating to land acquisition in Pakistan is primarily governed by the Land Acquisition Act, 1894 (hereinafter referred to as “the Act”).

This statute, enacted during the British colonial era on 2nd February 1894, continues to be the operating law in Pakistan subject to provincial amendments.

6. The core issue falling for determination before us is whether land acquired pursuant to a notification issued under Section 4 of the Land Acquisition Act, 1894[1] for a specific public purpose, can subsequently be converted and utilized for a purpose other than the one for which it was acquired. When the State exercises its sovereign power of compulsory acquisition to take private land for a declared public purpose, a fundamental constitutional question arises: is that purpose binding upon the State, or may the State thereafter divert the land to a different use — or even retain it indefinitely after the original purpose has been fulfilled? This memorandum addresses three core questions: (i) whether acquired land may be redirected to a different public purpose; (ii) whether it may be converted to a private or commercial purpose; and (iii) whether unused or surplus land must be returned to the original owner.

7. The record reveals that land measuring 1020 Kanals and 19 Marlas situated in Mohal Amangarh, Nowshera Khurd, Tehsil Nowshera, was acquired under the provisions of the Land Acquisition Act, 1894, for the establishment of Board/Paper Mills. In pursuance thereof, an agreement dated 16.10.1954 was executed between the Provincial Government and the beneficiary company in terms of Section 41 of “the Act”, whereby the company expressly covenanted that the land so acquired would be utilized exclusively for the construction and operation of Board/Paper Mills and that no part thereof would be used, transferred or otherwise dealt with for any purpose foreign to the object of acquisition without obtaining the previous consent of the Provincial Government. It was further stipulated that, in the event the Government formed an opinion that any portion of the acquired land had become surplus to the requirements of the company or had been put to a use inconsistent with the purpose for which it was acquired, such land would be liable to resumption by the

[1] (Land Acquisition Act 1894 (Pak.), ss. 4–6.),

Government and restoration to the original owners upon payment in accordance with law. The aforesaid agreement was executed pursuant to Section 41 of “the Act”), a pre-partition enactment which, with provincial adaptations and amendments, continues to constitute the principal legislative framework governing compulsory acquisition of land for public purposes as well as acquisitions made on behalf of companies. Section 41 forms part of Chapter VII of the Act, captioned “Acquisition of Land for Companies” (Sections 38 to 44), and confers statutory recognition upon the agreement required to be executed between the Provincial Government and the beneficiary company before the acquired land can be transferred to the latter. The legislative scheme underlying Part VII manifests a clear intention that land procured through the sovereign power of eminent domain for the benefit of a company remains impressed with the public purpose for which acquisition was sanctioned and cannot be diverted or alienated in derogation of the terms embodied in the statutory agreement.

8. A plain reading of the agreement dated 16-10-1954 leaves no manner of doubt that the land in question remained impressed with the public purpose for which it had been acquired and that the beneficiary company had unequivocally accepted the conditions and restrictions governing its use and enjoyment. The avowed object of the Land Acquisition Act, 1894, is to facilitate the compulsory acquisition of land for public purposes. Section 4 of the Act empowers the Government to signify its intention to acquire any land where such acquisition is considered necessary for a public purpose. The expression “public purpose” lies at the heart of the statutory scheme and constitutes the juridical foundation upon which the exercise of the power of eminent domain rests. In *Black’s Law Dictionary,*[2] the term “public purpose” has been defined as follows:

> *“Promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents within a given political division.”*

Thus, the essence of a public purpose lies in the existence of a tangible public benefit or utility and not in the advancement of

[2] Black’s Law Dictionary (5th Edition),

private or commercial interests. The extraordinary power of compulsory acquisition being an exception to the ordinary rights of private ownership, must be exercised strictly in furtherance of a genuine public purpose, for it is the existence of such purpose which furnishes the constitutional and legal justification for depriving a citizen of his property.

9. The constitutional scheme envisages a delicate balance between the property rights of citizens and the sovereign power of the State to regulate and acquire property for public purposes. It is a cardinal constitutional principle that the Constitution occupies a position of normative supremacy and that all laws, customs and usages deriving the force of law are subordinate thereto. Article 8(1) of the Constitution of the Islamic Republic of Pakistan, 1973, unequivocally postulates that any law, or any custom or usage having the force of law, insofar as it is inconsistent with the fundamental rights guaranteed under Chapter I of Part II of the Constitution, shall, to the extent of such inconsistency, be void and of no legal effect. The constitutional command embodied in Article 8(1) thus operates as a limitation upon legislative and executive power alike and ensures that no legal norm, whether statutory or customary, can survive if it transgresses or abridges the rights and freedoms guaranteed by the Constitution. Consequently, every law must be construed and applied in a manner consistent with the fundamental rights enshrined in the Constitution, and where an irreconcilable inconsistency arises, the Constitution must prevail and the offending provision must yield to its supremacy. Amongst such rights, the right to property is guaranteed under Article 23, whereby every citizen is entitled to acquire, hold and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest. It is, however, equally well settled that the right to property, though recognized as a fundamental right, is not absolute in character. The constitutional guarantee embodied in Articles 23 and 24 is itself qualified by considerations of public interest and public purpose. The acquisition of private property by the State for public use is founded upon the doctrine of eminent domain, an attribute

inherent in sovereignty, which authorizes the compulsory divestment of proprietary rights for the common good, subject to the requirements of legality and compensation. Article 24(2) of the Constitution of the Islamic Republic of Pakistan, 1973, embodies a constitutional limitation upon the sovereign power of eminent domain and permits compulsory acquisition or taking possession of private property only for a public purpose and upon payment of compensation in the manner prescribed by law. The constitutional safeguard reflects the settled principle that although the State possesses the inherent authority to appropriate private property in furtherance of the common good, the exercise of such power is circumscribed by the twin requirements of public purpose and compensation. For facility of reference, Article 24(2) of the Constitution is reproduced hereunder:

> *"2. No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefor and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given.".*

10. The purpose declared in the acquisition notification is not a mere formality — it is the constitutional justification for overriding a citizen's fundamental property right. The public purpose requirement is a substantive limitation: if the purpose stated is fictitious, abandoned, or materially changed, the acquisition itself loses its constitutional foundation. The expression used in Pakistan's jurisprudence — 'acquisition' — is equivalent to the Anglo-American concept of 'compulsory purchase' or the Roman-law-derived doctrine of eminent domain (dominium eminens). The power of the State to compulsorily acquire private property for the attainment of a public purpose is a doctrine of ancient origin, firmly embedded in legal jurisprudence and universally recognized in modern constitutional systems. Theoretically, the doctrine rests upon the sovereign authority of the State to appropriate private property for the public good, even in the absence of the consent of its owner. This sovereign prerogative, commonly described as the power of *eminent domain*, finds its philosophical foundation in the maxim *salus populi suprema lex*—the welfare of the people is the supreme law.—and the principle *necessitas publica major est quam*

privata—public necessity prevails over private necessity. These concepts may be traced to the writings of Marcus Tullius Cicero (106–43 BCE) in *De Legibus* and were subsequently articulated by Hugo Grotius in his seminal treatise *De Jure Belli ac Pacis*(1625).[3]

11. The exercise of the power of eminent domain, however, is not unbridled. It is conditioned by two indispensable limitations. Firstly, the acquisition must be justified by a genuine and compelling public purpose, reflecting the dictates of public necessity; and secondly, it must be accompanied by the payment of fair and lawful compensation to the owner whose property rights stand divested. Thus, although the State may, in furtherance of collective welfare, curtail an individual's right to property, such deprivation must be founded upon a bona fide public purpose. The doctrine of legitimate expectation further reinforces this: the original owner is entitled to rely on the State's declared purpose, and any material deviation would amount to terms and conditions of agreement under section 41 of the Act.

12. Although we have no hesitation to observe that the acquisition of land under the Act being an exercise of the sovereign power of eminent domain but the deprivation of private property can only be justified on the touchstone of public purpose. Consequently, once land is acquired for a specified object, the same cannot ordinarily be diverted to another purpose at the whims of the beneficiary or its successor-in-interest. This is the most constitutionally serious scenario and admits of no justification under the legal frame work. If the State acquires land for, say, a public hospital and subsequently transfers or leases it to a private developer or for commercial purpose, the constitutional foundation of the original acquisition is destroyed retroactively. This amounts to an indirect expropriation in favour of private interests — a result that Article 24 of the Constitution categorically prohibits.

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[3] *Marcus Tullius Cicero, De Legibus, Book III, §8, in De Re Publica; De Legibus, translated by Clinton W. Keyes, Loeb Classical Library No. 213 (Harvard University Press, 1928), p. 467; Hugo Grotius, De Jure Belli ac Pacis Libri Tres (On the Law of War and Peace), translated by Francis W. Kelsey (Oxford: Clarendon Press, 1925), originally published in 1625, Book II, Chapter XIV, §§7–8.*

13. The Sections 41 and 43-A of “the Act” assume considerable significance. Section 41 accords statutory recognition to the agreement executed between the Government and the beneficiary company, thereby incorporating into the acquisition proceedings the terms and conditions governing the use of the acquired land. Section 43-A, in turn, imposes a statutory embargo upon the transfer, sale, mortgage, lease, or other disposition of such land without the previous sanction of the Provincial Government. These provisions unmistakably evince the legislative intent that land acquired through the coercive process of eminent domain does not stand on the same footing as ordinary commercial property and cannot be diverted, alienated or exploited for purposes alien to the object for which it was acquired. It is equally well settled that the State derives its authority to compulsorily divest a citizen of his property exclusively from the existence of a genuine public purpose. The power to acquire and the corresponding right to retain are, therefore, inseparably linked with the continuance of that purpose. Consequently, where the acquired land is neither utilized for the purpose for which it was acquired nor retained in furtherance thereof—whether because the object of acquisition has been fulfilled, abandoned, rendered impossible or otherwise ceased to exist—the very foundation upon which the State's right to retain the property rests becomes open to serious legal scrutiny. In such circumstances, the doctrine of reversion assumes relevance, for the continued retention of property divested under the coercive authority of law, absent the public necessity which alone justified such divestment, would amount to an arbitrary deprivation of property inconsistent with constitutional guarantees. Indeed, considerations of equity, fairness and good conscience, which constitute integral components of our jurisprudence, as well as the principles of Islamic jurisprudence founded upon justice and the prohibition against unjust enrichment, lend support to the proposition that property acquired for a specified public purpose ought not to be retained or diverted to purposes wholly foreign to the object of acquisition once that purpose has ceased to subsist. In such eventuality, restoration of the property to its original owner

or his lawful successors accords with the demands of justice and the underlying rationale of the law of eminent domain itself.

14. As regards the sanctity and inviolability of private property under Islamic law, it is well settled that the Holy Qur'an unequivocally prohibits the unlawful appropriation and consumption of the wealth and property of others. Allah Almighty commands:

> *"And do not consume one another's wealth unjustly or offer it [in bribery] to the authorities in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]."*[4]

Likewise, the believers are commanded:

> *"O you who believe! Do not consume one another's wealth unjustly, except that it be [in lawful] trade by mutual consent among you; and do not kill yourselves. Surely Allah is Ever Merciful to you."*[5]

15. These Divine injunctions establish that private property enjoys a position of sanctity in Islam and that any deprivation thereof, except in accordance with law and justice, is impermissible. The same principle finds affirmation in the Sunnah of the Holy Prophet Muhammad (peace and blessings be upon him), who declared:

> *"Whoever takes a span of land unjustly shall have seven earths hung round his neck on the Day of Resurrection."*[6]

This Prophetic tradition leaves no manner of doubt that unlawful encroachment upon, or appropriation of, the property of another constitutes a grave transgression attracting accountability before Allah Almighty.

16. The protection of property (Hifz al-Mal) constitutes one of the five indispensable objectives (al-Daruriyyat al-Khams) of the Shariah and forms an integral component of Maqasid al-Shariah. Renowned jurists, including Imam Abu Ishaq al-Shatibi and Imam Abu Hamid al-Ghazali, have consistently maintained that any measure unnecessarily impairing or threatening proprietary rights

[4] Surah Al-Baqarah (2:188)
[5] Surah An-Nisa (4:29),
[6] (Sahih al-Bukhari, Hadith No. 2454).

runs counter to the higher objectives of Islamic law.[7] The protection of wealth and property, therefore, is not merely a matter of private entitlement but a constituent element of public justice and social order. Equally instructive are the juristic maxims incorporated in the Majallat al-Ahkam al-Adliyya, namely, "La darar wa la dirar" (harm shall neither be inflicted nor reciprocated) and "Al-darar yuzal" (harm must be removed).[8] These maxims embody the foundational principle that the law ought neither to countenance the infliction of injury upon individuals nor permit the perpetuation of avoidable harm. Consequently, both the diversion of land acquired under the sovereign power of eminent domain to private or alien purposes and the indefinite retention of land no longer required for the purpose for which it was acquired are inconsistent with these established principles of Islamic jurisprudence.

17. Equally significant is the principle articulated by the eminent jurist Ibn al-Qayyim that "wherever there is Maslahah (public welfare), there lies the Law of Allah."[9] This doctrine recognizes that legal rules are ultimately directed towards the realization and preservation of legitimate public interests. It follows, therefore, that where the public interest or necessity which originally justified compulsory acquisition ceases to exist, whether because the purpose has been accomplished, abandoned, rendered impossible, or diverted to an altogether different object, the juridical basis underpinning the continued retention of such property correspondingly disappears. In such circumstances, the continued deprivation of private property, absent any subsisting public necessity, would be incompatible with the principles of justice, equity and public welfare which constitute the very foundation of Islamic law. Thus, the doctrine of Maslahah, read in conjunction with the objectives of the Shariah and the settled juristic maxims, lends support to the proposition that property acquired in

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[7] (Al-Shatibi, Al-Muwafaqat (Dar Ibn Affan 1997) vol 2, p 38; the five Maqasid include Hifz al-Mal (protection of property).

[8] (Majallat al-Ahkam al-Adliyya (Ottoman Civil Code 1876), Art. 19: 'La darar wa la dirar' — no harm shall be inflicted or reciprocated; Art. 12: 'Al-darar yuzal' — harm is to be eliminated).

[9] (Ibn al-Qayyim, Al-Turuq al-Hukmiyya (Dar al-Kitab al-Arabi 1953) p 17: 'Wherever there is maslahah, there is the law of Allah.' Wahba al-Zuhayli, Al-Fiqh al-Islami wa Adillatuhu (Dar al-Fikr 1989) vol 6, pp 487–492.)

derogation of private ownership can lawfully be retained only so long as the public purpose which justified its acquisition continues to subsist.

18. It therefore follows that land acquired pursuant to a notification issued under Section 4 of the Land Acquisition Act, 1894, for a specified public purpose, cannot, as a matter of right, be converted, diverted or utilized for a purpose other than that for which the sovereign power of eminent domain was originally invoked. Such land remains impressed with and subservient to the public purpose which constituted the very foundation of its acquisition. It is by now well settled that a subsequent purchaser, even one deriving title through a judicial sale, court auction or any other mode of transfer, acquires no higher or better title than that possessed by the original beneficiary and consequently remains bound by all statutory obligations, contractual stipulations and limitations attached to the land. Mere transfer of ownership does not efface the public character of the acquisition, nor does it confer upon the transferee an unfettered or absolute right to alter the nature, character or user of the property. Any change in user, even where otherwise permissible in law, remains subject to the previous sanction of the Provincial Government and to the terms and conditions embodied in the agreement executed under Section 41 of the Act. In the absence of such approval, the acquired land continues to remain burdened with the purpose for which it was originally acquired, and any attempt to divert, alienate or exploit the same for a different purpose would be contrary to the legislative scheme embodied in Part VII of the Act and, therefore, without lawful authority and of no legal effect. To hold otherwise would be to permit private parties to derive windfall gains from land procured through the coercive process of law, thereby defeating the very public purpose which justified the compulsory deprivation of private ownership and undermining the public trust reposed in the State while exercising its power of eminent domain.

19. Undisputedly, in the instant case, the Board/Paper Mills established in the year 1955 ceased commercial operations in or about the year 1990 owing to persistent financial difficulties and

were eventually brought to sale through a public auction conducted in execution of a decree passed by the Banking Court. There can be no cavil with the proposition that, by virtue of such judicial sale, the auction purchaser acquired the Mills together with all assets, appurtenances and proprietary interests lawfully attached thereto. Nevertheless, the acquisition of title through a court-sanctioned auction did not have the effect of effacing or extinguishing the statutory and contractual restrictions governing the user and disposition of the acquired land. The auction purchaser merely stepped into the shoes of the original beneficiary and could not, by reason of such purchase, acquire any higher or superior rights than those possessed by the latter. The doctrine of *nemo dat quod non habet* is attracted with full force in such circumstances, for no person can transfer to another a better title than he himself possesses. Consequently, while the ownership in the Mills and their appurtenant assets may have validly passed to the auction purchaser, the land itself continued to remain impressed with the public purpose for which it had originally been acquired under the Land Acquisition Act, 1894, and remained subject to the terms and conditions embodied in the agreement executed under Section 41 thereof. The judicial sale neither obliterated the character of the acquisition nor conferred upon the purchaser an unrestricted right to alter the nature, character or user of the land in derogation of the statutory scheme. In other words, the change in ownership brought about through execution proceedings affected only the identity of the beneficiary and not the legal incidents and limitations attaching to the acquired property. The auction purchaser, therefore, remained equally bound by the obligations and restrictions which governed the original beneficiary company and could claim no immunity therefrom merely on account of the mode through which title was derived.

20. We therefore observe that a transferee or auction purchaser cannot claim rights inconsistent with the purpose for which the land was originally acquired. Since the original beneficiary company itself was under a legal obligation to utilize the land exclusively for the purpose contemplated by the acquisition and was prohibited from changing its user without prior approval of the

Provincial Government, the auction purchaser remained equally bound by such restrictions. Consequently, the acquisition of the Mills through a public auction did not vest in the petitioner any unfettered, absolute or indefeasible right to alter the nature and character of the acquired land or to convert the industrial undertaking into a housing scheme in derogation of the purpose for which the land was originally acquired. Such conversion is plainly inconsistent with the terms of the notification dated 16.10.1954 and the statutory agreement executed under Section 41 of the Land Acquisition Act, 1894, whereby the land stood dedicated exclusively to the establishment and operation of Board/Paper Mills. The mere fact that title passed through a judicial sale did not have the effect of effacing the conditions and restrictions impressed upon the land, nor did it confer upon the petitioner a licence to employ the property for a purpose wholly alien to the object of acquisition. Any such diversion of user, in the absence of prior sanction of the Provincial Government and in disregard of the statutory framework governing acquisitions for companies, would be contrary to law and incapable of conferring any legal right upon the petitioner. The petitioner, having stepped into the shoes of the original beneficiary, remained bound by the same obligations and limitations to which the latter was subject, and could not, by reason of the auction purchase, claim a superior or enlarged estate inconsistent with the public purpose underlying the acquisition.

21. The rights, if any, acquired by the petitioner were necessarily subject to and circumscribed by the statutory regime envisaged under Sections 41 and 43-A of the Land Acquisition Act, 1894, read conjointly with the terms and conditions embodied in the agreement executed with the Government at the time of acquisition. Such rights could not transcend the limitations inherent in the very scheme under which the land had been compulsorily acquired. Consequently, the petitioner could not assert, as of right, a claim for conversion of the acquired land from its earmarked industrial use to a residential or commercial housing scheme, for any such alteration would strike at the root of,

and ultimately frustrate, the public purpose for which the sovereign power of eminent domain had originally been invoked.

22. We are convinced on the true wisdom of law regarding acquisition of land that the land acquired through the exercise of eminent domain does not assume the character of ordinary private property simpliciter, but continues to remain impressed with the public purpose for which the acquisition was originally sanctioned. The process of compulsory acquisition under sovereign authority constitutes a statutory divestiture of private rights, conditioned fundamentally upon the existence and continuation of a lawful public necessity. The underlying jurisprudential foundation, consistently recognized in both domestic and comparative common law jurisdictions, is that such acquisition is purpose-specific and cannot be construed as an unqualified transfer of proprietary rights capable of free alienation.

23. Within the statutory framework of the Land Acquisition Act, 1894, Section 43-A (as applicable to acquisitions under Part VII) imposes an express and mandatory restraint upon the alienation of land acquired for the benefit of a company. Section 43-A is hereby reproduced as under;

> *"Restrictions on transfer, etc.— No Company for which any land is acquired under this part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise, except with the previous sanction of the provincial Government]".*

The provision categorically stipulates that no such land shall be transferred, sold, leased, mortgaged, or otherwise disposed of without the prior sanction of the Provincial Government. The mandate of the legislature is neither procedural nor directory in nature, but constitutes a substantive precondition governing the legality of any subsequent transaction. The object of the provision is manifestly twofold: firstly, to ensure strict adherence to the declared public purpose forming the basis of acquisition; and secondly, to preclude any possibility of speculative exploitation, profiteering, or diversion of land from its lawful use. Any deviation therefrom, without prior lawful authorization, renders the transaction legally vulnerable and incapable of sustaining judicial scrutiny. This principle is further reinforced by the constitutional guarantee enshrined under Article 24 of the Constitution of the Islamic Republic of Pakistan, 1973, which permits deprivation of property only for a public purpose and subject to the authority of law.

24. A similar interpretative approach has been adopted in comparative jurisprudence, particularly under Section 44-A of the Land Acquisition Act, 1894 (India), wherein the courts have held that governmental approval operates as a condition precedent, the absence of which vitiates the legality of any transfer or disposition.

25. In consequence thereof, any transfer, lease, mortgage, or other disposition effected in contravention of Section 43-A is liable to be treated as legally defective and voidable at the instance of the State, besides being amenable to appropriate injunctive or restorative relief to ensure reversion of the land to its lawful and intended public purpose. It follows, therefore, that land acquired under the coercive power of eminent domain retains an indelible statutory nexus with the object of acquisition, and Section 43-A operates as a substantive safeguard designed to preserve the integrity of public acquisition and to prevent its distortion into private commercial gain.

26. Similarly, Section 41 of the Act, accords statutory force and binding efficacy to the agreement executed between the Government and the beneficiary company, with the terms and conditions incorporated therein continuing to govern and regulate the manner and purpose for which the acquired land may be utilized. The mere cessation of industrial activity as indicated in the instant case, abandonment of the original undertaking, or subsequent transfer of ownership does not operate to extinguish the obligations and restrictions emanating from the agreement, nor does it confer upon the transferee any superior or enlarged rights beyond those which vested in the original beneficiary. A successor-in-interest merely steps into the shoes of the original allottee and remains equally bound by the statutory limitations and contractual covenants governing the acquired property.

27. In view of the foregoing discussion, it inexorably follows that land acquired for a specified public purpose continues to remain impressed with and subservient to the very purpose for which its acquisition was sanctioned. Such land does not lose its public character merely by reason of a subsequent transfer, assignment or judicial sale. Consequently, neither the beneficiary company nor any subsequent transferee, assignee or auction purchaser acquires an unfettered, absolute or indefeasible right to alter, divert or change the user of the acquired land except with the previous sanction of the Provincial Government and strictly in accordance with the terms and conditions embodied in the agreement executed for acquisition of the land under Section 41 of the Land Acquisition Act, 1894. The statutory and contractual obligations attached to the land run with it and remain binding upon all persons claiming through the original beneficiary. Any assertion to the contrary is wholly misconceived, legally unsustainable and devoid of substance, for acceptance of such a proposition would defeat the very public purpose which justified the exercise of the sovereign power of eminent domain and would permit private parties to derive benefits inconsistent with the legislative scheme governing acquisitions for companies.

28. We, therefore, hold that since the land in question was acquired specifically for the establishment of Paper and Board Mills, the petitioner cannot claim, as a vested, absolute or indefeasible right, its conversion into a housing scheme. In the event the Provincial Government forms an opinion that the whole or any part of the land has become surplus to the requirements of the original purpose or is being utilized in a manner inconsistent with the object of acquisition, it shall be at liberty to exercise its powers in accordance with law and the terms and conditions of the agreement dated 16-10-1954 executed under Section 41 of the Land Acquisition Act, 1894.

29. For the reasons recorded above, we are of the considered view that the impugned judgment is free from any illegality, irregularity or jurisdictional infirmity warranting interference by this Court. Consequently, the impugned judgment is maintained

and upheld. The petition, being bereft of merit, is accordingly dismissed. All pending miscellaneous applications, if any, shall stand disposed of in the same terms.

CHIEF JUSTICE

JUDGE

Announced in Open Court at Islamabad on 08/07/2026.

Approved for reporting

RajaAhsan/-