

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

Present:

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

C.R.Ps.8 to 12, 173, 365 to 367, 1147 to 1150/2024

AND

C.P.L.As.263-P, 270 to 281-P/2025

AND

Constitution Petitions.49 and 50/2025

AND

C.P.L.As.952-P to 956-P, 961-P to 967-P/2025

AND

C.M.A.84/2025

[for amendment of pleadings]

*Deputy Commissioner, Nowshera and
others*

...Petitioner(s)

Versus

Akhtar Ullah Khan Khattak and others.

...Respondent(s)

For the Petitioner(s) : Mr. Makhdoom Ali Khan, Sr. ASC
Syed Rifaqat Hussain Shah, AOR
*[in CRP No.173, 365, 367/24, 1147 to
1150/24,*
Mr. Shah Faisal Ilyas, Addl. AG a/w
Mr. Muhammad Noman, SO (Litigation)
Mr. Israr Ahmad, TOR, TMA Babuzai
*[in CRP Nos.173, 365, 367 & 1147-
1150/24 & in CPLA Nos.263-P, 270-P to
281-P of 2025]*
Syed Ali Abbas Kazmi, ASC
Mr. Mudassar Hussain Malik, ASC
[in Const. P. No.49 & 50 of 20-25]

For the Respondent(s) : Mr. Muhammad Yasir Khattak, ASC
[in CRP No.173/24]

Date of Hearing : 14.05.2026

ORDER

C.M.A.84/2025

AMIN-UD-DIN KHAN, CJ.- The instant amendment application has been filed in C.R.P.173/2024, seeking amendment in the pleadings of the review petition directed against the judgment dated 14.12.2023 passed by the Supreme Court of Pakistan.

2. The facts, in brief, are that land situated in different mauzas of Nowshera was acquired by the Government of Pakistan for AFV Range, whereafter the land owners sought enhancement of compensation which was ultimately fixed at Rs. 12,000 per marla and upheld by the Supreme Court. Since the enhanced compensation remained unpaid due to shortage of funds, the Government decided to issue de-notification dated 07.10.2019 in respect of certain land. The said de-notification was challenged before the Peshawar High Court and was set aside vide judgment dated 10.06.2021, while allowing writ petition. The petitioners' challenge before the Supreme Court was dismissed vide consolidated judgment dated 14.12.2023. The present review petition has been filed on the ground that certain material facts and legal aspects escaped consideration while rendering the said judgment, initially filed before the Supreme Court, transferred to this Court after the Constitution (Twenty-seventh Amendment) Act, 2025.

3. Through the instant application, the petitioners seek amendment of the review petition on the ground that owing to inadvertent omission, certain questions of law and grounds arising directly from the impugned judgment could not be specifically pleaded, and that their incorporation is necessary for proper and effective adjudication of the review petition.

4. Learned counsel for the petitioners contended that the proposed amendments seek to specifically raise material questions of law arising from the impugned judgment, particularly the erroneous assumption that possession was taken pursuant to the award, whereas the Federation had remained in possession of the land as lessee since 1955, rendering Sections 36 and 48 of the Land Acquisition Act, 1894 inapplicable. He submitted that the judgment failed to consider the Federation's financial incapacity to satisfy compensation amounting to approximately Rs. 75 billion, attracting the principle of *lex non cogit ad impossibilia*. It was further argued that withdrawal from acquisition was a *bona fide* decision taken in public interest, keeping in view national security, economic stability, and the constitutional obligation to safeguard

public resources. Learned counsel also contended that the private respondents lacked locus standi to challenge the withdrawal notification and that the adverse observations regarding mala fides against the Federation are unsupported by the record and liable to be expunged. On these grounds, he prayed for allowing the amendments and review of the impugned judgment dated 14.12.2023.

5. Learned counsel for the respondents contended that the amendment application is misconceived, as it seeks to introduce new questions of law and fresh factual pleas, thereby fundamentally altering the nature of the review petition at such a belated stage. He submitted that review jurisdiction is confined to correction of an error apparent on the face of the record and cannot be used for rehearing the matter. Learned counsel lastly submitted that the amended prayer itself reflects an attempt to seek substantive final relief through review, which is impermissible in law, and prayed for dismissal of the application in limine.

6. We have heard the learned counsel for the parties and examined the record. Upon due consideration, we are of the view that the instant application merits acceptance. The proposed amendments do not introduce a new cause of action nor alter the fundamental nature of the review petition. Rather, they seek to elaborate and specifically articulate certain questions of law and factual aspects already implicit in the original pleadings and arising directly out of the impugned judgment dated 14.12.2023. A perusal of the proposed amendments shows that the same are primarily clarificatory in nature and intended to assist this Court in effectively adjudicating the controversy. The questions sought to be incorporated, inter alia, concerning the applicability of Sections 36 and 48 of the Land Acquisition Act, 1894, the legal effect of the Federation's possession as lessee since 1955, the issue of financial incapacity, and the challenge to certain adverse observations recorded in the impugned judgment, all stem from the existing record and do not require introduction of any fresh evidence. It is settled that procedural rules are meant to advance the cause of justice and not to thwart adjudication on merits.

7. In order to proceed further we deem it appropriate to refer the basic law regarding the amendment in pleadings. The Order VI, Rule 17 of the Code of Civil Procedure, 1908 is reproduced as under:

“The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.”

8. A plain reading of the aforesaid provision shows that the Court is vested with a wide discretion to allow amendment of pleadings at any stage of the proceedings, provided that such amendment is necessary for determining the real questions in controversy between the parties and is just in nature.

9. The object of the provision is to enable the Court to adjudicate upon the real dispute between the parties and to avoid multiplicity of proceedings on technical grounds. This principle has consistently been recognized in judicial pronouncements, including Ghulam Nabi Vs. Sardar Nazir Ahmed (1985 SCMR 824), wherein it has been held that the power to allow amendment is of wide amplitude and may be exercised at any stage, including even at the appellate or revisional stage before the superior courts, if the ends of justice so require.

10. Thus, the governing principle is that procedural law is handmaid of justice, and amendments necessary for proper adjudication of the real controversy ought to be allowed, subject to the condition that no irreparable prejudice is caused to the opposite party and the nature of the *lis* is not fundamentally altered. The guiding consideration is whether such amendment facilitates adjudication on merits and advances the ends of justice.

11. The jurisdiction to allow amendment is wide and is intended to ensure that technicalities do not impede substantive justice. However, such discretion is to be exercised subject to the condition that the proposed amendment does not change the fundamental nature or complexion of the case, nor causes prejudice to the opposite party which cannot be compensated.

12. Thus, where the proposed amendment is merely clarificatory in nature, is necessary for proper elucidation of the existing pleadings, and does not introduce a new case or alter the core controversy, the same may be allowed even at an advanced stage of the proceedings in order to secure complete and effective adjudication. Where an amendment merely magnifies existing grounds, causes no prejudice to the opposite side, and facilitates complete and effective determination of the matter, the same ought to be allowed in the interest of justice.

13. In the present case, the respondents have full opportunity to controvert the amended pleas and no irreparable prejudice is shown to be caused by allowing the proposed amendments. We are also not persuaded by the objection that the petitioners seek to convert review proceedings into an appeal in disguise. Whether the grounds ultimately fall within the narrow scope of review jurisdiction is a matter to be examined at the stage of hearing of the review petition itself. At this stage, the Court is only concerned with determining whether the proposed amendments are necessary for proper articulation of the controversy and whether they are germane to the existing *lis*. In our considered view, they satisfy this threshold. Consequently, the application for amendment is allowed. The review petition shall stand amended in terms of the proposed amendments, subject to all just exceptions to be considered at the time of final hearing of the review petition.

CHIEF JUSTICE

JUDGE

Islamabad,
14.05.2026
Approved For Reporting
Dr.Mumtaz/-