

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

**Present:**

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

**Civil Appeal No. 112/2023**

*[against the judgment dated 14.05.2019  
passed by the Lahore High Court, Lahore  
in W.P. No.18211/2009]*

*Mian Tahir Raza*

***...Appellant(s)***

***Versus***

*Mubasher Ahmed and others*

***...Respondent(s)***

For the Appellant(s) : Mian Abdul Rauf, ASC

For Respondent No.1-2 : Nemo.

For Respondent No.3 : Sheikh Naveed Shehryar, ASC  
Mr. Shahid Tabbasum, ASC  
Mian Muhammad Ismail Thaheem, ASC

Respondent 4-5 : Proforma Respondent

Date of Hearing : 19.02.2026

**JUDGMENT**

**AMIN-UD-DIN KHAN, CJ.-** This is an appeal by leave of the Supreme Court of Pakistan granted in CPLA No.2314/2019, filed under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, prior to the Constitution (Twenty-Seventh Amendment) Act, 2025, against the judgment dated 14.05.2019 passed by the Lahore High Court whereby Writ Petition No.18211/2009 was dismissed.

2. Facts relevant for determination of the *lis* in question are that plaintiff-respondent No.1, on 17.04.1985, filed a suit for declaration wherein he claimed that he is the owner of the suit property mentioned in the deed and challenged the registered power of attorney in favour of respondent No.2 as well as transfer of the plot through a registered sale deed in favour of the present appellant. As per the record, respondent No.2, the alleged attorney, filed a written statement in the Court and

contested it, thereafter he disappeared, whereas the appellant filed a written statement and contested the suit. After full contest, recording of evidence, and a full-fledged trial, the suit was decreed vide judgment dated 17.04.1993. Appeal preferred by the appellant against the said judgment was dismissed by the learned Additional District Judge, Lahore. Civil Revision No.2427/1995 was filed in the High Court which too was dismissed. The learned Judge of the High Court agreed with the concurrent findings recorded by the fora below and held that the same were supported by the evidence on record, which called for no interference, therefore, the petition was dismissed.

3. Thereafter, the appellant opted to file an application under section 12(2) CPC mainly on the ground that the appellant came to know after the decision of the Civil Revision, that the plaintiff and his father (heard as P.W.4) played some fraud on the court to claim that the plaintiff was minor at the time of preparation of the power of attorney. The application was summarily accepted by the High Court without recording of evidence, considering the facts narrated in the application under section 12(2) CPC to be correct vide judgment dated 27.03.2001.

4. The said judgment was assailed before the Supreme Court through Civil Appeal No.2540/2001, which was accepted vide judgment dated 08.04.2003 and the matter was remanded back to the Trial Court. The learned Civil Judge, First Class, Lahore, vide order dated 11.11.2008, dismissed the application. The revision filed thereagainst was also dismissed vide judgment dated 14.09.2009, as well as Writ Petition No.18211/2009 by the High Court vide judgment dated 14.05.2019, hence this appeal with the leave of the Court. Leave was granted vide order dated 14.02.2023. Though a comprehensive leave-granting order was passed, some facts as narrated by the learned counsel for the appellant at that time are not fully correct, therefore there is no need to reproduce the said order here but leave was granted

and now this appeal. We have heard the learned counsel for the parties at full length and have gone through the record as well as the judgments passed by the fora below.

5. The main emphasis of the learned counsel for the appellant was that in the original suit one of the grounds for challenging the validity of the power of attorney, on the basis of which the appellant purchased the property from respondent No.2 as attorney of the plaintiff, was the ground of minority, whereas no issue was framed on the said ground. Whereas during the hearing in the High Court, the learned counsel for the plaintiff stated that he does not press this ground. The record shows that minority was one of the grounds, whereas no issue was framed on this ground. The claim for framing of the issue was that the plaintiff, if he had not pressed at the relevant time, cannot make a ground for filing an application under section 12(2) CPC, when a decree passed in favour of the plaintiff remained intact up to the High Court concurrently. Furthermore, when an issue arises in accordance with the pleadings of the parties, the framing or non-framing of an issue cannot be a ground for retrial or for affording any other remedy like an application under section 12(2) CPC or review in favour of a party highlighting or claiming that non-framing of an issue is a defect. When an issue is not framed, and at an appropriate time the party claiming an issue does not press for framing of a specific issue, cannot claim reversal of the judgment on that score or remand of the case etc. Furthermore, the pleading of the party is, in its view, that the party can produce evidence in accordance with the case pleaded by it. Even if the plaintiff has opted not to press the ground of minority for grant of a decree during the proceedings of the trial, it cannot be a ground for moving an application under section 12(2) CPC.

6. After hearing the learned counsel for the parties, without going into the merits of the case, we are of the view that when a party contests the suit or proceedings, as in instant case before three fora

below, remained unsuccessful thereafter, it has no right to file an application under section 12(2) CPC. A party, when remained associated with the proceedings, has every right to plead their case and rebut the case of the other side to protect its rights, and any mistake or slackness on its part does not give a right to file an application under section 12(2) CPC. Hence, the controversy arises to the extent that when a party contests a suit or proceedings and remained challenging the judgments and decree up to the High Court, whether said defendant/judgment-debtor can file an application under section 12(2) CPC even if some new facts come to its knowledge, or it can file a review petition?

7. The following questions require determination by this Court:

- i. As to the scope of the High Court while dealing with a civil matter in writ jurisdiction, whether it can reappraise or reinterpret the evidence already interpreted by the fora below?
- ii. What is the effect of section 23 of the Registration Act if a document is prepared and after more than six months the same is presented for registration? If it is registered, whether it is valid or a defective registration?

8. In civil matters, once the trial court and the appellate court have reached a concurrent finding of fact based on the evidence, the High Court in its writ jurisdiction will not substitute its own conclusion for that of the lower forums simply because a different view is possible. The Supreme Court in *Muhammad Hussain Munir v. Sikandar* (**PLD 1974 SC 139**) held that the High Court's jurisdiction under Article 199 is limited to seeing whether the lower forum acted within its jurisdiction. An error of fact, however grave, cannot be corrected in writ jurisdiction unless it leads to a jurisdictional defect.

9. As admittedly the power of attorney was prepared on 04.02.1980 whereas it was registered on 05.08.1981, the period between preparation as well as registration comes to near about one and a half year while in accordance with section 23, a document is required to be registered within six months from its preparation. However, Supreme Court of Pakistan in its judgments has repeatedly asserted that registered documents have strong evidentiary value and are legally protected. Since a document is registered after a process of verification, presumption of truth is attached to it, and it will be assumed that the registered document is correct. Reliance placed on *Anjuman-e-Khuddam-ul-Quran, Faisalabad V. Lt Col (R) Najam Hameed* (2020 PLD 390 SC) and *Abdul Aziz Abdul Hameed* (2022 SCMR 842).

10. As this appeal is against the judgment of the High Court, before the High Court the order of dismissal of the application under section 12(2) CPC as well as the revisional court which confirmed the order of the Trial Court were challenged under Article 199 of the Constitution. The appellant was required to show some jurisdictional defect to the High Court, committed by the fora below, but the appellant failed to do so, therefore, the writ petition was rightly dismissed. We cannot disagree with the findings recorded by the High Court; therefore, this appeal fails and stands dismissed.

**CHIEF JUSTICE**

**JUDGE**

**Islamabad,**  
18.03.2026  
**APPROVED FOR REPORTING**  
*RajaAhsan/-*