

IN THE COURT OF ASAD MAHMOOD QAZI, MEMBER,
FEDERAL LAND COMMISSION, ISLAMABAD
(CAMP AT ISLAMABAD)

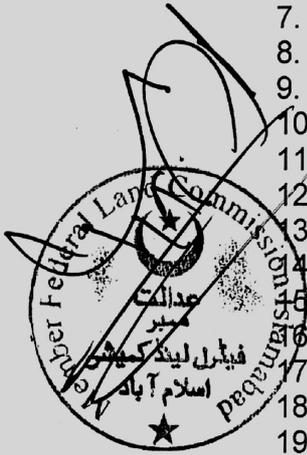
No.RP.1(1461)/FLC/2020

1. Muhammad Akbar son of Muhammad Sadiq
 2. Muhammad Asghar son of Muhammad Sadiq
 3. Miraj son of Muhammad Sadiq
 4. Riyaz Ahmed son of Muhammad Sadiq
 5. Muhammad Yousaf Shahzad son of Muhammad Sadiq
 6. Rafiq Ahmed son of Mehar
 7. Muhammad Naeem S/o Khadim Hussain vice Fahim Abbass son of Abdul Rasheed
 8. Muhammad Nadeem S/o Khadim Hussain vice Muhammad Aslam son of Ghulam Hussain
 9. Shakil Ahmed son of Nabi Bakhsh Awaisi
 10. Muhammad Sajid son of Allah Dawaya
 11. Jamil Ahmed son of Hajji Nabi Bakhsh Awaisi
 12. Rahim Bakhsh son of Muhammad Bakhsh
 13. Hafiz Nabi Bakhsh Awaisi son of Muhammad Bakhsh
- All residents of Mouza Chak Dunya Pur, Dakhana Tranda
Mohammad Panah, Tehsil Liaqat Pur District Rahim Yar Khan.

..... Petitioners

V E R S U S

1. The Deputy Land Commissioner, Rahim Yar Khan
 2. The Land Commissioner, Bahawalpur Division, Bahawalpur.
 3. The Halqa Patwari of Revenue Estate Chak Dunya Pur Tehsil Liaqat Pur District Rahim Yar Khan.
 4. Public at Large.
 5. Muhammad Murad son of Peer Bakhsh Caste Behtar
 6. Rahim Bakhsh S/o Peer Bakhsh Caste Behtar
 7. Riyaz Ahmed S/o Zahoor Ahmed Caste Soomro
 8. Muhammad Zulifqar S/o Peer Bakhsh Caste Behtar
 9. Muhammad Saiful S/o Allah Ditta Caste Baloch
 10. Muhammad Imran S/o Abdul Khaliq Caste Behtar
 11. Abdul Razzaq S/o Abdul Ghani Caste Baloch
 12. Jamal Muhammad Fardous S/o Naseer Bakhsh Caste Behtar
 13. Fayyaz Ahmed S/o Zahoor Ahmed Caste Soomro
 14. Abdullah S/o Peer Bakhsh Caste Behtar
 15. Muhammad Shafique S/o Muhammad Ramzan Caste Darkhan
 16. Wazir Khan S/o Peeran Ditta Caste Mohana
 17. Haji Khan S/o Jumma Khan Caste Baloch
 18. Ashiq Hussain S/o Rahim Bakhsh Caste Baloch
 19. Akhtar Ali S/o Jam Allah Bachaya Caste Mohana
 20. Dildar Ahmed S/o Ghulam Yaseen Caste Babbar
 21. Azeem Bakhsh S/o Allah Bakhsh Caste Baloch
 22. Muhammad Zafar S/o Abdul Hameed Akhtar Caste Baloch
- All residents of Mauza Sidduwali, Tehsil Liaqatpur, Distt. R. Y.
Khan.



23. Kareem Bakhsh S/o Allah Diwaya Caste Uteera resident of Gul Muhammad Langa, P.O Khas, Tehsil Liaqatpur, Distt. R.Y.Khan
24. Nazar Hussain S/o Abdul Qadir r/o Basti Koray Khan, Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
25. Hassan Mahmood S/o Sheikh Muhammad Farooq r/o Madinah Colony, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan (As per Fard of Revenue Record owns land in Kachi Muhammad Khan & Sidduwali).
26. Khalid Mahmood S/o Muhammad Yousaf r/o Kachi, P.O Khas Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
27. Muhammad Mushtaq S/o Hazoor Bakhsh r/o Basti Koray Khan, Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
28. Jameel Ahmed/o Faqeerullah r/o Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
29. Saeed Ahmed S/o Ghulam Qadir r/o Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
30. Gul Muhammad S/o Jam Naseer Bakhsh r/o Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
31. Allah Bachaya S/o Umar Wada r/o Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
32. Allah Diwaya S/o Allah Ditta f/o Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
33. Saeed Ahmed S/o Rasool Bakhsh r/o Sidduwali, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, Distt. R.Y.Khan
34. Muhammad Anwar S/o Ghulam Sarwar r/o Basti Ghulam Sarwar, Bait Bahatar, P.O Tranda Muhammad Panah, Tehsil Liaqatpur, R.Y. Khan
35. Mureed Hussain S/o Allah Diwaya Caste Uteera
36. Shahzad Haneef S/o Haneef Caste Uteera
37. Meraj Bibi widow Haneef Caste Uteera
38. Mussarat Bibi D/o Haneef Caste Uteera
39. Nusrat Bibi D/o Haneef Caste Uteera
40. Abdul Kareem S/o Gul Muhammad Caste Uteera
41. Muneer Ahmed S/o Allah Diwaya Caste Uteera
42. Rasool Bakhsh S/o Hazoor Bakhsh Caste Uteera
43. Fayyaz Ahmed S/o Ibrahim Caste Uteera
44. Farooq Ahmed S/o Abdul Maalik Caste Uteera
45. Mushtaq Ahmed S/o Gul Muhammad Caste Uteera
46. Muhammad Arshad S/o Ghulam Sarwar Caste Noval
47. Muhammad Ayub S/o Ghulam Sarwar Caste Noval
48. Fida Hussain S/o Ghulam Rasool Caste Uteera
49. Fayyaz Ahmed S/o Ghulam Rasool Caste Uteera
50. Mulazim Hussain S/o Khuda Bakhsh Caste Uteera
51. Khalid Mahmood S/o Allah Wasaya Caste Doona
52. Rana Muhammad Iqbal S/o Ghulam Rasool Caste Uteera
53. Muhammad Arif S/o Fida Hussain Caste Uteera
54. Meer Hazar S/o Ghulam Muhammad Caste Uteera
55. Sajid Hussain S/o Muhammad Bakhsh Caste Uteera
56. Muhammad Mohsin Iqbal S/o Muhammad Iqbal Caste Uteera
57. Abdul Rehman S/o Abdul Ghani Caste Baloch
58. Khurshid Ahmed S/o Allah Wasaya Caste Uteera



59. Muhammad Asim S/o Azeem Bakhsh Caste Uteera
 60. Muhammad Asghar S/o Abdul Rehman Caste Uteera
 61. Malik Muhammad Haneef S/o Malik Subhan Caste Noval
 62. Jameel Ahmed S/o Khadim Hussain Caste Uteera
 63. Dilshad Ahmed S/o Mulazim Hussain Caste Uteera
 64. Muhammad Sadiq S/o Muhammad Bakhsh Caste Uteera
 65. Shakeel Ahmed S/o Ghulam Fareed Caste Uteera
 66. Nazar Hussain S/o Allah Yar Caste Uteera
 67. Muhammad Fayyaz S/o Ibrahim Caste Uteera
 68. Muhammad Haneef S/o Ghulam Rasool Caste Uteera
 69. Bilal Ahmed S/o Ghulam Fareed Caste Uteera
 70. Muhammad Saleem S/o Abdul Maalik Caste Uteera
 71. Muhammad Javed S/o Fida Hussain Caste Uteera
 72. Muhammad Khalid S/o Fida Hussain Caste Uteera
 73. Abid Hussain S/o Fayyaz Hussain Caste Uteera
 74. Abdul Majeed S/o Haji Ahmed Caste Baloch
 75. Haji Ahmed S/o Ghulam Rasool Caste Uteera
 76. Muhammad Javed S/o Muneer Ahmed Caste Uteera
 77. Muhammad Junaid S/o Muneer Ahmed Caste Uteera
 78. Muhammad Shahzad S/o Abdul Kareem Caste Uteera
 79. Dilshad Ahmed S/o Nazar Muhammad Caste Uteera
- All residents of Basti Uteera, Gul Muhammad Langa, P.O Khas,
Tehsil Liaquatpur, R.Y. Khan

..... Respondents

PRESENT:

1. Mr. Shahab Rashid Qureshi, Advocate/counsel for the petitioners
2. Hafiz Tahir Mahmood, Advocate/counsel for the Applicants
3. Mr. Ansar Mahmood Kayani, Advocate/counsel for the Applicants
4. Mr. Anees Ahmed Bajwa, Advocate/Counsel for the Applicants
5. Mr. Shakoor Ahmed Shehroz, Legal Assistant, Municipal Corporation, Liaquat Pur/Representative of DLC, R.Y.Khan
6. Mr. Shahid Hussain Supra, Naib Tehsildar
7. Mr. Masood Saleem, Representative/Legal Branch, DLC, Office
8. Allah Bachaya, Patwari Halqa Circle Chak Dunya Pur.
9. Haji Kareem Bakhsh, one of the applicants.



The instant petition has been filed under Section 27 of Land Reforms Act, 1977 (II/77) read with paragraph 29 of Land Reforms Regulation, 1972 (MLR-115/72) for allotment of resumed land measuring 1264 kanals 11 marlas under paragraph 18 of MLR-115/72 further read with Punjab Land Reforms Rules for grant of land, situated in Chak Duniya Pur, Tehsil Liaquat Pur, District Rahim Yar Khan.

2. Facts of the case gleaned out from the available record are that the above-mentioned land under the ownership of Ahmed Bakhsh & Muhammad Bakhsh sons of Elahi Bakhsh caste Bahtar was resumed under Land Reforms Act, 1977, vide order dated 12.7.1977 passed by DLC, Rahim Yar Khan, which was situated in Mauza Chak Duniya Pur, Tehsil Liaqat Pur, District Rahim Yar Khan. Resumed land vested in government under Section 9 of the above Act and through different mutations it was mutated in the name of Land Commission of the Province for disposal to the deserving tenants under Section 15 of the Act, *ibid*. Later, in 1985 wanda of the resumed land was made in the revenue record and according to record of rights for the year 1986/87, khata No.14, Khatoni No.30, keeping in view the different resumption mutations, land measuring 1264 kanals 11 marlas finally became in the name of Land Commission of the Province. According to classification of soil as per record of rights for the year 1990-91, the resumed land was Ghairmumkin Sam and it remained so for a long time. Facts further reveal that said land was untenanted in the revenue record and could not be disposed of as there was no inhabitant in that revenue estate. Hence, it was liable to be disposed of under the provisions of Section 15(3) of Land Reforms Act, 1977. Resultantly, the instant revision petition has been filed for seeking allotment of the said resumed land under paragraph 18(3) of MLR-115/72 read with Section 15(3) of the above Act directly invoking the powers and jurisdiction of this court under Sections 18 and 27 of the said Act.

3. Application from respondents No.5 to 22 was filed under Order 1 Rule 10 CPC for impleading them as necessary party, which was allowed on no objection from counsel for the petitioners as the applicant-respondents presented the same facts and law points as made by the petitioners. An application from respondent No.23 Hafiz Karim Bakhsh son of Haji Alli Diwaya, caste Uteera was also received, which was actually a complaint against the petitioners. However, he was served with court notice and was heard in person and after hearing him was allowed to be impleaded as necessary party to plead his case parallel to the petitioners.

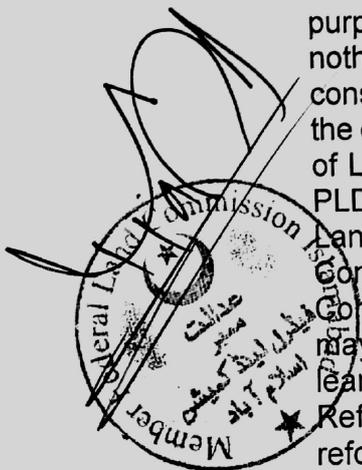
4. Keeping in view the applications filed by the respondents for impleading as necessary party, the court felt it expedient and lawful to make a proclamation in the local newspaper of the vicinity for inviting applications of the general public. Accordingly, the proclamation was published in the local daily "Naya Daur" of Rahim Yar Khan on 1st January 2021 wherein public at large from the revenue estate where resumed land is situated and also of the adjacent villages was invited to file applications if they intend to be impleaded as necessary party to the case for allotment of the resumed land. They were allowed to file applications till 5th January 2021, which was the next date of hearing. Resultantly, respondents No.24 to 79 filed applications in compliance to the proclamation. They were heard and impleaded as respondents. Accordingly, the petition and latter all the applications of the respondent-applicants were sent to the Respondent No.1 for seeking report and para-wise comments to see the availability of resumed land applied for allotment along with their residence, tenancy, ownership etc. The revenue record was also called for from the concerned Patwari Halqa so as to examine the possession



on the resumed land, if any, either cultivating or otherwise according to the provisions of Section 15 of Land Reforms Act, 1977.

5. Learned counsel for the parties have been heard at length along with the official representatives including the Legal Assistant Municipal Corporation representing Respondent No.1. Learned counsel for the petitioners made detailed arguments and contended that the present petitioners are very poor persons and living under the poverty line, having no source of earning livelihood and thus intend to get allotment of the resumed land so that they may take part in the economy of the country and earn their livings. He argued that resumed land is available for allotment and they can get the proprietary rights of the said land under the MLR-115 or Land Reforms Act 1977 and being landless individuals, they have superior rights under the law as the resumed land is available under the land reforms which is untenanted and has not been proposed to be allotted to anyone else. Learned counsel contended that if the land is not shown in the revenue record to be in cultivating possession of any tenant, it shall be liable to be disposed of under the provisions of sub-para (3) of Paragraph 18 of MLR-115/72 or Section 15(3) of Land Reforms Act, 1977 to such landless tenants or persons owning less than twelve acres land and this court under Section 27 read with notification dated 23.9.1978 have the jurisdiction to pass orders accordingly.

6. Learned counsel for the petitioners, making his grounds, contended that Section 27 of Land Reforms Act, 1977 read with Section 22 of the said Act and further read with Section 18(4) of the said Act and notification dated 23.09.1978 provides ample powers to the Federal Land Commission to take cognizance of such cases of allotment of resumed land, which have not been taken up by the below authorities and may pass such order as it may deem necessary in implementation of the provisions of Land Reforms Laws and the order so passed shall be final. Learned counsel further elaborated his stance that Section 27 does not impose any limitation on kind of cases in which the Federal Government (herein Federal Land Commission) may take cognizance and these powers are exercisable in cases arising both under Land Reforms Act-1977 and Land Reforms Regulation, 1972 as Land Reforms Act, 1977 further carries the purpose of Land Reforms Regulation, 1972. He argued that there is nothing in Section 27 or in any other provision of the Act which can be construed as restricting the powers of the Federal Land Commission to the cases arising out of Land Reforms Regulation, 1972 or even the cases of Land Reforms Act, 1977. Reliance is made on PLD 1983 Rev. 26(2), PLD 1984 Rev.19. Highlighting the powers under Section 18(4) of the Land Reforms Act,1977, learned counsel added that Federal Land Commission is competent to issue directions to any or all Provincial Land Commissions by executive or judicial orders, as the case may be, and as may be necessary for the purposes of the Act. Advancing his arguments, learned counsel for the petitioners reiterated that the District Land Reforms Authorities are actual implementing functionaries of the land reforms under Provincial Land Commission in terms of Section 19 of Land Reforms Act, 1977 while under Section 18(4) of the said Act, FLC is competent to lawfully direct the below authorities for the purposes of Land Reforms Act to implement the provisions of land reforms



practically/physically. Finally, the learned counsel contended that for meeting the ends of justice and ensuring the supremacy of law, this Court can follow any course of law for disposing of the resumed land to the petitioners. He, therefore, contended that the petitioners are legally entitled for the allotment resumed land, which is untenanted since its resumption and that there is no hindrance in its allotment to the petitioners under the provisions of sub-section (3) of Section 15 of Land Reforms Act 1977 read with the powers of FLC vested in Sections 18 & 27 of Land Reforms Act, 1977. Eventually, learned counsel argued that the petitioners are landless tenants/persons of the vicinity and are eligible under the law to be allotted the resumed land not exceeding subsistence holding i.e. 100 kanals each according to the following details:

Petitioner No.1: Land measuring 96K-00M bearing Khasra Numbers 5, 6, 13, 14, 15, 16, 17, 18, 19, 22, 23 and 24 having Khaiwat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.2: Land measuring 96K-00M bearing Khasra Numbers 23, 22, 24, 25, 1, 2, 3, 4, 5, 6, 7 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.3: Land measuring 96K-00M bearing Khasra Numbers 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.4: Land measuring 96K-00M 20, 21, 22, 23, 24, and 25 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.5: Land measuring 96K-00M bearing Khasra Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 having Khaiwat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.6: Land measuring 97K-02M bearing Khasra Numbers 13, 14, 15, 16, 17, 18, 19, 20, 11, 12, 21, 22 and 23 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.7: Land measuring 95K-17M bearing Khasra Numbers 1, 2, 3, 8, 9, 10, 11, 12, 13, 18, 19 and 20 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.



Petitioner No.8: Land measuring 96K-17M bearing Khasra Numbers 21, 22, 23, 1 (148/-16), 2, 3, 8, 9, 10, 11, 12, 20, 22, 1(149/-1) and 24 having Khaiwat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.9: Land measuring 96K-00M bearing Khasra Numbers 2, 3(149/-1), 4, 5, 6, 7, 8, 9, 10, 12, 13 and 14 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.10: Land measuring 94K-10M bearing Khasra Numbers 15, 16, 17, 24, 25, 4(149/-2), 6(149/-2), 13, 15, 16, 17, 18, 19, 20, 21, 24 and 25 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.11: Land measuring 95K-13M bearing Khasra Numbers 5, 6(149/-3), 15, 1(/-5), 2, 3, 4, 7, 8, 9, 10, 11, and 12 having Khaiwat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.12: Land measuring 99K-13M bearing Khasra Numbers 13, 14(الف), 16(الف), 1619), ب(الف), 20, 21(الف), 23(الف) 11), 6-/149(10. 9, 8, 7, 6, 5, 4, 3), ب(24), ب(and 12 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Petitioner No.13: Land measuring 100K-00M bearing Khasra Numbers 13, 14, 15, 16, 17, 18. 3(/-10), 4(ب), 5, 6, 7, 8(ب), 13, 1315), 10-/149(14), ب(and 16 having Khawat Number 14 and Khatoni Number 33 situated at Mohal Chak Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Learned counsel for the respondents No. 5 to 22 presented his case with lengthy arguments containing facts, legality, and eligibility of the respondent-applicants. Learned counsel while arguing his case contended that the respondents No. 5 to 22 are either landless tenants or small landowners having less than subsistence holding and are self-cultivating tenants of the adjacent mouza and have prior rights of allotments as there were no sitting tenants on the resumed land and since its resumption none claimed the right of allotment. He argued that no one is in cultivating possession of the resumed land and in past it was Ghairmumkin Sam land and could not be cultivated. However, now it has become improved and is cultivable. Learned counsel, therefore, contended that the property in question is in fact resumed property in the name of Provincial Land Commission, which was resumed under the provisions of Land Reforms Act, 1977 for disposal to the deserving

persons under Section 15 of the said Act. He argued that the said land could not be allotted soon after resumption as being Ghairmumkin Sam nor any effort was made by the below land reforms authorities to dispose of the same for meeting the object and purpose of land reforms. Learned counsel argued that under the provisions of land reforms laws, the vesting of excess land in government is subject to disposal to the tenants/small landowners or landless persons free of cost. He contended that cultivating possession is only required for allotment of land if it is recorded so in the revenue record. He argued that since it is untenanted land, it shall be disposed of to the other tenants or small landowners or landless persons under sub-section (3) of Section 15 of Land Reforms Act, 1977. Moreover, he argued that there was no inhabitant in the revenue estate to take possession of the resumed land and thus it could not be utilized for agricultural purpose. Learned counsel further argued that the respondents No.5 to 22 are in poor self-cultivators and residing in the nearest adjacent estate and thus have prior right to get the allotment than that of any other claimants including the claim of petitioners, who have no concern with the resumed land being not residents of the adjacent village. He contended that the respondents No.5 to 22 are, hence, entitled under the provisions of Land Reforms Act, 1977 for the grant of resumed land. Learned counsel contended that Respondent No.1, Deputy Commissioner, Rahim Yar Khan, has failed to dispose of this resumed land and also never entertained the applications of the respondents. Therefore, the respondents have been compelled to become necessary party to the proceedings of allotment of resumed land as they are entitled for allotment being residents of the adjacent revenue estate. He contended that on revenue side the land in question cannot be utilized for any other purpose except allotment to the deserving persons. Learned counsel also contended that Land Reforms Act, 1977 does not provide for utilization of such land for public purpose, therefore, the respondent-applicants are eligible for the grant of resumed land to the tune of 100 kanals.

8. Eventually, the learned counsel for the said respondents argued that since the land in question is resumed land and it will be made cultivable by them if it is allotted to the respondents under the provisions of Section 15(3) of Land Reforms Act, 1977 being genuine claimants. Therefore, learned counsel contended that the application for allotment made by the respondents may be accepted and land applied for may be allotted to the said respondents. It has been argued by the learned counsel that the preamble of the Land Reforms Regulation clearly provides the object and purpose of Land Reforms, which is not other than resumption of excess land from the big landlords and its further, free of cost, disposal to the tenants or other persons owning less than subsistence holding. Learned counsel, therefore, vehemently argued that no other person is genuine claimant of this land except the respondents and thus under the rules of priority, they are not only entitled but also eligible for allotment of the impugned land. He relied upon 2018 CLC 166 Peshawar in respect of allotment of resumed land to tenants/landless persons, whereby it has been held by the August Peshawar High Court that law has provided that resumed land shall be disposed to the tenants, small landowners or other landless persons and no scheme of allotment is required as law has already clarified to benefit the poor tenants or other



deserving persons. Learned counsel argued that preamble of MLR-115/72 clearly supports the tenants and provides object and purpose of land reforms as Land Reforms Act, 1977 further carries the purpose of the Regulation *ibid*. Therefore, he contended that availability of resumed land and its being untenanted are the main factors, which make the respondents eligible for allotment. Learned counsel, minimizing his prayer finally prayed that application for allotment may be allowed according to the following details, which were submitted in the court:

- i) Respondent No.5 Muhammad Murad s/o Pir Bakhsh (Sidduwali) may be allotted resumed land measuring 40 kanals under Khasra No.149/5, Killa Nos.1, 2, 9, 10 & 11.
- ii) Respondent No.7 Riaz Ahmed s/o Zahoor Ahmed (Kachi Muhammad) may be allotted 48 kanals under Khasra No.148/14 Killa Nos.22 & 23, Khasra No.148/15 Killa Nos.1, 2, 3, 8.
- iii) Respondent No.8 Muhammad Zulfiqar s/o Pir Bakhsh (Sidduwali) may be allotted 26 kanals 3 marlas under Khasra No.149/5 Killa Nos. 12, 13, 14 Alif, 19 Alif, 20, 21 Alif, 24 Bay, 16 Alif and 23.
- iv) Respondent No.9 Muhammad Saifal s/o Allah Ditta, being small landowner, (Sidduwali) may be allotted 62 kanals 12 marlas vide Khasra No.149/6 Killa Nos.5, 6, 13 to 18.
- v) Respondent No.12 Jamal Muhammad Firdos s/o Naseer Bakhsh (Sidduwali) may be allotted 40 kanals vide Khasra No.149/1 Killa Nos.12 to 16.
- vi) Respondent No.13 Fiyaz Ahmed s/o Zahoor Ahmed (Kachi Muhammad Khan) may be allotted 73 kanals 07 marlas vide Khasra No. 149/1 Killa Nos.17, 24, 25, Khasra No. 148/8 Killa Nos.16, 17, 24, 25, Khasra No. 149/6 Killa No.8, Khasra No.148/4 Killa Nos. 23 & 24.
- vii) Respondent No.15 Muhammad Shafique s/o Muhammad Ramzan (Sidduwali) may be allotted 80 kanals under Khasra No.148/12 Killa Nos.1 to 10.
- viii) Respondent No.21 Azeem Bakhsh s/o Allah Bakhsh (Sidduwali) may be allotted 80 kanals vide Khasra No.149/1 Killa Nos.1 to 10.

Learned counsel for the respondents No.5 to 22 concluding his arguments contended that the above allotments may be allowed in the interest of justice and equity and in accordance with the provisions of Section 15(3) of the above Act, while he did not press the case of the rest of 10 respondents as per their instructions.

9. Learned counsel for the respondents No. 23 to 79, representing five applications of respondents No. 23, 24 to 34, 35 to 45, 46 to 51 and 52 to 79 while arguing the case mainly adopted the arguments already rendered by the other counsel on the ground that the facts, law, and cause of action are common. Therefore, he contended that

the position of law under land reforms, powers of this court under Section 27 of Land Reforms Act, 1977 and purpose of the 1972 Regulation may equally be considered while making conclusive findings for allotment of resumed land to the deserving tenants/persons. He argued that the respondents, after impleaded as necessary party, have also made their prayers in the applications under the provisions of Section 27 of Land Reforms Act, 1977 read with paragraph 29 of the Land Reforms Regulation, 1972 (MLR-115) for allotment of resumed land measuring 1264 Kanals and 11 Marlas accordingly, which is situated in Mauza Chak Dunya Pur, Tehsil Liaqat Pur, District Rahim Yar Khan. Learned counsel argued that the respondents have become part of these proceedings due to proclamation in the Local newspaper of District Rahim Yar Khan wherein public was invited to become party in the above said revision petition so as to provide equal opportunities to the public at large of the mauza or the vicinities, for just and proper decision. Therefore, after the said advertisement, the petitioners are mandatory party and deserving for the allotment of resumed land under the provisions of Land Reforms Act, 1977 being residents of the vicinity. He further argued that this court is within the jurisdiction under Section 27 of the Land Reforms Act, 1977 to entertain and decide the instant application after in accordance with the provisions of land reforms laws so as to meet the object and purpose of land reforms.

10. Learned counsel further argued that the respondents are residents of the adjoining mauzas and are landless. Therefore, they are eligible for allotment under the provisions of paragraph 18(3) of MLR-115/72 read with Section 15(3) of Land Reforms Act, 1977 as the subject land is untenanted since its resumption. The learned counsel adopted the above arguments of the learned counsel for the parties on grounds and law points and agreed with the contentions of them particularly to the jurisdiction of this court in respect of direct applications for allotment under Section 27 of the Land Reforms Act, 1977. Learned counsel for the respondents highlighted the applications of Respondent No.23, Haji Karim Bakhsh son of Allah Diwaya, who have been in struggle for allotment of resumed land but his applications have never been decided till becoming of his party to this case. He argued that envious efforts to dislocate and eject him from the resumed land has constantly been made by below land reforms and revenue authorities despite stay order from the civil court as well as of this court. Learned counsel contended that now there are chances of allotment of resumed land from this court as land is available for allotment, which has also changed its classification and has become cultivable. He, therefore, prayed that allotment of resumed land may be made to the respondents, Nos. 24 to 34, according to the following details:

Respondent No.24 Nazar Hussain s/o Abdul Qadir (Sidduwali): Land measuring 77K-11M bearing rectangle Nos. 148/16 having Killa Nos.1, 2, 3, 8ج, 9 10, rectangle No. 149/5 Killa Nos. 3,4,7,8 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur, District Rahim Yar Khan.

Respondent No.25 Hassan Mahmood s/o Sheikh Muhammad Farooq, being small landowner, (Kachi Muhammad Khan): Land measuring 88 kanals bearing



rectangle Nos. 148/8 having Killa Nos.18, 19, 20, 21, 22, 23 rectangles No. 149/6 having Killa Nos. 9, 12 and Rectangle No. 149/10, Killa Nos. 14, 15 and 16 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.26 Khalid Mahmood s/o Muhammad Yousaf, being small landowner, (Kachi Muhammad Khan): Land measuring 85K-3M bearing rectangle No. 149/2, Killa Nos.4الف, 6ب, 13ب, 15,16,17,18,19,20,21,24,25 and rectangle No.149/3 having killa Nos.5,6,15 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.27 Muhammad Mushtaq s/o Hazoor Bakhsh (Sidduwali): Land measuring 70K bearing rectangle Nos. 149/10 having Killa Nos.3, 4ب,5,6,7,8,13ب, rectangles No. 149/6, Killa Nos. 2ب,3,4, respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.28 Jameel Ahmed s/o Faqeerullah (Sidduwali): Land measuring 78K-12M bearing rectangle Nos. 148/8 having Killa Nos.7, 8, 9, 10, 11, 12, 13, 14 and rectangles No. 149/6, Killa Nos. 10, 11 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.29: Saeed Ahmed s/o Ghulam Qadir (Sidduwali) Land measuring 88K bearing rectangle Nos. 148/7 having Killa Nos.19, 22, 23, 24, 25 and rectangles No. 148/8, Killa Nos.1, 2, 3, 4, 5, 6 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.30: Gul Muhammad s/o Jam Naseer Bakhsh (Sidduwali) Land measuring 56 bearing rectangle Nos. 148/11 having Killa Nos.21, 22, 23, 24 and 25, rectangle No.149/6, killa Nos.7, rectangle No.148/8, killa No.15 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.31: Allah Bachaya s/o Umar Wadda (Sidduwali) Land measuring 88K bearing rectangle Nos. 148/4 having Killa Nos.5, 6, 13, 14, 15, 16, 17, 18 and rectangles No. 148/12 having Killa Nos.12, 13 and 14 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.32: Allah Diwaya s/o Allah Ditta (Sidduwali) Land measuring 95K-15M bearing rectangle Nos. 148/12 having Killa Nos.11, 15, 16, 17, 18, 19, 20 and rectangles No. 148/16 having Killa Nos.11, 12, 20الف and rectangle No. 148/14 having Killa Nos. 11 and 12, 19, 20الف, 21



respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.33: Saeed Ahmed s/o Rasool Bakhsh (Sidduwali) Land measuring 86K-13M bearing rectangle Nos. 149/15 having Killa Nos.9,10,11,12,13,18,19,20,21,22,23 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

Respondent No.34: Muhammad Anwar s/o Ghulam Sarwar (Basti Ghulam Muhammad Sarwar) Land measuring 80K bearing rectangle No. 149/1 having Killa Nos.1,2,3,4,5,6,7,8,9,10 respectively situated at Mauza Dunya Pur, Tehsil Liaqat Pur and District Rahim Yar Khan.

11. The learned counsel contended that respondent Nos.23, and 35 to 45 belong to one vicinity and some are from one family and has thus collectively submit that they are in cultivating possession of the resumed land for the last 30 years as tenants. Therefore, he prayed that land measuring 528 kanals may equally be granted to them contained in Khata No.14, Khatoni No.33, rectangle No.148/7 killa Nos.19, 22 to 25 (40K), rectangle No.148/8 killa Nos.1 to 25 (200K), rectangle No.148/11 killa Nos.21 to 25 (40K), rectangle No.148/12 kill Nos.1 to 20 (160K), rectangle No.148/4 killa Nos.5,6, 13, 14, 15, 16, 17, 18, 23, 24, 25 (88K) under the provisions of Land Reforms Act, 1977 being in cultivating possession of the said land.

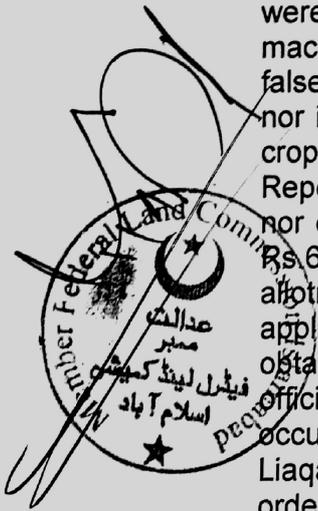
12. Arguing on applications for allotment of resumed land measuring 1264 kanals 11 marlas filed by Respondents Nos.35 to 45 – Mureed Hussain son of Allah Diwaya and others, Respondents Nos. 46 to 51 – Muhammad Arshad son of Ghulam Sarwar and others, Respondents Nos.52 to 79 – Rana Muhammad Iqbal son of Fida Hussain and others, the learned counsel contended that they are residents of the adjacent mauzas and are eligible for allotment. He submitted that the notices of the FLC were pasted in the adjacent villages and advertisement was also published in the local daily. Therefore, these respondents have come to know that the resumed property is being disposed of by this court and hence they applied for the allotment. Accordingly, learned counsel prayed, without mentioning khasra/killawise details of land, that land measuring 1264 kanals 11 marlas may be allotted to the respondents with equal shares so that all these poor people of the villages may be accommodated, and they may take part in the economy of the country and earn their livings through the granted land by tilling the same.

Respondent No.1, Deputy Land Commissioner, Rahim Yar Khan, who is also the representative of the Provincial Government through Provincial Land Commission was issued notices for seeking reports on all the applications including the above revision petition so that the actual position on record may be obtained and reappraised. Accordingly, the reports through letter No.ADC(R)/LRC/45, dated 10.8.2020, No.ADC(R)/LRC/69, dated 9.11.2020, report dated 26.12.2020 in respect of application of Hafiz Karim Bakhsh (presented in the court on 29.12.2020), No. AC/110-112, dated 01/02/2021(presented

in the court on 02.02.2021 by departmental representative) and finally Report No.AC/153-155, dated 15.2.2021 (presented by the Departmental Representative in the court on 16.02.2021), which has also been sent by the DLC, Rahim Yar Khan by Dak, vide report No.ADC(R)/LRC/44, dated 22.02.2021 (received on 02.03.2021).

14. The crux of the whole reports as far as availability of resumed land is concerned is that 1264 kanals and 11 marlas are available for disposal under the provisions of Land Reforms Act, 1977. The very import aspect of the case is that the excess land was resumed under Land Reforms Act, 1977 vide order dated 12.07.1977 and took finality by virtue of 6 mutations during 1985-86 of Register Haqdaran Zameen (رجسٹر حقداران زمین). The report submitted by Respondent No.1 reveals that the resumed land measuring 1264 kanals 11 marlas is available after resumption and since resumption to 1994-95 it remained Ghairmumkin Sam land and none was in its cultivating possession of it. However, in the para-wise comments, the learned Deputy Land Commissioner, Rahim Yar Khan as denied the claim of petitioners that they are not eligible for allotment. It has also been submitted that the petitioners are not landless tenants of the tehsil nor they have provided any evidence of their tenancy. Therefore, he has recommended that they have no right to get the allotment of resumed land as they have concealed the facts of their caste, tenancy, and addresses.

15. The report of DLC, Rahim Yar Khan in respect of respondents No.5 to 22 is parallel to the petitioners. However, as regards resumed land it has been submitted that it never remained tenanted after resumption. It has been recommended that application in respect of these respondents is also not entertainable under any law or custom. The report received in respect of Respondent No.23 from DLC, Rahim Yar Khan that almost 8 illegal occupants occupied 32 acres 5 kanals 7 marlas illegally and harvested crops and accordingly in the ejectment proceedings vide order dated 10.10.2020, it was ordered to eject the illegal occupants and also ordered for assessment of tawan against them. Resultantly, they were ejected on 12.10.2020 with the help of revenue and police machinery. The report further reveals that respondent No.23 submitted a false application as he has no cultivating possession on the resumed land nor is there any entry in the khasra girdawri and if he is harvesting the crops for last 30 to 40 years, there shall be entries in the revenue record. Report also discloses the fact that he is not resident of Chak Dunyapur nor eligible for allotment. He has been asked for payment of tawan for Rs.62,500/- for Kharif 2020 and thus he is not entitled or eligible to get the allotment of resumed land. It has been recommended in the report that application for allotment may be rejected. Respondent No.23 also obtained status quo from this court on the ground that revenue officials/officers are forcibly dispossessing him from the land in his occupation for 3 to 4 decades. Learned Assistant Commissioner, Liaquatpur in his letter No.110-112 dated 01-02-2021 requested that stay order/status quo dated 29.12.2020 granted to Hafiz Karim Bakhsh s/o Haji Allah Diwaya caste Uteera may be vacated in the interest of state because it is on stake due to illegal occupancy of Hafiz Karim Bakhsh, who intends



to prolong the litigation to keep on the illegal occupancy as he has no locus standi on the resumed land.

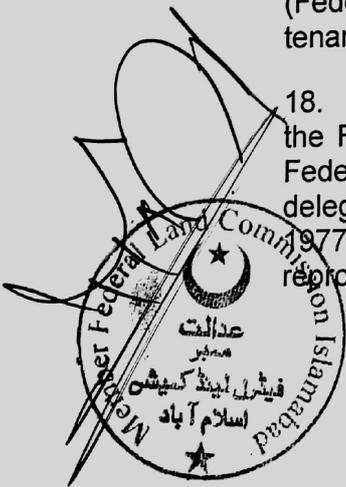
16. Final Report from Provincial Government (Punjab Land Commission) Respondent No.1 received on 16.02.2021 through Departmental Representatives alongwith Legal Assistant representing Respondent No.1. It is a very elaborative report about all the private parties to the case wherein their residence, parentage, CNIC and eligibility have been discussed and submitted for consideration of this court. The law of allotment and procedure available with Provincial Land Commission have been discussed in the report according to the version given in the petition. However, about petitioners the previous stance of Respondent No.1 has been maintained. The same stance regarding the respondents No.5 to 22 already submitted to this court has been once again maintained. Rest of the report relates to the remaining applicants who were made party to the case after advertisement/notice of the court wherein public at large was invited so that all necessary applicants/eligible/deserving persons may heard. Learned Revenue Officer has referred the relevant rules in the report and also indicated procedure for allotment available in the province. He has reported that land was resumed 44 years back and since then no one filed any application for allotment. Now the impugned land is near CPEC and on some part of it motorway passes and thus recommended that precious land of Land Commission may not be allotted to any of the parties.

17. Arguments heard and record perused. It is worthwhile to simplify that purpose of Land Reforms Regulation, 1972 brings a symmetry regarding redistribution of resumed land, surrendered by the big landlords. The poor tillers of the land are benefited in this judicial pursuit. When primary objectives of the law are not achieved for decades by the below authorities, Higher forums in their suo moto powers are justified to exercise the jurisdiction to meet the ends of justice. Suo Moto power of this court under section 27 of Land Reforms Act, 1977 is almost analogous to revisional powers of Criminal Courts under Section 439 of Criminal Procedure Code, 1898. Thus, jurisdiction of this court is amalgam of wide as well as limited power, which is based upon principles of *doing ex debito justitiae*. Whole of the record produced in the court has minutely been examined and perused, which clearly divulges that private excess land was resumed to government through Land Commission of the Province in 1977, which was Ghairmumkin Sam, and was not allotted to any of the tenants including the present parties. Perusal of record further exposes that matter of allotment of resumed had not been tackled properly by the below land reforms authorities as they have never been found serious to dispose it of under the law. They, even after change in its classification, have remained dormant in their duties cast upon them. Consequently, this court is invoking its suo-moto jurisdiction to implement the provisions of law, purely focusing on the purpose of land reforms laws, which is to improve economic wellbeing of the peasantry by making agriculture a profitable vocation. Hence, the focused objective can only be achieved through allotment of resumed to the deserving persons. Further to add that the resumed property primarily requires to be disposed of to the tenants, small landowners, or landless persons under the provisions



of land reforms laws. Land Reforms Regulation, 1972 and Land Reforms Act, 1977 are federal laws, which provide powers to the Chairman and Members of the Commission (acting severally) under Section 27 of Land Reforms Act, 1977. Thus, Federal Land Commission is competent to take cognizance of present applications when no appropriate action for disposal of resumed land since 1977 had been taken by them. An element of negating the preamble of MLR-115/72 is found in the behaviour of below authorities. Relying upon case laws – 2018 CLC 166 Peshawar, 2002 PLD 20 Peshawar, 1999 SCMR 2697 and 2016 CLCN 107, this court is competent to take cognizance of such cases of allotment of resumed land, either on application or suo moto for disposal of resumed land. Federal Land Commission in exercise of its suo motu jurisdiction under paragraph 29 of MLR-115/72 and Section 27 of Land Reforms Act, 1977 is within its powers to examine propriety, correctness and legality of orders passed by Authorities below and also take cognizance of those cases which have not been taken up by the Provincial Land Commission. Hence, this court is empowered to dispose of the resumed land to the eligible tenants/persons, after thorough re-appraisal of the record made available in the court. Land Reforms do not become implemented by themselves, but the agencies created through these reforms exercise the powers to implement those provisions which relate to resumption and allotment. It is important to add that resumption and allotment are correlated as both the provisions (resumption and allotment) are interdependent. Law vociferously clarifies the scheme of land reforms for redistribution of resumed land. Section 9 of the Act provides the vesting of private land in government through Land Commission, which becomes a custodian Commission to guard that land till its disposal under Section 15 of the said Act. Therefore, if they do not implement the resumption order by making allotment to the deserving persons as provided in the law, the determined resumption order becomes an impugned order, which can be brought before the Federal Land Commission for implementation in the shape of allotment. This way the power of Federal Government (Federal Land Commission) becomes alive to provide justice to the poor tenants or the deserving persons.

18. It may be necessary to highlight regarding (i) the powers of the Federal Government (Federal Land Commission), (ii) the functions of the Federal Land Commission, and (iii) the Federal Government's right to delegate its power under Section 22. Section 27 of the Land Reforms Act 1977 be read with Section 18 and Section 22 of the same Act, which are reproduced below for easy grasp:



“27. Powers of the Federal Government. - The Federal Government may, at any time, of its own motion or otherwise, take cognizance of a case not taken up by a Commission or withdraw a case pending before a Commission or call for a case decided by a Commission or any authority empowered by a Commission in this behalf, and pass such order as it may deem necessary and the order so passed shall be final:

Provided that no order, under this section, shall be passed, adversely affecting the rights of any person, unless such person has been given an opportunity of being heard.” (underlined for emphasis).

“18. Functions of Federal Land Commission. -
The Federal Land Commission shall-

(1) coordinate the functioning of Provincial Land Commissions.

(2) assist the Federal Government in deciding any dispute or difference between two or more Provincial Land Commissions.

(3) assist the Federal Government in the exercise of its powers under section 27.

(4) issue such directions to any or all Provincial Land Commissions as may be necessary for the purposes of this Act.

(5) perform such other functions as may, from time to time, be assigned to it by the Federal Government.”

“22. Delegation of powers. - (1) The Federal Government may, at any time, delegate any of its powers or functions under this Act to such body of person as it may deem necessary for the purposes of this Act. 27

(2) A Commission may, at any time by notification in the official Gazette, delegate any of its powers to any of its members or officers or authorities subject to such conditions, if any, as may be specified in the notification, and may also specify in the notification the circumstances in which, and the authority to which, an appeal, or application for review or revision, if any, shall lie from an order of such member, officer or authority.”

Notification No. II-1977/LR/2-78, dated 23.09.1978
– Powers of the Federal Government under Section 27 of the Land Reforms Act, 1977, had been delegated to the Chairman and each of the Members of the Commission (acting severally) excluding the powers of review of its own orders. (Reliance is placed on judgment dated 19.11.2013 in Writ Petition No.3678 of 2001, Lahore High Court, Rawalpindi Bench, PLD 2002 Peshawar 50 etc.).



19. I would like to add further that, while legislating Section 27, it was the intent of Parliament to the increase of the powers of the Federal Government (Federal Land Commission), as Paragraph 29 of the Land

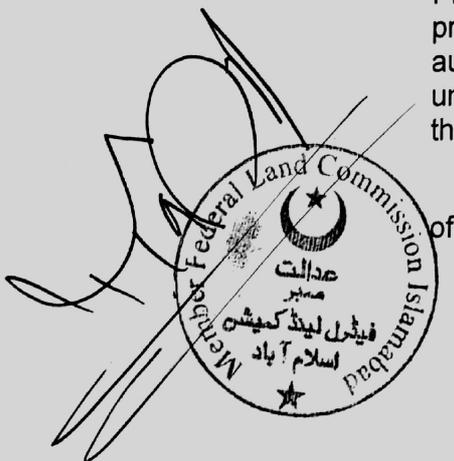
Reforms Regulation 1972, which is the corresponding paragraph to Section 27 of the Act *ibid*, provided supervisory powers but limited to revisionary jurisdiction to see correctness, legality and appropriateness of the orders passed by the below authorities. Both the provisions can be segregated by the terms "Revisional Powers of the Federal Government" and "Powers of the Federal Government". Now Section 27 of Land Reforms Act, 1977, having increased powers, can be compared with Paragraph 29 of MLR-115/72, which has revisionary powers. See below paragraph 29 at par with Section 27 of the above Act:

"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 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."

On a plain reading, the powers, under Section 27 of the Act, are clearly distinguishable from those under Paragraph 29 of the Regulation, as being increased from "Revisional Powers of the Federal Government", to

"Power of the Federal Government", specifically with the addition of "*The Federal Government may, at any time, of its own motion or otherwise, take cognizance of a case not taken up by a Commission*". Regarding the above amendment in the law, the following case laws are to be highlighted for interpretation of Statutes:

1993 SCMR 1394 - Where statutory law is changed there is an assumption that it effects change in the legal rights to the extent provided by such amendment. Amended provision has to be read with unamended provision as they are part of the same Act.

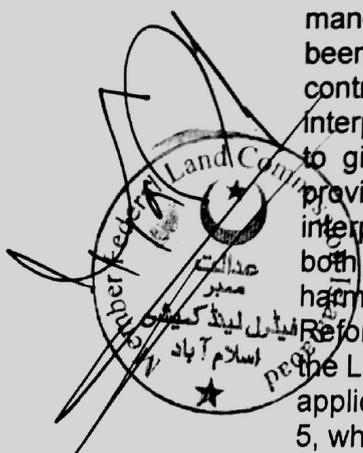
2005 PTD 2022 - Amendment is brought to bring a change in law unless the same is clarificatory or declaratory in nature. (PLD 1976 Lahore 1097 also relevant regarding amendment in Statutes – assumptions to be made safely.

2014 PLD 408 Lahore – Generally, the amendment is made to bring out change in the state of the law, unless the same is clarificatory or declaratory in nature.

1951 PLD 118 F.C - In order to construe an amending statute, it is not only legitimate but highly convenient to refer both to the former Act and the evils which it gave rise to, and the latter Act which provided the remedy.

1972 PLD 397 Karachi - It is legitimate to examine former statutes in order to ascertain law which the amending statute is altering.

20. Hence, as per Section 15(3) of the Act: "Land which is not granted under sub-sections (1) and (2) shall be granted to other landless tenants or persons owning less than twelve acres". In this regard it is mandatory to rely upon 2019 PTD Peshawar High Court whereby it has been held that Courts must avoid head on clash of seemingly contradicting provisions of law and must harmonize such provisions by interpreting not only the provisions but also the wisdom of the legislature, to give effect to both provisions. In case of any conflict of any two provisions of law, the courts must follow the principle of harmonious interpretation and not attribute redundancy to any provision of law; rather, both provisions of law are to be harmonized. The only way to harmoniously interpret Rules 3, 4 and 5 of Chapter II of the Punjab Land Reforms (Procedure for Grant of Land), Rules 1978, with Section 27 of the Land Reform Act 1977, is to allow that while the general procedure for application and granting of resumed land is set out under Rules 3, 4 and 5, while the Federal Government expressly has special powers conferred to it under Section 27 to take cognizance of any case not taken up by a Commission, and to subsequently pass any such order as it may deem necessary, which order shall be final. Based on the above reliance and interpretation, the Federal Government (Federal Land Commission) has the jurisdiction to entertain cases not taken up by a Commission, and to pass such order as it may deem necessary and the order so passed shall be final. Federal Government has delegated such powers to the Chairman



Federal Land Commission and each of the Members of the Commission acting severally, vide notification mentioned above. The Federal Land Commission is, therefore, well within its rights and jurisdiction, to act legally and in the course of its set functions either to accept the petitions/applications or reject them with reasoning after thorough reappraisal of the record produced in the court by the parties and official respondents by providing opportunity of hearing to all the concerned.

21. After examining the revision petition, applications for allotment and the accompanying documents/revenue record, reappraisal of record reveals that it is an admitted fact that the land was resumed under Land Reforms Act, 1977 and was lying unallotted for last 44 years. In this perspective of the case, after such a long period of un-allotment of resumed land, which was liable to be disposed of as per given procedure by Respondent No.1 but he failed. Hence, the jurisdiction of this court has rightly and lawfully been invoked. Since the land was available, the court on its discretion invited public of the vicinity through proclamation in the local newspaper as well as pasting the notices in the vicinity. Accordingly, respondents No.5 to 79 became party to the case, whose status, tenancy, residence etc. have been got scrutinized through Respondent No.1, who produced various reports, which have been elaborated in paragraphs 13 to 16/above. I have minutely examined the official reports and the other record available on file alongwith the CNICs and revenue record of the ownership of parties. Thorough reappraisal reveals that the Respondent No.1 furnished one sided report with a single motto that resumed land may not be allotted to the petitioners/applicants, which I find as against the provisions of Section 15(3) of Land Reforms Act, 1977 and Preamble of Land Reforms Regulation, 1972. The letter attached with the report, vide No.879-2020/237-CL-1, dated 8.7.2020 issued by the Board of Revenue (Colonies Department) is not relevant to the subject of Land Reforms as there is no such provision in the law to restrict the allotment of resumed land. However, some points in the report are considerable but with due modifications so as to make conclusive findings. None of the parties is found resident of the revenue estate where the resumed land is situated. Therefore, resumed land is not recorded in the revenue record under cultivating possession of anyone and as such it is liable to be disposed of under sub-section (3) of Section 15 of Land Reforms Act, 1977 to the deserving persons of the nearest adjacent villages amongst the present parties. The official representatives who attended the court stated that nearest mauzas are Sidduwali (south-west) & Kachi Muhammad Khan (south), while Gul Muhammad Langa is partially connected. Reappraisal of the record unveils the position that all the petitioners are not residents of the adjacent mauzas while they have mentioned false addresses in their joint petition. Hence, they cannot be held deserving for allotment of resumed land. Accordingly, their above revision petition is rejected being without merits and combination of misconceptions. Thereafter, I have noticed that most of the respondents also do not reside in adjacent mauzas including respondent No.23 except those mentioned under paragraphs 8 and 10/above (excluding petitioner No.34) belonging to Kachi Muhammad Khan and Sidduwali adjacent to South and South-east as confirmed by the departmental representatives of respondent No.1.

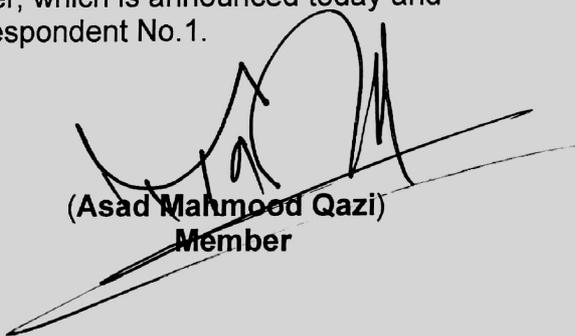


22. In view of the foregoing, now I am inclined to highlight the preamble and the object of Land Reforms Act, 1977. Land Reforms Act, 1977 was promulgated under the scheme of land reforms and idea was to cut the size of individual holding to the prescribed limits on the basis of entries in the Revenue Record on the date of commencement of said Act and the excess area was to be resumed in favour of Land Commission of the Province, which was to be further distributed under the provisions of Section 15 of the said Act to the sitting tenants and if no sitting tenant is available, according to sub-section (3) of the above section, it shall be granted to other landless tenants or persons owning less than twelve acres. Since powers of this court under Section 27 of the Act, 1977 read with Notification dated 23.9.1978 along with suo motu revisional powers, which are in nature of inherent powers, can be exercised for redressal of the grievances and implementation of the provisions of land reforms laws, accordingly I exercise my jurisdiction under the above section and agree with the contentions made by the learned counsel for Respondents No. 5 to 22, 23 and 24 to 34 regarding allotment of the resumed land to them according to their prayers given in paragraphs 8 & 10/above respectively excluding respondents No.23 & 34 who are not residents of adjacent mauza. Respondent No.23 has made false statements about occupancy as khasra girdawaris do not support him and reports also do not certify his residence in the said mouza. Accordingly, stay granted to him is vacated and his prayer is rejected. The land mentioned against each of respondents No.5 to 22 in paragraph 8/above and respondents No.24 to 34 in paragraph 10/above is allotted to them being landless tenants/small landowners of the adjacent mauzas i.e. Kachi Muhammad Khan and Sidduwali under the provisions of Section 15(3) of Land Reforms Act, 1977. Relying upon 2020 CLC 1548 (Lahore High Court, Multan Bench), Deputy Land Commissioner, Rahim Yar Khan is directed to implement the allotment in the revenue record accordingly and submit report to the Registrar, FLC, within 30 days of the receipt of this order.



23. The case was last heard on 16.02.2021 at Islamabad and judgment was reserved for detailed order, which is announced today and communicated to the parties through Respondent No.1.

Announced
08.03.2021


(Asad Mahmood Qazi)
Member