

**IN THE COURT OF PIR SYED AHMED NAWAZ SHAH JILLANI,**  
**CHAIRMAN, FEDERAL LAND COMMISSION, ISLAMABAD.**

R.P. No. 1 (723)/FLC/2024

1. Allah Ditta son of Kambeer, Resident of Chahpain Wala Post Office Shorkot City, Budh Rajbana, Shumali, Tehsil Shorkot District Jhang.
2. Mehr Noor Muhammad son of Mehr Pehlwan, Resident of Mauza Nawabpur, Post Office Shorkot City, Tehsil Shorkot District Jhang.
3. Muhammad Sarfraz son of Hashim, Resident of Post Office Madar Jabana, Tehsil Ahmadpur Sial, District Jhang.

....Petitioners

VERSUS

1. Chief Land Commissioner Punjab, Lahore.
2. The State through Deputy Land Commissioner, Jhang,

...Respondents

**Present:**

1. Muhammad Irshad Chaudhary, Advocate for the petitioners.
2. Allah Ditta, Mehr Noor Muhammad, Muhammad Sarfraz Petitioners present in person.
3. Zeeshan Ahmad Halqa Patwari alongwith report Mouza Nawabpur, Tehsil Shorkot, District Jhang.
4. The State through Deputy Land Commissioner, Jhang.



**ORDER:**

The above titled revision petition has been filed before this court under Section 27 of Land Reforms Act, 1977 for allotment of resumed land under paragraph 15(3) of the Land Reforms Act, 1977.

2. The facts of the case derived from the available record are that excess land measuring 407 kanals 13 marlas was resumed from the declarant under Land Reform Act, 1977, which was

incorporated in the revenue record in Mouza Nawabpur, Tehsil Shorkot, District Jhang and pending for disposal to the deserving tenants/persons under the provisions of land reforms laws. Hence the instant petition for allotment.

3. Learned counsel for the petitioners argued that the petitioners belong to Nawabpur and are landless tenants of the mauza having possession of the land resumed in the village under Land Reform Act, 1977 and are entitled for its allotment. The learned counsel contended that although the land was resumed in 1977 Land Reforms Act yet no allotment has been made as no one was having the cultivating possession over the land. The learned counsel argued that the declarants are influential persons and they have created such circumstances that the land could not be allotted although under the law the district land reforms authorities are obliged to make the allotment in favour of the petitioners. The learned counsel argued that Federal Land Commission is the delegate of the Federal Government vide notification dated 23.09.1978 and according to provisions of Section 27 of Land Reforms Act, 1977 the FLC through its chairman or Members is empowered to take cognizance of a case that taken up by a Commission subject to the conditions that opportunity of hearings shall be given before passing of an order in this regard. While advancing his arguments, the learned counsel contended that FLC has supervisory jurisdiction and has the power to see as to whether the land reforms are being implemented in its true letter and spirit as has been done in many other alike cases. The learned counsel contended that the petitioners have been approaching and requesting the DLC for allotment of the said land so much so the petitioners also approached the Punjab Land Commission but no action has been taken as such this court


under the provisions of section 15 of Land Reforms Act read with Section 27 of Land Reforms Act, 1977 can issue judicial directions to the below land reforms authorities for implementation of the land reforms including such petitions for allotment can be disposed of under the law. The learned counsel relied upon PLD 1982 Rev. 90 and PLD 1983 Rev. 20. The learned counsel, therefore, prayed that total land measuring 407 kanals 13 marlas be allotted to the petitioners as Petitioner No.1, Allah Ditta who is in possession of Square No.41 (Killa No.7Min(4-Kanal), Killa No.9(8-Kanal), Killa No.10(8-Kanal), Killa No.11(8-Kanal), Killa No.12(8-Kanal), Killa No.13(8-Kanal), Killa No.14(8-Kanal), Killa No.17Min(1-Kanal 18-Marlas), Killa No.18(8-Kanal), Killa No.19(8-Kanal), Killa No.20(8-Kanal), Killa No.21(8-Kanal), Killa No.22(7-Kanal, 5-Marlas), Killa No.23(4-Kanal, 4-Marlas), Square No.60 (Killa No.1(2-Kanal, 13-Marlas) total land measuring 100-Kanals; Petitioner No.2 Mehr Noor Muhammad who is in possession of Square No.38 (Killa No.14(8-Kanal), Killa No.18(8-Kanal), Killa No.19(8-Kanal), Killa No.20(8-Kanal), Killa No.21(8-Kanal), Killa No.22(8-Kanal), Killa No.23(8-Kanal), Killa No.24(8-Kanal), Square No.41 (Killa No.2(8-Kana), Killa No.3(8-Kanal), Killa No.8(8-Kanal) total land measuring 88-Kanals; Petitioner No.3 Muhammad Sarfraz who is in possession of Square No.41 (Killa No.6(8-Kanal), Killa No.7Min(4-Kanal), Killa No.15(8-Kanal), Killa No.16(8-Kanal), Killa No.17Min(6-Kanal, 2-Marlas), Killa No.24(3-Kanal, 2-Marlas), Killa No.25(2-Kanal, 4-Marlas) total land measuring 39-Kanals 8-Marlas situated at Mouza Nawabpur, Tehsil Shorkot District Jhang may be allotted to the petitioners under Section 15(3) of Land Reforms Act, 1977 read with the instructions issued by the Punjab Land Commission, vide Notification No.DSLK/6/73/363/LC(II), dated 27.01.1973 submitted from time to time and lastly dated 19.05.1999.



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4. Patwari of the halqa is present alongwith revenue record and has submitted his report on amended petition the report was also called from ADCR which was submitted in the court. The reports indicate that land measuring 407 Kanals 13-Marlas was resumed and was mutated in the name of Land Commission being a resumed land and on the spot it is under the river bed being ghairmumkin. However, sometimes it becomes out of the river-bed and then it is cultivated by the petitioners, who are landless tenants and they have no other land in their ownership.

5. Arguments have been heard and record perused. The availability of resumed land has been confirmed as per report of Additional Deputy Commissioner Jhang and revenue record. Accordingly, the arguments of the learned counsel being forceful and in accordance with the land reform laws are accepted, Resultantly the tilted petition for allotment of resumed land measuring 227 Kanals 8 Marlas under Section 15(3) of Land Reform Act, 1977 read with Section 27 of Land Reform Act, 1977 is accepted. Land measuring 227 Kanals 8 Marlas situated at Mauza Nawabpur, Tehsil Shorkot, District Jhang is allotted as per detail above to the petitioners. The allotment is subject to the conditions that total allotment of each petitioner shall not exceed 100 kanals. The Deputy Land Commissioner and Revenue Field Staff are directed to implement this order within fortnight and compliance report be sent to the Registrar, FLC.



Announced:  
29.10.2025

(Pir Syed Ahmed Nawaz Shah)  
Chairman

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**IN THE COURT OF MEMBER (JUDICIAL)**  
**FEDERAL LAND COMMISSION, ISLAMABAD**

**RP.1(748)/FLC/2025**

1. Qaiser Abbas
2. Waseem Abbas sons of Sharifan Bibi and Safdar Hussain Caste Jatt, resident of Amer Kot Dena Nath, Multan Road, Lahore  
.....Petitioners

**Versus**

1. The Deputy Land Commissioner, Hyderabad
2. The Deputy Land Commissioner, Kasur
3. The Assistant Land Commissioner, Chunian, Now Pattoki, District Kasur
4. The State

.....Respondents

5. Begum Jameela Malik (deceased) daughter of Akhtar Hussain Malik, through legal heirs:

- a. Amber Malik
- b. Nadeem Malik
- c. Raheel Malik
- d. Sohail Malik

Caste Jatt, resident of Thokar Niaz Baig, Lahore.

.....Proforma Respondents

**PRESENT**

1. Rana Muzaffar Hussain along with Malik Muhammad Asif Awan, Advocates High Court/Counsel for the petitioners
2. Mr. Muhammad Afzaal Ahmed, LRC, Kasur
3. Mr. Razaqat Ali, Patwari Halqa

**ORDER**

The above-titled revision petition has been filed under Section 27 of the Land Reforms Act, 1977 with the following prayer:

"In view of the above submissions, it is, therefore, most respectfully prayed that the instant petition may kindly be accepted and order dated 12.11.1977, order dated 12.12.1978 and order dated 06.01.1979 may kindly be set aside and mutation No.111 dated 23.06.1979 may kindly be cancelled and land transferred to the petitioners be excluded from the entitlement of the declarant and petitioners may be declared owner in possession of the transferred landed property, in the interest of justice.



12.

Any other relief which this Honorable Court deems fit and proper may also be awarded."

2. The background of the titled case pertains to the determination of the land holding of Akhtar Hussain son of Bhai Mian, on promulgation of Land Reforms Act, 1977. His declaration form showed that the property measuring 64 acres 02 kanals in Chak Thathi Utaar had been transferred through agreement dated 20.08.1976 to his daughter Jameela Malik against consideration and possession was also delivered while land measuring 42 acres in Deh Jatti, Tehsil Tando Muhammad Khan was sold to Muhammad Aya Khan through agreement dated 11.12.1975 and possession was also delivered and thereafter he sold the remaining property to Mst. Sharifan Bibi in District Kasur of Punjab Province. Perusal of the record reveals that Akhtar Hussain son of Bhai Mian was owner of land measuring 192 acres equivalent to 4994 PIUs in Deh Jatti, Taluka Tando Muhammad, District Hyderabad while in Rakh Thathi Autar Shumali, Tehsil Chunian, District Kasur, he was holding land measuring 122 acres equivalent to 8034 PIUs. Hence, he held total land worth 13028 PIUs in two districts i.e. Hyderabad and Kasur. He was allowed by the DLC to retain 8000 PIUs and remaining land worth 5028 PIUs was proposed to be resumed by rejecting the sale alienations on the ground that they were through simple agreement i.e. promise to sale only and not valid as per provisions of Transfer of Property Act and Registration Act. Hence, land measuring 192-03 acres equivalent to 4994 PIUs was resumed in Deh Jatti, Taluka Tando Muhammad Khan while remaining 34 PIUs were resumed in District Kasur, vide order dated 12.12.1977 passed by the DLC, Hyderabad.

3. The declarant filed an appeal against the above order before the Land Commissioner, Hyderabad Division dated 12.11.1977, who vide order dated 12.12.1978 set aside the impugned order and remanded the case to the DLC to decide afresh in accordance with law and hearing the declarant and all other persons who had vested interest in the land under dispute. Accordingly, vide order dated 06.01.1979, learned DLC, Hyderabad redetermined the holding and rejected the appeal treating the alienated property as the property owned by the declarant on 04.01.1977 by amending the order and allowing 7939 PIUs and resuming excess land worth 5089 PIUs under Land Reforms Act, 1977 i.e. 3801 PIUs from Rakh Thathi Autar Shumali, Tehsil Chunian, District Kasur, Punjab and 1288 PIUs from Deh Jatti, Tando Muhammad Khan, Hyderabad. Resultantly, mutation No.111 was sanctioned on 23.06.1979. Feeling aggrieved, the transferee Jamila Begum filed a civil suit for declaration on the ground that she paid whole consideration amount and that possession was also delivered to her, therefore, she became owner and the property owned by her could not have been included in the entitlement of Akhtar Hussain by the Land Reforms Authorities. The civil suit was decreed on 20.01.1983. On the other hand, Mst. Sharifan Begum, who was already in possession, filed civil suit on the same lines, which was decreed on 05.05.1998. However, during the period prior to civil suit filed by Mst. Sharifan Begum, the matter was challenged by the declarant Akhtar Hussain before the DLC, Punjab in revisional jurisdiction, and the case was remanded to the DLC for determination of the nature of the alienation made by Akhtar Hussain. Resultantly, the DLC, vide order dated 31.03.1994 changed the schedule of the property and transaction was held again invalid.



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4. Further perusal of the record reveals that the revenue authorities challenged the ex-parte decree dated 05.05.1998 through Deputy Commissioner Kasur by application under Order 9 Rule 13 read with Section 151 CPC for cancellation of the decree dated 05.05.1998 but the case was adjourned sine-die vide order dated 06.06.2015. In the meanwhile, Sharifan Bibi (deceased) through present petitioners (her legal heirs) invoked the jurisdiction of FLC under Section 27 of Land Reforms Act, 1977 by filing a revision petition, which was accepted vide order dated 28.09.2012 and whole purchased area was excluded in district Kasur by validating the sale agreement. The Province of Punjab, feeling aggrieved, filed a writ petition No. 29153 of 2013 before the Lahore High Court, Lahore whereby, vide judgment dated 15.01.2025, the impugned order dated 28.09.2012, passed by the Chairman, FLC was set aside holding that the Chairman, FLC has erred in law by observing that the proceedings before the DLC, Hyderabad were without jurisdiction. Hence, the petitioners again invoking the jurisdiction of this court under Section 27 of Land Reforms Act, 1977 for fresh decision under the law in the interest of justice and equity.

5. Report of the case alongwith para-wise comments were called from the Deputy Land Commissioners, Kasur and Hyderabad. The complete report and the said comments were submitted by the DLC, Kasur by TCS, which was received in the court on 03.09.2025. Perusal of the report reveals the above narrated facts of the case with some preliminary objections that the instant petition is not maintainable as the petitioners have not come with clean hands before this court by concealing material facts regarding possession upon government land as the present petitioners have not possession upon the said land since 1977 onward. It has been objected that the petitioners are falsely claiming the ownership of resumed land on the basis of fake and fabricated agreement to sell and that accordingly the civil court decree was obtained without proper verification of the revenue record. It has been submitted that the petitioners have concealed the facts regarding writ petition No.29153 of 2013 filed by the Province of Punjab against the order dated 28.09.2012 passed by the Chairman, FLC, which has been set aside by the august High Court while disposing of the said writ petition. It has been objected that the petitioner's interest in the subject land is based on purely personal and *mala fide* motives rather than any legitimate legal right and they are misleading this court for illegal personal gains, therefore, the petition is liable to be dismissed. Learned DLC, Kasur submitted the above report in detail mentioning the captions of the orders passed by the authorities below as well as passed by the August Lahore High Court. He has also submitted that Jameela Malik and Sharifan Bibi never remained in possession of the state land since the land was resumed and in this way the petitioners have absolutely no right or entitlement to maintain the petition as the then DLC, Hyderabad vide case No.1255-HVC-LR-11 of 1979 titled as Akhter Hussain has already declared that an agreement to sell does not confer ownership rights or title. He submitted that it was a contractual promise between parties and the declarant Akhter Hussain did not disclose the name of Mst. Sharifan Bibi (so called bona fide purchaser) while submitting the declaration forms under Land Reforms Act, 1977 to DLC, Hyderabad on 26.04.1976. Therefore, he submitted that the agreement to sell cannot be held as genuine and the same was fake, false, fabricated and fraudulently created.

6. Replying to the contents of the petition, learned DLC, Kasur submitted that as per revenue record land measuring 1473 kanals 19 marlas



owned by Provincial Government situated at Mouza Thathi Ottar, Tehsil Patoki, District Kasur was allotted to Akhtar Hussain s/o Mian Bhai vide mutation No.24 dated 19.05.1968. Out of the allotted above allotment, land measuring 563 kanals 18 marlas was resumed vide mutation No.111 sanction on 23.06.1979 in favour of Provincial Government under Land Reforms Act, 1977. He submitted that this way petitioners have absolutely no right or entitlement against the resumed land and they are trying to get the land fraudulently on the basis of agreement to sell, which has no force of law. It has been stressed that about 21 years have elapsed and the mother of the petitioners Sharifan Bibi emerged as plaintiff by filing a suit for specific performance against respondent No.5 Begum Jameela Malik (deceased) before learned Civil Judge 1<sup>st</sup> Class, Lahore on 03.11.1997 whereby it was alleged that Akhtar Hussain had entered to an agreement to sell with her on 20.08.1976 regarding land measuring 562 kanals 18 marlas for consideration amount of Rs.150,000/- and obtained an ex-parte decree on 05.05.1998. It has been submitted that the said decree was challenged by the Revenue Department for cancellation of decree, which is pending sine-die vide order dated 06.06.2015 before appellate forum. Resultantly, it has been prayed that the instant petition may be dismissed being devoid of merits as the present petitioners did not come with clean hands.

7. Learned counsel for the petitioners, after narrating the overall facts of the case narrated above, vehemently denied the stance taken by the learned DLC, Kasur in his report and para-wise comments. He contended that the resumption of excess land was made at the back of the petitioners and mutation No.111 dated 23.06.1979 was unlawfully sanctioned by ignoring the right accrued to Mst. Jameela Begum, daughter of the declarant, through agreement for consideration and possession was delivered and similarly 42 acres situated in Jatti, Tehsil Tando Muhammad Khan were sold to Muhammad Aya Khan through agreement dated 11.12.1975 and possession was also delivered. Thereafter, they sold remaining land to Mst. Sharifan Bibi in Kasur, Punjab. He argued that the property was wrongly determined the holding of Akhtar Hussin under Land Reforms Act, 1977 by the DLC, Hyderabad but should have referred the case to DLC, Kasur as the major portion of land was situated in district Kasur. Learned counsel argued that the matter was decided without associating the petitioners and proforma respondents in respect of the property situated in district Kasur. Learned counsel argued that the determination order was only challenged by Muhammad Aya Khan and the petitioners were not knowing the proceedings before the Commissioner, which was accepted, vide order dated 12.12.1978 on the ground that Aya Khan has purchased the property, therefore, the same be excluded, but despite the fact that the property was also purchased by Jameela Begum and Mst. Sharifan Begum, the same was resumed without considering the said purchase and case was remanded to DLC, Hyderabad, who vide order dated 06.01.1979 held that the transaction was not completed as such those lands are to be included in the entitlement of the declarant and excess land to the extent of 5089 PIUs was to be resumed by amending the earlier schedule of land and area worth 3801 PIUs was to be resumed from Rakh Thathi Otar Shumali, Tehsil Chunian, district Kasur, Punjab and 1288 PIUs from Deh Jatti, Tehsil Tando Muhammad Khan, district Hyderabad, Sindh. He contended that, accordingly, mutation No.111 was sanctioned on 23.06.1979.

8. Learned counsel for the petitioners contended that feeling aggrieved as the property was transferred in the name of Jameela Begum, she

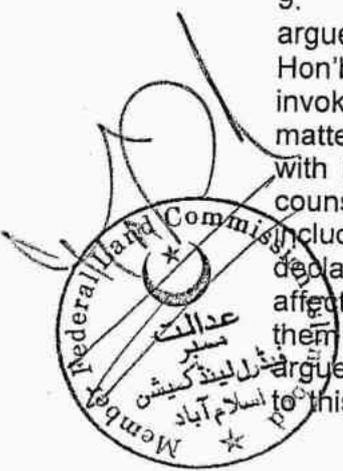


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filed a suit for declaration that she had paid the whole consideration of the property transferred to her and the possession was also delivered and she had become owner of the said property. Therefore, the said property was not required to be included in the holding of Akhtar Hussain, the declarant, under Land Reforms Act, 1977 by the authorities below. Learned counsel argued that finally the suit was decreed on 20.01.1983 and thus the mutation so sanctioned became worthless, however, since Sharifan Begum who was also in possession of the property, on the same line suit for declaration was filed through her legal heirs, which was decreed on 05.05.1998. Learned counsel argued that during the period the matter was challenged in revision before the Chief Land Commissioner, Punjab, who remanded the case to DLC, Hyderabad, who vide order dated 31.03.1994 declaring the said transaction again invalid. Learned counsel argued that the petitioners were unaware of whole proceedings and they came to the knowledge about the resumption proceedings when notice was issued on 04.06.2011 for vacation of the property under Sections 32 & 34 of Colonization of Government Act, the petitioners without knowing the previous fact considering that it was not a Colony land and the said provisions of Sections 32 & 34 were not applicable, challenged the proceedings through civil suit but the stay was refused. Thereafter, the petitioners challenged that order before the High Court and thereafter they got the knowledge that the matter pertains to land reforms and since the order was already passed by the CLC, Punjab, they filed revision petition before the FLC and vide order dated 28.09.2012 the same was accepted but detailed order was not passed by the Chairman, FLC as the case was decided only on single point that the land in terms of PIUs was excess in Kasur, therefore, the DLC, Hyderabad was not competent to pass the order of resumption and DLC, Kasur was the only competent authority. Learned counsel argued that the merits were not discussed in the order, and it was decided technically by accepting the petition, which was challenged before the High Court by the Punjab Government in W.P. No.29153/2013 and the same has also been decided on such technical grounds wherein the FLC's order dated 28.09.2012 has been set aside as below:

"In view of the above, respondent No.1 has erred in law by observing that the proceedings before respondent No.3 were without jurisdiction. In this way, impugned order is not sustainable in the eyes of law. Hence, this petition is allowed. Consequently, impugned order passed by respondent No.1 is set-aside."

9. Advancing his arguments, learned counsel for the petitioners argued that the matter has been disposed of on technical grounds in the Hon'ble High Court, therefore, it does not bar the jurisdiction of this court to be invoked in the titled petition, therefore, this court is competent to decide the matter on merits determining the nature of alienations and their effect along with illegality of their inclusion in the entitlement of the declarant. Learned counsel contended that the orders of the land reforms authorities below including the land transferred in favour of the petitioners in the entitlement of declarant Akhtar Hussain is illegal, ultra vires and without jurisdiction and not affecting the ownership rights of the petitioners in the property transferred to them after paying whole amount and delivery of possession. Learned counsel argued that Section 27 of Land Reforms Act, 1977 provides ample jurisdiction to this court to take cognizance of the matter and set aside the illegal action



and decisions authorities below to protect the rights of the petitioners as right to have the property is protected in the Constitution of Islamic Republic of Pakistan, 1973. Learned counsel contended that transfer was made on 20.08.1976 after payment made and possession was delivered. He contended that though the agreement was made yet it shall be considered to have created interest in favour of the petitioners under the land reforms as not only the complete transaction but if the interest is created that too be considered and property validly transferred is to be excluded from the entitlement of the declarant Akhtar Hussain. Reliance was placed on PLD 1981 Kar. 393, PLD 1981 Kar. 114 and 1991 SCLR 736. Learned counsel argued that the original declarant exercised his choice and surrendered the land situated in Hyderabad, which was acted upon and after his death no change in the declaration could have been made, therefore, after his death, on appeal of Aya Khan the case could not have been decided and hence it is not permissible under Section 4 of Land Reforms Act, 1977. He contended that the case of the petitioners was pleaded before the Member, Board of Revenue claiming exclusion of already transferred land by relying upon above quoted case laws, having not been attended by the FLC, could not have been ignored. Learned counsel argued that the petitioners having purchased the land on 20.08.1976 through agreement and paid whole of the price and possession was delivered to them, was a complete sale and should have been excluded from the entitlement of the declarant. Learned counsel argued that since the transfer having been made to the predecessor-in-interest of the petitioners and was shown in the declaration form, the land reforms authorities below were obliged to associate the petitioners in the proceedings but failed, therefore, this court is competent to scrutinize the decisions of the Sindh Land Reforms Authorities and set aside the same as per prayer of the above titled petition by excluding the land transferred to the petitioners by declaring them lawful owners in possession of the said property in the interest of justice, fair play and equity.

10. Heard the learned counsel for the petitioners and perused the record. All the series of the orders passed in the cases of declarant Akhtar Hussain and present petitioners along with orders passed by the Chairman, FLC dated 28.09.2012 and the judgment dated 15.01.2025 passed in writ petition No.29153 of 2013 have minutely been perused by this court to determine the case on merits as the earlier decision was on technical point, which has been decided by the Hon'ble High Court, therefore, this court has the jurisdiction to determine the case on merits. Since the determination was made by DLC, Hyderabad, at that time and though the transfer has been made in favour of Mst. Jameela Malik daughter of declarant for land in Kasur and in respect of other land by DLC, Hyderabad, the transferees in Kasur were not heard, as such they prayed that the case is to be decided on merits after hearing them. So, the transfer made prior to the enforcement of Land Reforms Act, 1977, could not be included in the entitlement of the declarant as the right and interest of the petitioners had already been created, which were not considered. The provisions of Sections 6 and 7 of Land Reforms Act, 1977 do not say the transaction to be legally created through registered sale deed rather refer to defecto transfer or creation of any interest. For ready reference the provisions of Sections 6 and 7 of Land Reforms Act, 1977 are reproduced as under:

6. Certain transfers void:- (1) The transfer of any land, and the creation of any right or



interest in, or encumbrance on any land, made in any manner whatsoever in respect of any area, on or after the commencement of this Act by any person holding immediately before that date an area exceeding his entitlement under section 3, shall be and shall be deemed always to have been void, and the land so transferred or encumbered shall be deemed to have been owned or possessed, as the case may be, by the person by whom it was owned or possessed immediately before that date. (2) Nothing in subsection (1) shall apply to any transfer of land or the creation of any right or interest in or encumbrance on any land left with a person after he has surrendered the land in excess to his entitlement under this Act."

"7. Declarations (1) A Provincial Land Commission may, by notification in the official Gazette, require that any person or class of persons mentioned therein, shall submit such declaration to such authority, in such manner and form and by such date, as may be specified in the notification.

(2) In case a person, who is required to make declaration under this section, owns or possesses land in more than one Province, he shall make the declaration to the Commission for the Province where he permanently resides, and the said Commission may call for any information in respect of the declaration from any other Province where the declarant owns or possesses land and pass orders thereon." (emphasis supplied)

Perusal reveals that the transfer document fulfills the requirement of the aforesaid section of Land Reforms Act, 1977 and makes it a valid transfer inasmuch as declarant transferred 65 acres 2 Kanals to his daughter Jameela Begum on 20.08.1976, received whole consideration and delivered possession. Similarly, land measuring 42 acres was transferred to Aya Khan in Tando Muhammad Khan, Hyderabad vide judgment dated 11.12.1975. Mst. Sharifan Bibi on the basis of agreement dated 20.08.1976 filed a suit, which was decreed on 05.05.1998. All these were affected before the enforcement of the Land Reforms Act, 1977, and as such could not be included in the entitlement of the declarant. The Hon'ble High Court decided the case only on technical grounds and did not discuss the merits, therefore, the transaction made already prior to the enforcement of Land Reforms Act, 1977 cannot be scrutinized and even were to be scrutinized regarding completion of the sale, even through proper application of mind and validly determining the rights of the petitioners. Therefore, the validity of transaction and determination of holding of the declarant is required to be properly decided on merits. Hence the case on the guideline available in the above referred judgment of the Hon'ble Apex Court



regarding sale of the land to the petitioners is wide open to be decided by this court under the provisions of Section 27 of the Land Reforms Act, 1977 being the appropriate forum of Land Reforms Laws to clarify the merits of the case after the above verdict of Hon'ble Lahore High Court. In this regard, I would like to place reliance upon 1985 SCMR 312 – Zuhra Khatoon and others Vs Member, FLC, wherein the Apex Court held that inclusion of area alienated in surrendered land could be challenged by the alienees, if transaction was otherwise lawful and effective, to resist such act of alienor before Land Commission Authorities so as to compel him to surrender other than so alienated land. It was further held that even if it was assumed that as alienees did not qualify condition of being aggrieved party, in order to protect their interest recognized by the Land Commission Authorities, it was essential to implead them as respondents.

11. Learned counsel for the petitioners referred to the transfer made by Akhtar Hussain to his daughter by taking the amount and delivery of possession, similarly the transfer to Aya Khan in Tando Muhammad Khan, Hyderabad was also acknowledged by the Land Reforms Authorities, but did not declare it void merely because the sale deed was not completed and mere agreement does not create any rights, though at that time the transfer made to Mst. Sharifan Bibi was not considered but that too was established even by the competent civil court, as such all the transactions made prior to the enforcement of Land Reforms Act, 1977 are valid and could not have been included in the entitlement of the declarant. This law was considered by the Superior Courts in various judgments that creation of right or interest in the property does not mean that it should be completed through registered documents as held in PLD 1981 Karachi 114 (at page 120-122-A) that not only the complete transaction and duly registered by the sale deed, but also other transactions which create rights or interest of the land though the sale may not be completed under the law. Similar view was taken in 1981 Karachi 393 and 1991 SC 736 (at page 743-744), relevant portion of which is reproduced as under:

"While construing the word 'transfer' it was necessary that the purpose and the spirit of the Land Reforms Regulation, 1972 should have been kept in view. It must be noted that this Regulation has not been enacted to regulate the transfers of immovable property from one party to another. Therefore, it was wrong to have given that meaning to the expression 'transfer' which, under the law governing the transfers of property, it normally carries. The error of Land Commission Authorities lies in the fact that they construed the word 'transfer' strictly in a manner which would be justified only in a case where the dispute was between the transferer, and the transferee. In the present case, it may be noted that there is no conflict between the positions taken by the Government servant who is the transferor, and the petitioners who are the transferees. It is the government as a third party that is seeking to hold the transfer invalid in order to resume the bulk of the land in question. In these circumstances, what the Land Commission is to see is whether in effect the transfer is complete even if it is not strictly so under the general law



governing the transfers of property. In my opinion, for the purposes of the Regulation, it is the de-facto position that counts and not the de jure one except where the validity of the transfer is disputed also by one or the other party to the transfer. Similarly, while interpreting the words 'own' and 'possess' occurring in paragraph 10 of the Regulation and Land Commissions should always bear in mind the purposes of the Regulation itself."

If the aforesaid two transactions are excluded even Akhtar Hussain does not remain affectee of Land Reforms Act, 1977 or even otherwise sale dated 20.08.1976 in favour of Mst. Sharifan Bibi, who had paid whole of the amount and possession was delivered to her, was also could not have been included in the entitlement of the petitioners.

12. I am in agreement with the arguments rendered by the learned counsel for the petitioners, which have a force of law. Record reveals that land declared by Akhtar Hussain (declarant) also mentioned in the declaration forms that property measuring 64 acres 02 kanals in Chak Thathi Utaar, Kasur was transferred through agreement dated 20.08.1976 to his daughter Jameela Malik against consideration. Similarly land measuring 42 acres in Jatti, Tehsil Tando Muhammad Khan, Sindh was sold to Muhammad Aya Khan through agreement dated 11.12.1975 and thereafter also sold remaining property to Mst. Sharifan Bibi in District Kasur. After determination land to the extent of 4994 PIUs was resumed from Deh Jatti, District Hyderabad, on the choice of the declarant while 34 PIUs were resumed from Kasur. Later on, matter was challenged by one Muhammad Aya Khan (a purchaser) in appeal which was accepted by the Commissioner, vide order dated 12.12.1978 by remanding the case while the other purchasers were ignored at all. Resultantly, DLC, vide order dated 06.01.1979 by amending the schedule of resumption i.e. 3801 PIUs were resumed from Rakh Thathi Utaar Shumali, Tehsil Chunian, District Kasur and 1288 PIUs from Deh Jatti, Tehsil Tando Muhammad Khan, Hyderabad by denying the same transactions and accordingly mutation No.111 was sanctioned on 23.06.1979. Record reveals that Jameela Begum and Mst. Sharifan Bibi filed civil suits and obtained declaratory decrees on 20.01.1983 and 05.05.1998 respectively. Further record reveals that Aya Khan filed revision petition before the CLC, Punjab who vide order dated 14.01.1990 remanded the case to the DLC, Hyderabad to re-examine the alienations made by the declarant Akhtar Hussain son of Mian Bhai. Accordingly, learned DLC, Hyderabad vide order dated 31.03.1994 admitting the same of Muhammad Aya Khan for a consideration of 60,000/- as per simple agreement executed on 11.12.1975 and excluded from resumption by modifying the order dated 06.01.1979. Civil court decree in respect of Jameela Begum dated 20.01.1983 was on record and the learned authorities below would have taken the same into consideration while passing the order dated 31.03.1994 and thereafter the decree dated 05.05.1998 in respect of Mst. Sharifan Bibi. If the land purchased by simple agreement by Aya Khan could have been excluded then on that precedence authorities below would have excluded the land purchased by Mst. Jameela Begum and Sharifan Bibi instead of treating the same as fake, fraudulent or forged. The petitioners have lawfully and rightly agitated the matter before the Chairman, FLC, wherein the learned counsel for the petitioners discussed the sale in his order dated 28.09.2012 duly supported by case laws but the Hon'ble Chairman, FLC, while concluding the case decided



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the matter under technicalities and could not impart his decision on the said sale made to the petitioners. This is why his order could not sustain before the higher forum.

13. Forgoing in view and placing reliance upon 1985 SCMR 312, 2003 SCMR 948 and 2018 SCMR 762 along with reliance placed in the revision petition i.e. 1991 SCMR 736, PLD 1981 Kar. 114 and PLD 1981 Kar. 393, the above titled revision petition is allowed to the extent of the petitioners, being bona-fide purchasers of the impugned land, and the land transferred to the petitioners is excluded from the entitlement of the declarant (Akhtar Hussain). Accordingly, they shall remain owners of the land in possession transferred to them by agreement to sell while the orders dated 12.11.1997, 12.12.1978 and 06.01.1979 passed by DLC, Hyderabad along with resulted mutation No.111 dated 23.06.1979 to the extent of the land transferred to the present petitioners are set aside and stand cancelled. The DLC, Kasur is directed to make compliance to this order within 30 days of the official receipt of this order with a report to the Registrar, FLC. Any status quo/Stay order already granted shall stand vacated in a result of this final order.

14. The judgment of this case was reserved, which is announced today and communicated to the DLC, Kasur and Hyderabad through Registrar, FLC, Islamabad for necessary compliance as ordered in preceding paragraphs.



Announced  
24.11.2025

  
(Asad Mahmood Qazi)  
Member

**IN THE COURT OF MEMBER (JUDICIAL),  
FEDERAL LAND COMMISSION, ISLAMABAD**

RP.3(1799)/FLC/2025

Mst. Bakhat Zarina widow of Said Habib R/o Mohallah Qamar,  
Shergarh, Saeed Abad, Tehsil Takht Bhai, District Mardan.

.....Petitioner

**VERSUS**

1. General Manager Pakistan Railways Headquarter, Lahore.
2. Divisional Superintendent, Pakistan Railways, Peshawar.
3. The Commissioner, Mardan.
4. Deputy Land Commissioner, Mardan.
5. Additional Assistant Commissioner (Revenue), Mardan.
6. Tehsildar, Mardan
7. Tehsildar Service Delivery Centre, Mardan.
8. Head Clerk, Land Reforms, DLC office, Mardan.
9. Halqa Patwari, Mauza Bagh-e-Irum, Mardan.

..... Respondents

**PRESENT**

1. Syed Kousar Ali Shah, Advocate Supreme Court/Counsel for Petitioner
2. Shoaib Sultan, Advocate High Court/Counsel for Pakistan Railway
3. Muhammad Younas, Representative for Petitioner
4. Mr. Athar Rahim, Clerk Land Reforms, DLC office, Mardan

**ORDER**

By this consolidated order, I intend to dispose of the above titled case whereby Mst. Bakht Zarina has called into question the impugned proceedings and order of the Deputy Land Commissioner, Mardan, purportedly undertaken on an application under Section 12(2), Code of Civil Procedure, 1908, filed by Pakistan Railways through its General Manager, on the specific pleas that the said proceedings are *coram non judio*, without lawful authority and *void ab initio*; and (ii) the connected application filed by Mst. Bakht Zarina seeking, *inter alia*, restoration and due enforcement of the warrant of possession issued by the Additional Assistant Commissioner (Revenue), Mardan, dated 25.07.2024, together with a categorical restraint against the Deputy Land Commissioner, Mardan, and all subordinate revenue functionaries from, in any manner, interfering with, obstructing or frustrating the execution of the decree and the said warrant of possession

Pursuant to judgment dated 13.03.2025 passed by the Hon'ble Division Bench of the Peshawar High Court, Peshawar in W.P. No. 894-P of 2025 (General Manager, Pakistan Railways Vs Mst. Bakhat Zarina & others), whereby the matter has been remanded with a specific direction to implead the General Manager, Pakistan Railways as a necessary party. Resultantly, the execution proceedings in the application of the petitioner along with application under Section 12(2) CPC of Pakistan Railways, stood revived before this Court.



3. Accordingly, the General Manager, Pakistan Railways has been impleaded as necessary party to the case. The record of the proceedings to be initiated under Section 12(2) CPC by the Deputy Land Commissioner, Mardan, on application filed by Pakistan Railways through its General Manager before this court, which, vide order dated 18.12.2024 sent to DLC, Mardan, was requisitioned. The Clerk Land Reforms, DLC office, Mardan is present and produced the record in the court, which was perused. On a pointed query from this forum, both learned counsel stated with mutual consensus that the revision on the proceedings of application and application under Section 12(2) CPC be decided on the basis of the existing judicial and revenue record and their submissions before this court. Hence, the instant proceedings.

4. Before handling the core issues, it is important to reiterate the facts of the case for better comprehension. Simply, pursuant to the resumption order dated 13.06.1959 of DLC, Mardan, Mst. Bakht Zarina, the present petitioner, was allotted a portion of resumed land, vide order dated 30.03.1973 passed by the then Deputy Land Commissioner, Mardan duly supported by the LR-XVI & LR-XVII proposal forms. The petitioner filed application for seeking directions of this court on 02.03.2023 wherein following order was passed:

"The record annexed with the application needs verification from DLC, Mardan and therefore, the instant application cannot be decided in vacuum. The order dated 30.03.1973 and Forms LR-XVI and LR-XVII annexed therein arguably seems still in field. Hence, the Deputy Land Commissioner, Mardan is directed to verify the said record and implement as per law in light of the Forms LR-XVI and LR-XVII. The original application-file is hereby returned as ordered, while the office is directed to keep the record of the same on the main file referred in the application."

5. The above matter was pending before the DLC, Mardan in light of the directions of this court that the present petitioner again filed an application before this court for seeking further directions on non-compliance of the order dated 02.03.2023, wherein the order dated 09.07.2024 was passed by this court directing the Deputy Land Commissioner Mardan, in terms of Section 18(4) of the Land Reforms Act, 1977 read with Order XXI Rule 35 of the Civil Procedure Code, 1908 to execute the court's orders accordingly. It was further directed that he shall manage to hand over possession to the petitioner and remove all hindrances through the local administration, as mandated by law, subject to no adverse order from any court of law. Resultantly, considering the DLC's order dated 30.03.1973, after due verification, warrant dakhil/possession was issued and allotment mutations were incorporated in the revenue record by the orders dated 25.07.2024 passed by Additional Assistant Commissioner (Revenue) Mardan in favour of the petitioner. The Respondent Railway Department objected the execution and contested before the DLC, Mardan against the allotment through a review application. A proper inquiry was conducted and said review petition was dismissed on 05.08.2024 by the DLC, Mardan. Thereafter, they again filed another review application before the DLC, Mardan, who resultantly reviewed the execution order by passing an adverse order for cancellation of mutations. In the meantime,



respondent railway department filed writ petition No. 3969-P/2024 against the orders of this court dated 02.03.2023, 09.07.2024 and order dated 25.07.2024 of Addl. Assistant Commissioner (Revenue) Mardan. However, at parallel, they also filed an application under Section 12(2) CPC for setting aside/modification of the above referred order. During the course of time, on application of respondent Pakistan Railways, Deputy Land Commissioner, Mardan appointed a Revenue Officer as Inquiry Officer on 12.08.2024, who concluded the inquiry on 19.09.2024, which was in complete disregard of the previous finality of the order dated 30.03.1973 and incorporation of entries in the revenue record and reviewed the allotment, which by virtue of the order dated 02.10.2024 was set aside by this court.

6. Comments of the DLC, Mardan were also called for by this court, which were received on 01.09.2025 in the court through Superintendent, DC office Mardan. Learned Deputy Land Commissioner, Mardan in his reply reiterated the facts pertaining to the application of the present petitioner and order of this court dated 02.03.2023 read with orders dated 27.02.1998 of Chairman, FLC and further read with DLC Mardan's orders dated 13.06.1959 and 30.03.1973 regarding allotment of land in favour of the petitioner under LR-XVI-XVII after due verification. It has been admitted in the reply that subsequently the Revenue Officer attested Mutation No.24414 on 25.07.2024 relying upon FLC's order dated 02.02.2023 which was confirmed by order dated 09.07.2024 of this court. He has submitted that in the meanwhile Pakistan Railways Department through Divisional Superintendent Pakistan Railways Peshawar forwarded various letters to the Commissioner Mardan Division Mardan, Deputy Commissioner Mardan and FIA Peshawar with certain assertions that Central Government was owner in possession of Khasra No.4776, 982 measuring 09 kanals 16 marlas since long in mauza Bagh-e-Irum, Mardan including above mentioned facts pertaining to this court's orders and subsequent incorporation of mutation in favour of the petitioner. Main assertion was that the land was in the ownership of Pakistan Railway which was allotted to Mst. Bakht Zarina on false reports etc. Consequently, vide order dated 12.08.2024 Inquiry Officer was appointed, who submitted report dated 19.09.2024 and concluded the inquiry with the findings that Jamabandi 1970-71 submitted by Office Kanungo revealed that Central Government was in column of possession and Station Master Marifat Mr. Said Qamar s/o Gohar lied in the column of cultivation, which nullifies the authenticity of Khasra Girdawari dated 14.01.1972. Hence, he denied the status of the petitioner to be in cultivating possession and also the order dated 30.03.1973 which included Khasra Nos. 490, 450/1 (not 950/1) and 647 by alleging allotment order to be dubious. Accordingly, learned DLC, Mardan submitted that vide order dated 19.09.2024, mutation No.24414 dated 25.07.2023 was cancelled being the property of Central Government/Pakistan Railway and prayed that the instant petition may be dismissed with exemplary costs.

7. The learned counsel, representing General Manager Pakistan Railways, Mr. Shoaib Sultan, Advocate High Court, argued that:

- 1) He confines his challenge to Survey No. 950/1 (present Survey No. 1476), expressly not contesting the allottee's claim regarding two other survey numbers
- 2) He argued that Pakistan Railways is the lawful and recorded owner of Survey No. 950/1 on the strength of



Mutation No. 45 dated 11.11.1930, which explicitly records the transfer from Nawabzada Sir Muhammad Akbar Khan in favour of the Railways, and that this legal position has consistently been reflected and reinforced in the revenue record through the continuous description of the land as "maqbooza Pakistan Railways" from partition up to the present. Learned counsel submitted that Mutation No. 45 is not a stray or casual entry, but the product of the statutory mutation machinery contained in Chapter VI ("Records") of the West Pakistan Land Revenue Act, 1967, which treats the register of mutations as the central instrument for recording changes in title. By virtue of section 41(3), the Collector is bound to ensure that "a register of mutations in the prescribed form" is maintained for every estate by the Patwari, meaning that any lawful acquisition of rights in land must pass through this formal register, not through private or informal papers. Under section 42(1), every person acquiring a right in an estate "by inheritance, purchase, mortgage, gift or otherwise" is legally required to report that acquisition to the Patwari for entry in the mutation register; only after such report, inquiry and attestation does the new right find its way into the periodical record. Thus, Mutation No. 45 is precisely the kind of statutory mutation contemplated by sections 41 and 42, and its continued reflection in the revenue record in the form of *maqbooza* entries in favour of Pakistan Railways shows that it has never been lawfully displaced, cancelled or superseded. Learned counsel, therefore, contended, as a matter of pro-Railways argument, that (i) the 1930 mutation provides a clear recorded root of title in favour of the Railways; (ii) the decades-long, undisputed possession of Pakistan Railways exactly matches that recorded title; and (iii) under the scheme of Chapter VI, particularly section 41(3), such a mutation and the entries based on it constitute the legally recognised foundation for ownership in the revenue record, which can only be altered through a proper proceeding under the Act. In the absence of any lawful substitution of entries or proof of a superior title, the Court ought to treat Mutation No. 45 and the continuous *maqbooza entries* as strong, presumptively correct and practically conclusive proof of ownership in favour of Pakistan Railways.

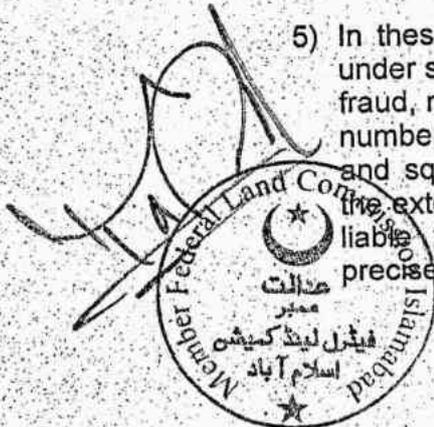
3) Learned counsel vehemently assailed the so-called allotment order and, in particular, its extension to Survey No. 950/1, contending that the very foundation of the allotment is defective, misconceived and vitiated by fraud and misrepresentation. He pointed out that in the Deputy Land Commissioner's order dated 30.03.1973, the survey number expressly mentioned is Survey No. 450/1, not Survey No. 950/1 and that this crucial discrepancy is not a mere clerical slip but goes to the identity and corpus of the



property itself. Relying on the AAC's inquiry, he submitted that the subsequent attempt to smuggle Survey No. 950/1 into the allotment record is a clear act of manipulation, amounting to deliberate concealment and misdescription in order to lay hands on land which was never the subject of the original allotment order. He thus argued that, to the extent of the decree and its execution are being projected over Survey No. 950/1, they stand tainted by fraud, founded on misrepresentation, and are without lawful sanction, attracting the corrective jurisdiction of the Court under section 12(2) CPC. Accordingly, he prayed that the execution proceedings be dismissed and declared inexecutable qua Survey No. 950/1, and that the application under section 12(2) CPC be allowed in respect of Survey No. 950/1, on the categorical finding that the decree/allotment was procured to that extent by fraud, misrepresentation and abuse of process of law.

- 4) He further submitted that the AAC's inquiry report furnishes independent, neutral and contemporaneous confirmation of these objections. The AAC, after examining the original allotment record, site position and survey maps, categorically found that the Deputy Land Commissioner's order dated 30.03.1973 was confined to Survey No. 450/1 only, and that Survey No. 950/1 never formed part of the subject-matter of that allotment. The inquiry noted the subsequent interpolation and inclusion of Survey No. 950/1 in the LR-XVI and allied papers as an after-thought, unsupported by the original dispositive order and inconsistent with the sanctioned scheme. Learned counsel argued that the Court cannot shut its eyes to such objective administrative findings, which reveal that the extension of the decree to Survey No. 950/1 is not a case of innocent mistake but a conscious distortion of the allotment record, squarely attracting the principles that fraud vitiates even the most solemn judicial and quasi-judicial acts and that no party can retain advantage obtained by playing fraud upon the Court or the State. On this footing, he submitted that the very substratum of the decree, in so far as it is sought to be fastened on Survey No. 950/1, stands destroyed, leaving nothing capable of lawful execution against Pakistan Railways' recorded title.

- 5) In these circumstances, he preserved that the application under section 12(2) CPC being founded on specific pleas of fraud, misrepresentation, concealment of the correct survey number and misuse of the 1973 order is fully maintainable and squarely attracted, and that the execution petition, to the extent of Survey No. 950/1, is legally unsustainable and liable to be thrown out. Section 12(2), he argued, is precisely designed to prevent a litigant from weaponizing a



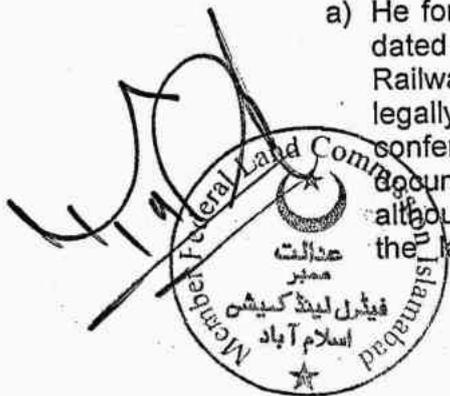
decree obtained by playing fraud on the Court or by misdescribing the property, and it would be a travesty of justice to allow the judgment-debtor's land to be taken under a decree which, as exposed by the AAC in his inquiry, never lawfully covered Survey No. 950/1 in the first place. He, therefore, urged that the Court should accept the 12(2) application, declare that the decree/allotment is *non est and void* to the extent of Survey No. 950/1, and consequently dismiss the execution petition as inexecutable qua Survey No. 950/1, thereby restoring and affirming the recorded, mutation-based title and long-standing *maqbooza* ownership of Pakistan Railways over the said land.

6) While concluding his arguments the learned counsel referred to an affidavit on behalf of Mst. Bakhat Zarina that the 950/1 is not included in the allotment thus concluded the same may be expunged from the implementation order as well as warrant of possession.

7) While summing up his submissions, learned counsel for Pakistan Railways further sought to build his case on an affidavit allegedly sworn on behalf of Mst. Bakht Zarina, wherein, according to her, it was conceded that Survey No. 950/1 did not form part of the allotment. Placing heavy reliance on this document, he argued that such a statement amounts, in substance, to a surrender / abandonment of any claim over Survey No. 950/1 by the decree-holder, and should, on the well-recognised principle that a party may waive or relinquish its own rights, operate as a binding admission against her. On this premise, he urged that Survey No. 950/1 be expunged and struck off from the implementation order as well as from the warrant of possession, contending that no court can compel enforcement of a decree beyond what the decree-holder is now prepared to accept, and that a party who has, by solemn affidavit, surrendered a portion of her claim, cannot thereafter be heard to assert rights inconsistent with such surrender.

8. Learned counsel for the petitioner (Mst. Bakht Zarina), Syed Kausar Ali Shah, Advocate Supreme Court argued as below:

a) He forcefully submitted that the so-called "Mutation No. 45 dated 11.11.1930" pressed into service by Pakistan Railways is, on its very face, a defective, unreliable and legally non-existent piece of paper, wholly incapable of conferring or evidencing any title. According to him, the document is fake, bogus and concocted on the record itself: although it bears the date 11.11.1930, it nowhere states that the land was being transferred in favour of "Pakistan



Railways", "Indian Railways" or even "Government"; the name of the alleged transferee is vague and undefined, and the paper does not even conform to the basic structure and safeguards of a statutory mutation under the land-revenue laws. He emphasised that it is a solitary loose sheet, purportedly resting on an English letter dated 04.07.1930 from a so-called "Railways Department", yet (a) it carries no file number or diary number, (b) discloses no name or designation of any issuing authority, (c) mentions no Patwari, no Tehsildar, no Revenue Officer, (d) bears no order, attestation or endorsement of any competent Land Acquisition Collector or revenue authority, and (e) has never been shown as part of the regular register of mutations or record-of-rights maintained under the West Pakistan Land Revenue Act, 1967. In other words, what is styled as "Mutation No. 45" is, in substance, not even a mutation in the eye of the law, because a mutation, by definition, must be (i) entered by the Patwari in the mutation register, (ii) subjected to inquiry, and (iii) attested/sanctioned by the Revenue Officer before being carried into the periodical record; a loose, unattested sheet floating outside the statutory registers is no mutation at all and, therefore, cannot attract any presumption under section 52 of the West Pakistan Land Revenue Act or dislodge consistent ownership entries lawfully maintained over decades. He further argued that, even if for the sake arguments this paper was assumed to be an "order" in favour of Railways, it is still juridically inconceivable that proprietary rights in immovable property could have been transferred to a department merely on the strength of its own letter, without any resort to the Land Acquisition Act, 1894, which requires, at a minimum, a notification under section 4, a declaration under section 6, regular acquisition proceedings, and an award under section 11; no such notification, declaration, proceedings or award have been produced by Railways, nor is there any trace of compensation proceedings in favour of the alleged previous owner. This, he said, shows that there was never any lawful acquisition or conveyance behind the alleged mutation; the foundational transaction is completely missing.

b) Learned counsel stressed that it is now trite and repeatedly settled in Pakistani jurisprudence that a mutation sanctioned in summary revenue proceedings is not *per se* a document of title, but only a fiscal entry for purposes of land revenue, and that mutation entries neither create nor extinguish proprietary rights when there is no underlying sale deed, gift, inheritance, award or other legally recognisable mode of transfer pleaded or proved. Where, as here, (i) no foundational transaction is disclosed, (ii) the alleged "mutation" does not bear the hallmarks of a valid



mutation, (iii) it has never been properly incorporated in the regular record-of-rights, and (iv) it directly contradicts consistent ownership entries and a later judicially recognised allotment, such a paper is a nullity in the eye of law – a mere scrap of paper – and cannot be elevated into a source of title or be allowed to unsettle long-standing, regular revenue entries and an allotment/deed obtained through proper process. On this footing, he urged that Mutation No. 45 is formally invalid, substantively unsupported and legally impotent and in no manner whatsoever can it be said to confer, create or prove any title in favour of Pakistan Railways. Learned counsel, at the very outset, questioned the locus standi of Pakistan Railways to maintain the said proceedings.

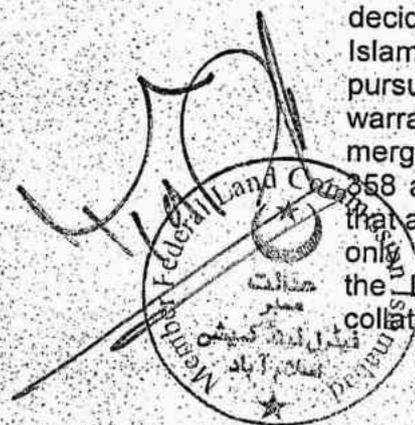
c) He submitted that Pakistan Railways, acting through the General Manager, is neither the recorded owner nor even a lawful possessor of the suit land. The entire chain of revenue record from 1910-11 till the latest settlement uniformly reflects its status, at the highest, merely as "Maqbooza", which is no more than a bare occupation remark devoid of juristic or proprietary content. Under Sections 39, 52 and 53 of the West Pakistan Land Revenue Act, 1967, the record-of-rights must distinctly specify (i) owners, (ii) tenants and (iii) persons entitled to occupy; a "Maqbooza" entry, even if assumed in favour of Pakistan Railways, falls strictly in the last category and does not, by itself, constitute title. In contra-distinction, the ownership column throughout stands in the name of Nawabzada Muhammad Akbar Khan of Hoti and other Nawabzadgan of Hoti; and by the long-settled "hierarchy of columns", entries in the ownership column prevail over cultivation and possession entries, which are merely pieces of rebuttable evidence. The superior courts have repeatedly held that revenue entries are maintained for fiscal purposes, that a mutation or possession entry is not proof of title, and that the beneficiary of such an entry must independently establish the underlying lawful transaction.

d) Adverting to the rights of the allottee, learned counsel invited attention to the Form LR-XVI produced from the official custody of the Land Reforms office through the Head Clerk, which categorically and contemporaneously records Survey No. 950/1, measuring 5 Kanals 6 Marlas, in the name of Mst. Bakht Zarina. On the well-recognised presumption of correctness attaching to public and judicial records, the belated plea that Survey No. 950/1 was subsequently and fraudulently added stands exposed as a bare, self-serving allegation unsupported by any admissible material and directly contradicted by the record itself.



e) He contended that the impugned inquiry is ex-facie illegal, without lawful authority and of no legal effect, inasmuch as it was initiated and concluded behind the back of the petitioner, without issuance of any proper written notice specifying the allegations or material relied upon, without fixing any date, time and place of hearing, without recording the petitioner's statement or allowing him/her to cross-examine witnesses or produce defence evidence, and is based merely on oral and "facial" assumptions and conjectures unsupported by contemporaneous record or admissible material. Such a procedure is alien to the scheme of the Constitution of the Islamic Republic of Pakistan and squarely offends Article 4, which guarantees that every person shall be dealt with strictly "in accordance with law", as well as Article 10-A, which expressly entitles every person to a fair trial and due process in the determination of civil rights and obligations. Learned counsel contended that the omission to serve notice and afford a meaningful opportunity of hearing constitutes a direct violation of the principle of natural justice, *audi alteram partem*, on the strength of which the superior courts have repeatedly held that any adverse order passed without notice and hearing, or founded on mere surmises rather than evidence, is arbitrary, capricious and a nullity in law.

f) On the question of limitation and forum, learned counsel submitted that the application under Section 12(2), CPC filed before this court and then sent to Deputy Land Commissioner, Mardan is both hopelessly time-barred and *coram non judice*. As the Code of Civil Procedure prescribes no special period for such an application, the residuary Article 181 of the Limitation Act, 1908 applies, providing a three-year period from the date of knowledge of the impugned judgment, decree or order, subject to reasonable diligence; yet the allotment and adjudication in favour of Mst. Bakht Zarina is several decades old and Pakistan Railways, long aware of the position, remained inactive, so the present recourse after more than half a century, without any plea or proof of continuous concealment, is hit by *limitation*, *laches* and *acquiescence*. More fundamentally, after the controversy stood finally decided on merits by the Federal Land Commission, Islamabad, whose order has attained finality and in pursuance whereof the AAC (Revenue), Mardan, issued the warrant of possession dated 25.07.2024; the doctrine of merger operates with full rigour: relying on PLD 2016 SC 358 and subsequent High Court judgments, he contended that any petition under Section 12(2), CPC could, if at all, lie only before the Federal Land Commission itself, and that the Deputy Land Commissioner, Mardan, acting as a collateral forum, thus lacked inherent jurisdiction to



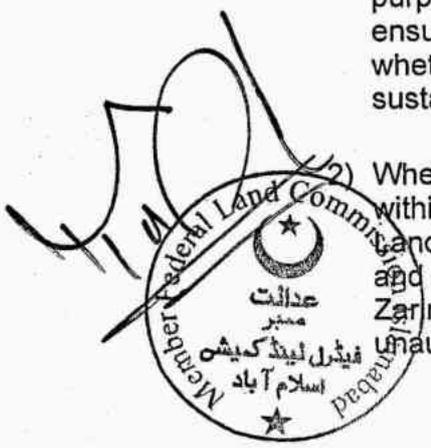
entertain or adjudicate such a challenge, rendering his proceedings *void ab initio and non est*. He added that order dated 18.12.2024 of this court was not required under 12(2) CPC in the above-stated position of law.

g) He further submitted that even assuming *arguendo* that the hurdles of forum and limitation could be ignored, the application under Section 12(2), CPC is fatally defective on its own terms, being founded upon bald and sweeping allegations of fraud and misrepresentation without material particulars: no specific acts, dates, actors, mechanisms or documents constituting the alleged fraud on the Court are pleaded, much less proved by clear and cogent evidence, although consistent jurisprudence holds that Section 12(2), CPC is an exceptional remedy meant only for fraud practised on the Court itself and cannot be invoked as a substitute for appeal, revision or writ on merits. In culmination, learned counsel emphasised that the rights of Mst. Bakht Zarina stand crystallised and protected by the final, merits-based order of the Federal Land Commission, Islamabad, and that the warrant of possession dated 25.07.2024 issued by the AAC (Revenue), Mardan, is a direct and lawful consequence of that final order; hence any attempt by the Deputy Land Commissioner, Mardan, or Pakistan Railways to stall, revisit or nullify that warrant under the guise of Section 12(2), CPC constitutes unauthorised and unconstitutional interference. On this cumulative reasoning, he prayed that the proceedings under Section 12(2), CPC be declared incompetent, time-barred and void, and that the warrant of possession dated 25.07.2024 be expressly restored, reaffirmed and directed to be executed forthwith, without further obstruction.

9. In view of the above, learned counsel for the petitioner summed up with the following questions to conclude the case on merits as per record:

1) Whether Pakistan Railways, acting through its General Manager, can, in law, be recognised as having any subsisting title, proprietary interest or locus standi qua Survey No. 950/1 (now Survey No. 1476) on the basis of the purported Mutation No. 45 dated 11.11.1930 and the ensuing "maqbooza Pakistan Railways" revenue entries, or whether the said material is juridically insufficient to found or sustain any claim of ownership?

2) Whether Survey No. 950/1 was validly and lawfully included within the compass of the allotment made by the Deputy Land Commissioner, Mardan, vide order dated 30.03.1973 and duly recorded in Form LR-XVI in the name of Mst. Bakht Zarina, or whether its inclusion is without mandate, unauthorised and non est in law?



- 3) Whether the AAC's (Revenue) inquiry, pressed into service by Pakistan Railways, was conducted in conformity with law, due process and principles of natural justice, and consequently possesses any legal efficacy or admissible evidentiary worth against the allottee, or whether the same is void, tainted and devoid of probative value?
- 4) Whether the application under Section 12(2), CPC instituted by Pakistan Railways before this forum and remitted to the Deputy Land Commissioner, Mardan, is competent, maintainable and within his inherent jurisdiction, in the backdrop of the final, merits-based adjudication rendered by the Federal Land Commission and the doctrine of merger, or stands vitiated as *coram non jure* and *void ab initio*?
- 5) Whether the said application under Section 12(2), CPC is saved from the bar of limitation under Article 181 of the Limitation Act, 1908 and meets the strict statutory and jurisprudential requirements of specifically pleading and proving fraud practised upon the Court itself, or is liable to be rejected as belated, barred and evidentially deficient?
- 6) What legal consequences and reliefs must ensue in respect of: (a) the impugned proceedings and order passed on the application under Section 12(2), CPC and (b) the warrant of possession dated 25.07.2024 issued by the AAC (Revenue), Mardan, in favour of Mst. Bakht Zarina and that whether the former is to be struck down and annulled and the latter restored, reaffirmed and enforced forthwith, or otherwise?

10. Arguments heard and record perused. Perusal of record reveals that the so-called mutation No. 45 dated 11.11.1930 is allegedly founded on an English letter dated 04.07.1930. Learned counsel for Pakistan Railways was specifically directed to produce a copy of the said letter, but despite opportunity he was unable to do so. A plain reading of the endorsement on the mutation sheet itself carries no coherent textual recital of any transfer of proprietary rights; rather, when learned counsel was confronted with the query as to how Railways could, by writing a letter, procure attestation of a mutation from a private landowner in its own favour, he was unable to advance any satisfactory explanation. It is further an astonishing feature that, although the mutation is of pre-Partition vintage (1930), it nowhere mentions "Indian Railways" or the then Government, nor does it disclose the name or designation of any competent official. No Patwari, no Tehsildar, no Revenue Officer and no Land Acquisition Collector is named or has countersigned it. It remains a solitary, loose sheet which, by admitted position, has never been incorporated in any regular mutation register or record of rights, and thus does not form part of the statutory revenue record.

Further, the AAC's inquiry itself, on which Pakistan Railways places considerable reliance, only goes to show that while the land might have been in use



or occupation of Railways, but there is no entry whatsoever in the record-of-rights in the ownership column in favour of Railways; in the column of possession there appears only the bare word "maqbooza", with no further endorsement or recognition of title. Learned counsel for Pakistan Railway was confronted both with the inquiry and with the Jamabandi entries but was unable to reconcile the absence of any ownership entry with the plea of proprietary rights. The most striking inconsistency emerging from the AAC's inquiry and the claim of Railways is that the inquiry proceeded on the premise that the land was never the property of the private declarant, whereas Mutation No. 45 dated 11.11.1930 is shown to have been attested from Nawabzada Muhammad Akbar Khan of Hoti. This contradiction fatally undermines the narrative built by Pakistan Railways and, instead, coheres with the Form LR-XVI entries in favour of the successors of Nawabzada Muhammad Akbar Khan, who were subsequently hit by land reforms.

12. On the legal plane, it is now firmly entrenched in the jurisprudence of the Supreme Court and the High Courts that a mutation entry or revenue entry is not a document of title, but a fiscal entry made for revenue purposes only, which by itself neither creates nor extinguishes proprietary rights. One High Court judgment succinctly states that "mere entry of mutation does not create any right... it is not a document of title; revenue record is maintained for fiscal purposes; it doesn't prove or disprove title rather transaction has to be proved," and later case-law, including Muhammad Iqbal v. Mukhtar Ahmed – 2008 SCMR 855; Muhammad Akram and another v. Altaf Ahmed – PLD 2003 SC 688; Masood Akhtar v. Manzoor Ahmed – 2005 CLC 1651; 2005 MLD 1013; 1990 CLC 1968; 1986 CLC 545; Mst. Janat Bibi v. Sikandar Ali and others PLD 1990 SC 642; Mst. Badshah Begum v. Ghulam Rasool and others PLD 1991 SC 1140; Ghulam Ali and 2 others v. Ghulam Sarwar Naqvi PLD 1990 SC 1; PLD 2011 Pesh. 10; 1993 SCMR 6187; 1994 CLC 1774 and 2000 SCMR 346 Arshad Khan VS. Mst. Resham Jan and others 2005 SCMR 1859, Mst. Suban VS. Allah Ditta and others SCMR 63, Peer Baksh through LRS and others Vs. Mst. Khanzadi and others 2016 SCMR 1417 reiterate that a mutation entry is "not a title document and is merely a record for fiscal purpose." In parallel, the statutory scheme of Chapter VI ("Records") of the West Pakistan Land Revenue Act, 1967 is also clear. Section 39 mandates that for each estate there shall be a record-of-rights showing, inter alia, "the persons who are landowners, tenants or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein." Section 41 requires the Collector to prepare periodical records and, for that purpose, to ensure that the Patwari maintains "a register of mutations in the prescribed form." Section 42 then prescribes the procedure: reporting of acquisition of rights, entry in the register of mutations, inquiry by the Revenue Officer, and only thereafter incorporation into the periodical record. From this framework, it follows that (i) a mutation is a formal entry in a statutory register, made after report, inquiry and an order of the Revenue Officer; and (ii) the record-of-rights draws a clear distinction between landowners, tenants and persons merely entitled to occupy.

13. In view of this legal backdrop, the document styled as "Mutation No. 45 dated 11.11.1930" cannot, by any stretch, be treated as a valid mutation. It is a solitary, unattested, free-floating sheet, not shown to form part of any regular mutation register; it bears no name, attestation by a Revenue Officer, no order on inquiry, and has not resulted in any corresponding change in the ownership column of the Jamabandi in favour of Railways at or around that time. Conversely, the chain of regular revenue entries consistently maintains the ownership column in the



name of Nawab Zada Muhammad Akbar Khan of Hoti and his successors. No valid acquisition proceedings under the Land Acquisition Act, 1894 have been produced nor any notification under Section 4, nor declaration under Section 6, nor award under Section 11 sanctify the claim, and no proof of compensation is found available. The alleged mutation, therefore, lacks any lawful substratum or foundational transaction in law. As regards the "maqbooza Pakistan Railways" remark, Section 39(2)(a)(i) of the Land Revenue Act itself treats persons "entitled to occupy land" as a category distinct and inferior to that of "landowners". A possession/occupation entry can at the very most place a party in the third category of occupant and cannot, in law, override or supplant the ownership column, which, by the long-settled "hierarchy of columns", prevails over cultivation and possession entries. So, in this composite view, I am constrained to hold that Pakistan Railways has utterly failed to establish any subsisting proprietary title in Survey No. 950/1 on the basis of the purported Mutation No. 45 or the "maqbooza" entries and its status on the revenue record is, at the highest, that of a mere occupier and not a recorded owner; and that its claim to ownership founded exclusively on such infirm material is juridically untenable and legally misconceived.

14. Form LR-XVI records Survey No. 950/1, measuring 5 Kanals 6 Marlas, in the name of Mst. Bakht Zarina. This is a primary public document originating from the competent Land Reforms authority. Under the general principles of the Qanun-e-Shahadat, entries in such official records carry a presumption of correctness until rebutted by cogent evidence. Pakistan Railways contends that the Deputy Land Commissioner's order dated 30.03.1973 mentions Survey No. 450/1, not 950/1; and that the presence of 950/1 in LR-XVI is a latter interpolation. However:

- No tampering or overwriting on the LR-XVI has been demonstrated.
- No contemporaneous objection from any quarter, including Pakistan Railways, at or around 1973 has been shown; and
- The subsequent adjudication by the Federal Land Commission, Islamabad, on merits, proceeded on the basis that Survey No. 950/1 stood allotted/recognised in favour of Mst. Bakht Zarina as per above LR Form.

I am of the view that where there is an apparent discrepancy between a narrative portion of an order and the detailed tabular annexure/record prepared and preserved by the specialised Land Reforms office, the latter, if contemporaneous and untampered, is a far surer guide to the true identity of the allotted land than later allegations of "smuggling in" a survey number. Pakistan Railways' entire case of fraudulent inclusion of Survey No. 950/1 rests on *ipse dixit* and on the impugned AAC's inquiry which, as will be seen while dealing with issue regarding inquiry, itself suffers from fatal legal defects. Thus, in these circumstances, I have no hesitation in holding that Survey No. 950/1 was validly and lawfully included in the allotment made by the Deputy Land Commissioner, Mardan and duly recorded in Form LR-XVI in the name of Mst. Bakht Zarina. The plea that its inclusion is unauthorised or non est in law is rejected.

15. The AAC's inquiry, relied upon heavily by Pakistan Railways, was admittedly initiated and concluded behind the back of the allottee. No proper written

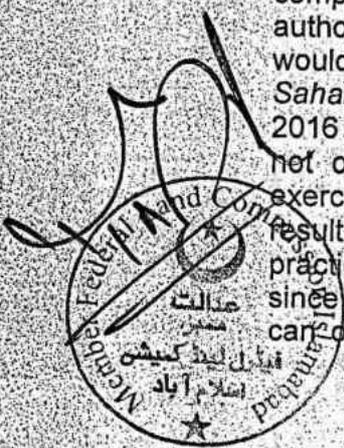


notice was issued specifying the allegations or record proposed to be examined; no date, time or place of hearing was notified; no opportunity was afforded to Mst. Bakht Zarina to appear, produce evidence or cross-examine any witness; and no sworn testimony was recorded. The report is founded essentially on "facial" assumptions and a unilateral reading of record. Article 4 of the Constitution mandates that every person shall be dealt with "in accordance with law" and that no action detrimental to property shall be taken except in accordance with law. Article 10-A, inserted by the 18th Amendment, fortifies the fundamental right to fair trial and due process in determination of civil rights and obligations. The Supreme Court has repeatedly held that this right to fair trial and due process is an essential requirement of human dignity and binds all State functionaries in all their actions. Therefore, AAC was required to afford opportunity of hearing to the petitioner in his inquiry proceedings before concluding the same. The principle of *audi alteram partem* i.e. no person shall be condemned unheard, is now firmly read into every statute and every administrative action, unless explicitly excluded. Orders passed without notice and hearing, and founded on surmises rather than evidence, have consistently been struck down as arbitrary, capricious and void. Tested on this constitutional touchstone, the AAC's inquiry is:

- in flagrant violation of Articles 4 and 10-A.
- in breach of the basic rules of natural justice; and
- unsupported by any recorded evidence tested in the presence of the affected party.

It cannot, therefore, be treated as a lawful or reliable basis for upsetting a long-standing allotment and a subsequent final merits-based judicial order of the court. At best, it is an internal, ex-parte administrative opinion of AAC, Mardan and has no legal efficacy or admissible evidentiary worth against the allottee and the judicial allotment order. Therefore, AAC's inquiry is declared devoid of legal effect for present purposes.

16. It is admitted on all hands that after the allotment in favour of Mst. Bakht Zarina through a judicial process, the controversy travelled to this court, which rendered a final, merits-based decision by upholding her rights in terms of the provisions of Land Reforms Laws under which Federal Land Commission is judicially functioning, having supervisory as well as inherent jurisdiction. In pursuance thereof, the AAC (Revenue), Mardan, issued a warrant of possession on 25.07.2024 in favour of the petitioner by considering the land granting order, LR Forms and other relevant documents. Now the question is: whether, in the face of the final order of this court, an application under Section 12(2), CPC could competently be entertained by the Deputy Land Commissioner, a subordinate authority, to revisit matters which had merged in the superior forum's decision? I would like to explain this question in a way that the Supreme Court in the case of *Sahabzādi Maharunisa and another v. Mst. Ghulam Sughran and another* (PLD 2016 SC 358) examined the doctrine of merger and held, in substance, that while not of universal application, the doctrine does apply where a superior forum exercises jurisdiction capable of affirming, reversing or modifying an order, with the result that the original order merges into the superior forum's judgment for all practical purposes, including execution and collateral challenge. High Courts have since consistently applied this principle to hold that a Section 12(2) CPC application can only be maintained before the court or forum which has finally decided the



matter on merits; a subordinate forum cannot, by invoking Section 12(2), sit in judgment over an order which has merged into a superior forum's decision. Therefore, the matter under order dated 18.12.2024 of this court has been revisited and in light of the directions of the August Peshawar High Court, the application is being decided with this main execution petition. The learned counsels for the parties have also agreed to the verdict of the Peshawar High Court that this court will decide the application of Pakistan Railway filed under Section 12(2) CPC. Thus, in the present case, once the Federal Land Commission finally adjudicated the rights of the parties and its order attained finality, any plea that the decree/allotment had been obtained by fraud, misrepresentation or concealment was rightly addressed to the Federal Land Commission. Accordingly, I hold that the proceedings under Section 12(2) CPC before the Deputy Land Commissioner shall be beyond his inherent jurisdiction, and any order passed therein shall be void *ab initio* and *non est*. The Code of Civil Procedure does not prescribe any specific period of limitation for an application under Section 12(2), CPC. It is, therefore, now well-settled that such applications fall under the residuary Article 181 of the Limitation Act, 1908, which prescribes a period of three years from the date when the right to apply accrues. High Courts, including the Peshawar and Sindh High Courts, have repeatedly so held, observing that where an applicant seeks to set aside a judgment or decree on the ground of fraud under Section 12(2), the limitation runs from the date of knowledge of the impugned order, subject to reasonable diligence. Hence, in the instant case, the allotment and subsequent adjudication in favour of Mst. Bakht Zarina date back several decades. Pakistan Railways has been in the picture throughout and cannot plausibly claim ignorance of the proceedings which directly affected land under its asserted occupation. No specific plea or proof of continuous concealment has been placed on record. The application under Section 12(2) CPC was moved after more than half a century. On the face of it, the application is hopelessly time-barred, hit by limitation, laches and acquiescence. Even more, fundamentally, the jurisprudence of the Supreme Court and High Courts on Section 12(2) CPC is uniform that:

- Section 12(2) is an exceptional remedy,
- it is confined to cases where fraud, misrepresentation or want of jurisdiction has been practised on the Court itself, and
- the fraud must be pleaded with full particulars — dates, actors, acts, documents — and proved by clear and cogent evidence; it cannot be invoked merely to re-argue the merits or to substitute for an appeal or revision.

Resultantly, the application of Pakistan Railways notably fails this rigorous test. It is couched in broad, sweeping allegations that Survey No. 950/1 was "smuggled" into the record and that fraud was committed, but:

- it does not name the specific officials alleged to have committed fraud,
- it does not specify the dates and manner of the alleged interpolations,
- it relies primarily on the later AAC's inquiry, which itself is constitutionally tainted, and



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- it produces no independent, contemporaneous documentary or oral evidence of deception practised on the adjudicating forums.

Such vague and general accusations, unsupported by precise particulars and evidence, do not satisfy the statutory threshold for Section 12(2), CPC. Accordingly, I hold that:

- the application under Section 12(2), CPC filed by Pakistan Railways is barred by limitation under Article 181 of the Limitation Act, 1908; and
- even otherwise, it is evidentially deficient, failing to meet the strict jurisprudential standards for pleading and proving fraud on the Court.

17. As far as the so-called affidavit regarding Survey No. 950/1 is concerned, it only serves to expose the inherent self-contradiction in the stance of Pakistan Railways rather than advance their case. On the one hand, Pakistan Railways has taken a categorical position that Survey No. 950/1 was never allotted to Mst. Bakht Zarina and was wrongly "smuggled" into the record; on the other hand, they now seek to rely on an alleged "surrender" or "abandonment" of Survey No. 950/1 by her through a disputed affidavit. If, as they assert, Survey No. 950/1 was never part of her allotment, there was nothing for her to surrender, and any plea of waiver or abandonment is legally self-defeating. A party cannot, in the same breath, deny the very existence of a right and yet claim that the opposite party has surrendered that right; such mutually destructive pleas undermine the credibility of the objector and cannot be the foundation for extinguishing a decree-holder's vested rights. In any event, the said affidavit is neither signed nor thumb-marked by Mst. Bakht Zarina, nor by any duly authorised attorney on her behalf; both her counsel and attorney have expressly disowned it, and its contents are in direct conflict with the consistent pleaded case of valid allotment of Survey No. 950/1 in her favour. In these circumstances, even apart from the above inconsistency, the document is wholly devoid of probative value and cannot, in law, be treated as a conscious, informed surrender of rights so as to defeat or curtail the decree or the warrant of possession. In view of the findings on Issues in hand, the position which emerges is:

- Pakistan Railways has failed to establish any valid proprietary title in Survey No. 950/1 on the basis of Mutation No. 45 or the "maqbooza" entries.
- Survey No. 950/1 was lawfully and contemporaneously included in the allotment to, and recorded in LR-XVI in favour of, Mst. Bakht Zarina.
- the AAC's inquiry relied on by Pakistan Railways is constitutionally and legally defective, and devoid of probative value.
- the Section 12(2) CPC application in any case is hopelessly time-barred and fails to establish any legally cognizable fraud practised on the Court.



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Correspondingly, the warrant of possession issued by the AAC (Revenue), Mardan, in favour of Mst. Bakht Zarina dated 25.07.2024 being a direct and lawful consequence of the final merits-based order of the Federal Land Commission deserves to be restored to its full force and effect, which is, resultantly, hereby restored.

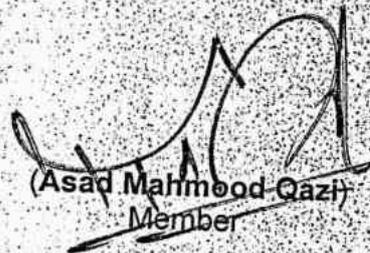
18. For the reasons recorded above:

1. The petition filed by Mst. Bakht Zarina is allowed. The proceedings and order of the Deputy Land Commissioner, Mardan, purportedly undertaken on the application filed by Pakistan Railways through its General Manager, are declared coram non jure, without lawful authority and void *ab initio* and are hereby set aside.
2. Consequently, the application under Section 12(2) CPC instituted by Pakistan Railways is dismissed as being incompetent, time-barred and devoid of merit.
3. The warrant of possession dated 25.07.2024 issued by the AAC (Revenue), Mardan, in favour of Mst. Bakht Zarina is restored, reaffirmed and declared to be in full force, and the executing forum as well as all subordinate revenue functionaries (Deputy Land Commissioner, Assistant Land Commissioner, Mardan) are directed not to interfere with or obstruct its execution. Warrant of possession shall be executed without any delay and report of compliance of warrant of possession shall be submitted before this court on 13.01.2026 positively. The AAC Mardan may use coercive means to implement the order of this court.
4. The connected application filed by Mst. Bakht Zarina seeking enforcement of the said warrant of possession is allowed in the above terms. The mutation and entries in the name Mst. Bakht Zarina shall be restored without fail in the record of rights and its deletion from the revenue record is declared as illegal.
5. Parties shall bear their own costs.

The judgment was reserved, which is announced today and communicated to the parties through Deputy Land Commissioner, Mardan. The Registrar, FLC send attested copy of this order to the DLC, Mardan for necessary compliance as ordered in preceding paras.



**Announced**  
18.12.2025

  
(Asad Mahmood Qazi)  
Member

**IN THE COURT OF MEMBER (JUDICIAL), FEDERAL  
LAND COMMISSION, ISLAMABAD**

**RP.1(1808)/FLC/2025**

Zahir Babar son of late Mansab Ali Akhtar caste Arain R/o  
Mouza Kalu Wala Tehsil Renala Khurd, District Okara.

.....Petitioner

**Versus**

1. The State
2. The Additional Commissioner (Revenue), Sahiwal Division,  
Sahiwal.
3. Shahab Din son of Bashir Ahmad, Caste Jat, R/o Chak No.56/2-  
L, Tehsil and District Okara.

..... Respondents

**PRESENT:**

1. Mr. Muhammad Irshad Ch. Advocate High Court/counsel  
for the petitioner
2. Mr. Noman Sarwar, LRC, Okara.
3. Shahab Din son of Bashir Ahmad

**ORDER**

The above-titled revision petition has been filed against the order dated 11.09.2025 passed by the learned Additional Commissioner (Revenue) Sahiwal Division, Sahiwal invoking the jurisdiction of this court under Section 27 of Land Reforms Act, 1977 read with paragraph 29 of Land Reforms Regulation, 1972 (MLR-115) with the following prayer:

"In view of the above facts and grounds, it is most respectfully prayed that this Honourable Commission may kindly be pleased to:

1. Call for the record of the case from the court of the Additional Commissioner (Revenue), Sahiwal under Section 27 of Land Reforms Act, 1977.

Set aside the impugned order dated 11.09.2025 passed by the Additional Commissioner (Revenue), Sahiwal.



3. Restore and uphold the allotment order dated 27.05.2025 issued by the Additional Deputy Commissioner (Revenue), Okara, being lawful and in consonance with the notifications and the Land Reforms Scheme; and
4. Grant any other relief deemed just and proper in the circumstances of the case.

Before narrating the facts of the case, it is important to mentioned that the above order was challenged by one Shahab-ud-Din Virk before the Land Commissioner, Sahiwal in appeal No.56/2L, which was under hearing that the proceedings before the Additional Commissioner (Revenue), Sahiwal have been assailed before this court under the provisions of Section 27 of Land Reforms Act, 1977 by challenging the interim order dated 11.09.2025 wherein the appellant Shahab-ud-Din Virk filed an affidavit that he does not want to press his appeal but the cognizance was taken on suo moto side by the Additional Commissioner (Revenue), Sahiwal raising different questions about the entitlement of the petitioner and allotment made by the DLC, Okara.

2. Facts of the case in brief are that land measuring 43 kanals 04 marlas comprising khasra No.13/13/2 and 181/2 situated in Chak No.57/2L, tehsil and district Okara was a resumed property under Land Reforms Regulation, 1972 (MLR-115), which was under cultivating possession of Mansab Ali deceased father of the petitioner Zaheer Babar during 1971-72 crops, but he could not get the allotment. However, the same was found unallotted in the revenue record. Record reveals that Mansab Ali son of Fateh Din being resident of the revenue estate where the resumed land is situated applied for allotment as a tenant. His application was processed in 2003 but could not be finalized. Later on the petitioner being son of the deceased Mansab Ali filed application for allotment, which, after obtaining reports from the field staff, was decided by the DLC, Okara vide order dated 27.05.2025 and granted him the said resumed land under paragraph 18(3) of MLR-115/72 and under the norms of Notification dated 18.05.1999, which remained in the possession of his father. Respondent Shahab Din filed appeal before the Additional Commissioner (Revenue) Sahiwal against the allotment order dated 27.05.2005 but later on through an affidavit submitted before the court of Additional Commissioner (Revenue), Sahiwal that he will not press the appeal. However, his withdrawal request was not properly decided that the Appellate forum took suo moto cognizance against the allotment made to the petitioner. Hence, the above title petitioner before this court under Section 27 of Land Reforms Act, 1977.

Record and report of the case was summoned from the Deputy Land Commissioner, Okara while judicial record/file of the court of Additional Commissioner (Revenue) was called for from his court and both has been received in the court. In his report dated 22.11.2025, received in the court on



27.11.2025, learned DLC, Okara reiterated the above narrated facts and confirmed the allotment made to the petitioner. While contents of the paras of the revision petition have been admitted to be correct and eventually it has been prayed that the petition may be decided after obtaining relevant record from the appellate court, as deem appropriate. Vide letter dated 26.11.2025, the Additional Commissioner (Revenue), Sahiwal Division, Sahiwal, has submitted the case file with his views regarding suo moto cognizance, which were raised to the learned counsel for the present petitioner, which are as below:

- i. Why the subject land was allotted under section 18(3) of the Land Reforms Act, 1977, whereas as per section 18(1) the name of the father of the allottee had to be mentioned in the record of Girdawri for the year 1971-72. It is pertinent to mention here that, as per contents of the appeal the subject land is situated in prohibited zone, which cannot be allotted in the light of Notification No.asr-II-3456-73/2687-LC(II), dated 05.05.1973 issued by the Secretary, Punjab Land Commission.
- ii. As per conditions of the allotment, it is also mandatory that the name of the father of allottee be mentioned in column of cultivation in record of Girdawri for the year of 1971-72, but the record of the same is not available.
- iii. Mansab Ali father of allottee who had died, but the lower court how determined the rest of legal heirs of deceased Mansab Ali and whether or not they intend for allotment.
- iv. As per condition for allotment it is necessary the land was to be allotted to the senior most candidate, but the lower court did not clarify how it selected the applicant as senior most.
- v. As per section 2 & 8 of the Para 4 of the notification of allotment it is mandatory that the concerned Assistant Land Commissioner & Sub-Assistant Land Commissioner may verify the Form (LR-XVIII-MLR-64), but this form is not available in record. The allotment of state land was made just in a day for this purpose neither the record of Girdawri was pursued, nor the mandatory instructions for allotment were observed. Therefore, counsel for respondent was directed to appear on 23.09.2025 to assist this court, on the above mentioned points.



Learned Additional Commissioner (Revenue), Sahiwal further submitted that it is pertinent to mention it here that the appellants preferred subject appeal before the Ld. Member (Judicial), Federal Land Commission, Islamabad by foregoing first of appeal against the impugned order i.e. Chief Land Commissioner Punjab, Lahore for the reason best known to him.

4. Learned counsel for the petitioner rendered detailed arguments covering all the aspects of the case. He contended that the father of petitioner Mansab Ali Akhtar son of Fatah Din Cast Arain was in cultivating possession of the resumed land measuring 43 kanals 4 marlas, situated in Chak 57/2L, Tehsil and district Okara which consists of Killa Nos.18/1 and 13/1 of Square No.13. Mansab Ali was in cultivating possession during the crucial harvests of Kharif 1971 and Rabi 1971-72 but he could not get the allotment under the provisions of paragraph 18(1)(2) of MLR-115/1972. Learned counsel argued that the petitioners after getting the knowledge of the record applied for allotment before the learned DLC, Okara, who obtained the report from the Revenue Field Staff through Assistant Land Commissioner, Okara, wherein it was confirmed that from 1972 to 1976 Mansab Ali was in cultivating possession and that the land was situated outside the bounds of Municipality. Moreover, the report also indicates that there was no litigation upon the impugned land nor was any status quo involved in the way of allotment. Learned counsel argued that it was also confirmed that no previous allotment was made to the predecessor of the petitioner and that according to the terms and conditions of Notification dated 18.05.1999, the petitioner was found entitled and eligible for the said allotment of resumed land. Learned counsel submitted that DLC, Okara, accordingly, allotted the resumed land measuring 43 kanals 04 marlas to the petitioner, vide order dated 27.05.2025. Learned counsel argued that respondent No.3, Shahab Din Warraich s/o Bashir Ahmad Warriach preferred an appeal before the Additional Commissioner (Revenue) against the allotment order but subsequently he himself filed an affidavit on 17.09.2025 expressly submitting that he did not intend to press the appeal and prayed for its withdrawal. Learned counsel contended that despite withdrawal through affidavit, the Additional Commissioner (Revenue) instead of dismissing the appeal as withdrawn, took cognizance of the case under suo moto powers, which did not vest in him under the law/rules. Hence he proceeded through order dated 11.09.2025 illegally and without lawful authority and hence his proceedings were contrary to facts and law. Learned counsel contended that such powers vest in the original statute with the Federal Land Commission under Section 27 of Land Reforms Act, 1977 read with Notification dated 23.09.1978 and therefore, this jurisdiction has been invoked accordingly. Learned counsel contended that the subject land measuring 43 kanals 04 marlas did not fall within the limits of the Town Committee and hence the allotment was rightly and lawfully made by the learned DLC, Okara except with one mistake by mentioning paragraph 18(3) of MLR-115/1972 instead of paragraphs 18(1)(2) of the said law as the father of present petitioner i.e. Mansab Ali was in cultivating possession from 1972 to



1976. Learned counsel argued that the applicant filed the application for allotment of resumed land being son of original possessor of the land and none of the other legal heirs agitated the allotment since filing of the application and its finality as the other legal heirs surrendered their rights to the applicant.

5. Learned counsel argued that learned Additional Commissioner wrongly observed about the findings of the learned DLC, Okara, who was the basic authority for allotment of the resumed land having the original and concurrent powers of allotment of resumed land under paragraph 18 of Land Reforms Regulation, 1972. Learned counsel argued that the learned Additional Commissioner, Sahiwal erred in observing that the allotment should be made to the senior most tenant whereas the record clearly establishes that the petitioner's father Mansab Ali was the only tenant in cultivating possession of the resumed land during 1972 to 1976 and hence was the senior most tenant of the declarant and was eligible for allotment under paragraph 18(1)(2) of the above law. As to the grounds, learned counsel for the petitioner contended that the impugned proceedings and the interim order dated 11.09.2025 were without lawful authority and contrary to the provisions of Land Reforms laws. He contended that suo moto powers did not vest in Additional Commissioner (Revenue) nor in Commissioner/Land Commissioner as before any such cognizance under suo moto, he was required to have permission from the higher forum, but he did not obtain any such permission for exercising suo moto jurisdiction. Hence, his proceedings were coram-non-judice while his findings are based on surmises and conjectures and also suffer from misreading/non-reading of material evidence, particularly khasra girdawari from 1972 to 1976 alongwith the field report submitted before the DLC, Okara. Learned counsel argued that the impugned is violative of the principles of natural justice, audi altrem partem as the allotment order was set aside without due notice to the allottee. Accordingly, learned counsel prayed that the impugned proceedings/interim order dated 11.09.2025 be held against the law and also violative of the provisions of relevant law by merging the proceedings before him into the proceedings of this court under Section 27 of Land Reforms Act, 1977. Learned counsel contended that Section 27 of the Act, *ibis*, empowers this court to take cognizance of any case in which proceedings before authorities below are violative of law and such proceedings cannot be withdrawn under the powers of Section 27 of Land Reforms Act, 1977 and appropriate order can be passed after providing ample opportunity to the concerned party as well as the custodians of the record. Eventually, learned counsel for the petitioner prayed that the impugned proceedings before Additional Commissioner (Revenue), Sahiwal may be withdrawn by merging the same into the proceedings of this court under Section 27 of Land Reforms Act, 1977 and allotment order dated 27.05.2025 passed by the Deputy Land Commissioner, Okara may be restored wherein the allotment was made to the petitioner with slight modification that paragraph 18(3) may be converted to para 18(1)(2) of MLR-115/1972 by restoring/making



the allotment on the basis of cultivating possession of the predecessor of the present petitioner during 1972 to 1976. Learned counsel also prayed that any other relief, which this court deems appropriate in the circumstances of the case may be granted.

6. Heard and record perused. This is a simple case of grant of resumed land to the persons/tenants who have been found in cultivating possession of land during Kharif 1971 and Rabi 1971-72 under the provisions of Paragraph 18(1)(2) of Land Reforms Regulation, 1972. If land is found untenanted i.e. none is recorded in cultivating possession during the mentioned crucial crops, it shall be granted to other per persons or landless tenants and small landowners owing less than subsistent holding i.e. 12½ acres. Position on record and revealed from the land granting order of DLC, Okara that father of the petitioner was continuously cultivating the said resumed land from 1972 to 1976, which clarifies that his cultivating possession during 1972 crops was proven irrespective of the fact that whether it was during Kharif 1972 or Rabi 1972. Although law openly discloses Kharif 1971 and Rabi 1971-72 in paragraph 18(1) for cultivating possession but yet it provides the preceding year of resumption too, which means that crucial period can include the cultivating possession of preceding years' crops for grant of land under paragraph 18(1) *ibid*. Mansab Ali father of the petitioner was resident of the revenue estate where land was resumed and was a sitting tenant of the declarant. Thereafter, the hereditary cultivators of the resumed land, are squarely covered within the ambit of Paragraph 18(1)(2) of the Land Reforms Regulation, 1972, and are fully eligible and entitled to allotment of the said resumed land. Therefore, present petitioner has a preferential and lawful rights to the grant of the resumed land on the basis of hereditary rights in accordance with the above provisions of the Law and not exceeding 100 kanals each including his own ownership, if any. The then DLC, Okara was under obligation to allot the said resumed land to Mansab Ali deceased soon after resumption, but he couldn't exercise his vested powers at appropriate times and now DLC, Okara through his order dated 27.05.2025 has legally allotted the resumed land to the petitioner with a slight error by treating the land as untenanted, which is minor and can be rectified without any hinderance. Additional Commissioner (Revenue) in his capacity was not empowered to take suo moto cognizance of the case when the appeal was withdrawn by the appellant. He should have exercise his powers to dispose of the case by dismissing it as withdrawn or should have directed the DLC, Okara to decide the matter afresh under the relevant provisions of the law. Thus the supervisory/original jurisdiction of this court has lawfully been invoked under Section 27 of the Land Reforms Act, 1977 as this is the latest operative law and sets preference over other law. The declared objectives of Land Reforms, as enshrined in the Preamble to MLR-115/72, are to uplift the standard of living of the peasantry and to serve the supreme national interest by improving their economic well-being by making agriculture their principal occupation enabling them to contribute effectively to the national economy.



Hence the promulgation of Land Reforms Laws was intended to secure an equitable distribution of agricultural wealth while Section 27 of the Land Reforms Act, 1977 empowers the Federal Land Commission with supervisory and judicial roles to protect this national objective by ensuring its allotment to deserving tenants and other eligible persons in accordance with law. This is a decades old matter and authorities below cannot be allowed to sit on such matters by entangling the deserving persons into unnecessary litigation. This kind of technicality needs to be discouraged.

7. Section 27 of the Land Reforms Act, 1977, and in consonance with Notification dated 23.09.1978 issued by the Federal Government, the Federal Land Commission has the jurisdiction to proceed with and adjudicate upon all such cases which fall under the ambit of Land Reforms Laws. Keeping in view the revisional jurisdiction, which is essentially supervisory and corrective in nature, the Federal Land Commission, in exercise of its powers under Sections 27 and 18(4) of the Land Reforms Act, 1977 read with all other enabling provisions thereof, is competent to call for the record, assume seisin of the matter and pass such order, direction or decision as it may deem just, fair and necessary for due implementation of the land reforms laws, including affirming, reversing, modifying or setting aside the impugned orders or proceedings in toto, as well as passing or regulating any consequential allotment order. In view of Section 18 of the Land Reforms Act, 1977, the Federal Land Commission – entrusted to (i) coordinate the functioning of the Provincial Land Commissions, (ii) assist the Federal Government in deciding disputes or differences between two or more Provincial Land Commissions, (iii) assist the Federal Government in the exercise of its powers under Section 27 (herein delegated to Chairman & Members, FLC, acting severally), (iv) issue such directions to any or all Provincial Land Commissions as may be necessary for the purposes of the Act, and (v) perform such other functions as may, from time to time, be assigned to it by the Federal Government – has the statutory competence and responsibility not only to supervise, regulate and guide the implementation of land reforms at the Provincial level, but also to pass, regulate or approve allotment orders in respect of resumed land in accordance with the provisions of the Land Reforms Act, 1977, which includes the reappraisal of the record produced by the authorities below either revenue record of the case or report/para-wise comments submitted in the court during hearing of the land reforms cases. Section 27 of the Land Reforms Act, 1977 amply provides that the Federal Government (herein Chairman and Members, being delegates and acting severally) is vested with plenary revisional and supervisory powers to, at any time and of its own motion or otherwise, (i) take cognizance of a case not taken up by a Commission (herein a Provincial Land Commission), (ii) withdraw a case pending before a Commission, or (iii) call for a case decided by a Commission or by any authority empowered by a Commission in this behalf, and to pass such order thereon as it may deem necessary – subject only to the proviso that no order adversely affecting the rights of any person shall be passed without affording such person an opportunity of being heard,



and that any order so passed shall attain finality. In terms of Notification dated 23-09-1978, Federal Government has authorized the Federal Land Commission (Chairman and Members sitting severally) to exercise the powers contemplated by section 27 of the Land Reforms Act, 1977. Federal Land Commission is lawfully vested with jurisdiction to take cognizance, *suo motu* or otherwise, of cases not taken up by a below Commission, to withdraw cases pending before a below Commission, and to adjudicate and finally decide such matters so taken up, in exercise of its inherent and statutory powers including allotment approvals after hearing the parties and appraising the whole record available in the judicial file. The authoritative pronouncement of Hon'ble Supreme Court of Pakistan in *Mirza Shahjahan Haider Gorgani vs. Chairman, Federal Land Commission, Islamabad & others* (2008 SCMR 575), as well as the subsequent judgment of the Lahore High Court in *Muhammad Yousaf vs. Deputy Land Commissioner, Multan* (2020 CLC 1548) affirming the existence and validity of the Federal Government's notification under Section 27 of the Land Reforms Act, 1977, there is no hurdle in the way of disposal of resumed land under the provisions of land reforms laws by the Federal Land Commission. So, in light of the ratio decidendi laid down by the august Division Bench of the Peshawar High Court in *Chief Land Commissioner vs. Chairman Federal Land Commission Islamabad & 101 Others* (CLC 2018, p.166), the issue of allotment of resumed land already stands conclusively adjudicated upon, which supports the powers of allotment of FLC under Section 27 of Land Reforms Act, 1977 read with Section 18(4) of the said Act. Therefore, on a true and harmonious construction of Section 27 of Land Reforms Act, 1977 read with all other enabling provisions of the law, this court continues to be the exclusive statutory forum vested with jurisdiction to adjudicate all matters arising under the land reforms regime, and the overriding non-obstante clause in Section 30 of the said Act thereby ousts and nullifies any purported assumption or exercise of parallel or inconsistent jurisdiction by any other court, tribunal or authority, even below one, is unlawful and unjustified. Resultantly, Federal Land Commission is the only authority under Section 27 of Land Reforms Act, 1977 to adjudicate upon all the cases of land reforms laws including the approval of allotments under the provisions of Land Reforms Laws. Accordingly, the proceedings pending before Additional Commissioner (Revenue), Sahiwal are hereby withdrawn and merged into the current proceedings under the provisions of Section 27 of Land Reforms Act, 1977. The views and questions raised by the said Commissioner in his order dated 11.09.2025 and then his letter dated 26.11.2025 wherein he transferred the case to this court, have been considered/perused thoroughly. I only agree with his views that land should have been allotted under paragraph 18(1)(2) of MLR-115/1972 while rest of the stance is not at par with the provisions of the law and rules.

Foregoing in view, the above titled revision petition is hereby accepted. The land granting order dated 25.05.2025 is upheld with slight modification that the grant shall be treated under paragraph 18(1)(2) on the basis of cultivating possession of Mansab Ali deceased father of the petitioner

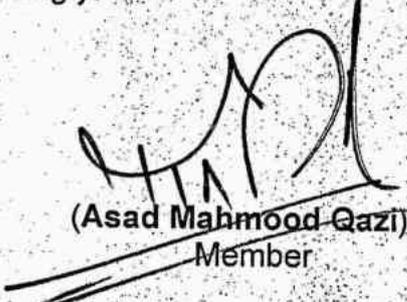


and not under Paragraph 18(3) of the said Regulation. Paragraph 3 of the DLC's order dated 27.05.2025 clearly indicates that as per report of Revenue Field Staff and Land Reforms Clerk, DLC office Okara, Mansab Ali Akhtar s/o Fateh Din, Caste Arain, R/o Chak No. 57/2L, Tehsil Okara was sitting tenant in cultivating possession of the land during 1971-72 but could not get the allotment. On this basis allotment was required under paragraph 18(1)(2) of MLR-115/1972, which is accordingly allowed by this order by modifying the order dated 27.05.2025. The copy of this order shall be placed in the judicial file of the case received from Additional Commissioner (Revenue), Sahiwal Division, Sahiwal being a closure to the said proceedings. As regards the question of prohibited zone, the said restrictions do not apply on the grants of land under Para 18(1)(2) of MLR-115 of 1972 as well as under paragraph 18(3) of the said Regulation. The Deputy Land Commissioner, Okara is directed to proceed for incorporation of the entries in the revenue record accordingly.



9. The judgment of the case was reserved, which is announced today and communicated to the Addl. Commissioner (Revenue), Sahiwal and DLC, Okara for information and compliance accordingly.

**Announced**  
22.12.2025

  
(Asad Mahmood Qazi)  
Member

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**IN THE COURT OF MEMBER (JUDICIAL) FEDERAL  
LAND COMMISSION, ISLAMABAD**

**RP.1(752)/FLC/2025**

1. Rai Munir Ahmed (Deceased) through Mubashar Hassan (son) R/o P.O. Kaleke Mandi, Mouza Burjdara Tehsil and District Hafizabad.
2. Nazir Ahmed (Deceased) through Muhammad Ashraf (son) R/o P.O. Kaleke Mandi, Mouza Burjdara, Tehsil and District Hafizabad.
3. Ahmed Ali (Deceased) through Nazar Abbas (son) R/o P.O. Kaleke Mandi, Mouza Burjdara, Tehsil and District Hafizabad.
4. Noor Muhammad (Noora) son of Sarang R/o P.O. Kaleke Mandi, Mouza Burjdara, Tehsil and District Hafizabad.
5. Muhammad Yousaf son of Ali Akbar R/o P.O. Kaleke Mandi, Mouza Burjdara, Tehsil and District Hafizabad

.....Petitioners

**Versus**

1. Province of Punjab through Chief Land Commissioner, Punjab Land Commission, Board of Revenue, Lahore.
2. Commissioner/Land Commissioner, Gujranwala Division, Gujranwala.
3. Additional Deputy Commissioner (Revenue)/Deputy Land Commissioner, Hafizabad.
4. Halqa Patwari, Mouza Burjdara, Tehsil and District Hafizabad.

.....Respondents

**Present:**

1. Mr. Shahab Rashid Qureshi, Advocate High Court/Counsel for the Petitioners.
2. Mr. Muhammad Zubair, Naib Tehsildar, Tehsil Hafizabad.
3. Mr. Shoab Aashgar, Halqa Patwari, Tehsil Hafizabad.

**Order:**

The above titled petition has been filed invoking the jurisdiction of this Court under Section 27 of Land Reforms Act, 1977 read with Section 18 of the said Act for seeking grant of resumed land under Section 15 of Land Reforms Act, 1977 in accordance with the cultivating possession of the crops during the crucial harvests of Kharif 1976 and Rabi 1975-76. The following prayer has been made:



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- i) That the petitioners are eligible and entitled for allotment of resumed land as mentioned in the paragraph 9 above which is available and the same may kindly be ordered to be allotted in the name of above titled petitioners under the section 15(1)(2) of Land Reforms Act, 1977.
  - ii) It is also respectfully prayed that in case the above titled petition succeeds, necessary directions under Section 18(4) of Land Reforms Act, 1977 may also be issued to the Provincial Land Reforms Authorities to implement the order in the revenue records.
  - iii) That any other relief under the Land Reforms Laws which provides justice and protections to the poor tenants/petitioners may kindly be ordered.

Paragraph 9 of the petition, as amended, which provides the details of the allotments sought under Section 15(1) (2) of Land Reforms Act, 1977 is reproduced below:

**Petitioner No.1 (Mubashar Hassan):** Resumed land measuring 62 Kanals 05 Marlas comprising Khaiwat No. 5/4, Khasra Nos.1335(8-17), 1336(8-18), 1337(8-18), 1338(8-18), 1339(8-18), 1340(8K-18M), 1341(8K-18M) situated in Mouza Burjdara, Tehsil and District Hafizabad is under cultivating possession of the petitioner and available for allotment, which may kindly be allotted to the Petitioner No.1 under section 15(1)(2) of Land Reforms Act, 1977.

**Petitioner No.2 Nazir Ahmed through Muhammad Ashraf):** Resumed land measuring 58K-16M comprising Khaiwat No. 33, Khasra Nos. 1315/1(5-09), 1342 (8K-18M), 1346(8K-9M), 1347(8K-9M), 1348(6K-18M), 91(3K-6M), 92 (8K-18M), 96 (8K-9M) situated in Mouza Burjdara, Tehsil and District Hafizabad under cultivating possession of the petitioner and available for allotment, which may kindly be allotted to the Petitioner No.2 under section 15(1)(2) of Land Reforms Act, 1977.

**Petitioner No.3 (Ahmed Ali through Nazar Abbasi):** Resumed land measuring 100 Kanals comprising Khaiwat No. 33, Khasra Nos. 46(6K-16M), 48(8-18), 49(8K-18M), 50(8K-18M), 51 (8K-18M), 52 (8K-18M), 53 (8K-18M), 78 (8K18M); 79 (8K-18M), 82(8K-04M), 83(8K-04M), 91 (5K-12M) situated in Mouza Burjdara, Tehsil and District Hafizabad is under cultivating possession of the petitioner and available for allotment, which may kindly be allotted to the Petitioner No.3 under section 15(1)(2) of Land Reforms Act, 1977.



**Petitioner No.4 (Noor Muhammad):** Resumed land measuring 99K-18M comprising Khaiwat No. 33, Khasra Nos. 911(8K-18M), 912(K8-18M), 913(8K-18M), 914(8K-18M), 915(8K-18), 1342(8K-18M), 1348(2K), 1349(8K-18M), 1350(8K-18M), 1351(8K-18M), 1352(8K-18M) and 1353 (8K-18M) situated in Mouza Burjdara, Tehsil and District Hafizabad under cultivating possession of the petitioner and available for allotment, which may kindly be allotted to the Petitioner No.4 under section 15(1)(2) of Land Reforms Act, 1977.

**Petitioner No.5 (Muhammad Yousaf)** Resumed land measuring 100 Kanals comprising Khaiwat No. 33, Khasra Nos. 916(8K-18M), 917(8K-18M), 918(8K-18M), 372(8K-18M), 384 (8K-18M), 385 (8K-18M), 671 (8K-18M), 295 (8K-18M), 39 (8K-18M), 42(8K-18M), 43(8K-18M), 46 (2K-2M) situated in Mouza Burjdara, Tehsil and District Hafizabad under cultivating possession of the petitioner and available for allotment, which may kindly be allotted to the Petitioner No.5 under section 15(1)(2) of Land Reforms Act, 1977.

2. The facts of the case derived from the available record are that the holdings of the declarants, Muhammad Nawaz, Liaqat Ali ss/o Ghulam Abbas and Ghulam Fatima d/o Raj Muhammad, were determined under Land Reforms Act, 1977 and vide Mutation Nos. 64, 67 and 68 dated 8.10.1977, excess land measuring 465 Kanals 18 Marlas was resumed in the name of the Land Commission of the Province for disposal to the deserving/eligible tenants under the terms and conditions for the grant of resumed land 1978. Record reveals that land measuring 79 Kanals 4 Marlas was resumed from Liaqat Ali son of Ghulam Abbas, 146 Kanals 2 Marlas from Muhammad Nawaz son of Ghulam Abbas and 240 Kanals 12 Marlas from Ghulam Fatima daughter of Raj Muhammad (all of caste Jatt Bhatti) under the provisions of the Land Reforms Act, 1977 in Mouza Burjdara, Tehsil and District Hafizabad. Till now no land has been disposed off under the provisions of the above law in spite of the fact that the present Petitioners being residents of Mouza Burjdara, Tehsil and District Hafizabad and are sitting tenants of the mauza have not been granted the subject resumed land in terms of the cultivating possession of the crucial harvests of Kharif 1976 and Rabi 1975-76. Hence, the above titled revision petition against the inaction of authorities below and for grant of the resumed land under their possession under the qualifications provided in Section 15(1) (2) of Land Reforms Act, 1977.

3. The record of the case along with report/para-wise comments were record from the office of Deputy Land Commissioner, Hafizabad, which has been received in the court through his representatives on 09.12.2025. Perusal of the record and report reveals that the land measuring 420 kanals 13 marlas applied for by the petitioners for grant under the provisions of Section 15 of Land Reforms Act, 1977 is available and was under the cultivating possession of the petitioners and their predecessor-in-interest during the crucial harvests. The DLC, Hafizabad submitted that mutation No.64, which encompasses land measuring 79K-4M; Mutation No.67 covering 146K-2M and Mutation No.68 comprises 240K-8M, which in total is 465K-14M officially.



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registered under the ownership of provincial government. Out of this 465 kanals 14 marlas resumed land 45K-5 marlas was allotted to landless farmers and small landowners through Mutation No.84 (17K-11M), No.85 (9K-07M), No.86 (7K-04M) and Mutation No.87 (11K-03M) on June 4, 1980, situated in Mauza Burjdara, Tehsil & District Hafizabad. Learned DLC, Hafizabad while submitting para-wise comments subjected that this claim is inaccurate and is consequently denied. He submitted that land encompassing 420 kanals 09 marlas was reclaimed from illegal encroachers through Rupt No.61 dated 31.10.2024. It has been reported that Mr. Mehdi Hasan Bhati, Mr. Liaqat Abbas, Mr. Sikandar Nawa and Mr. Qaisar were the encroachers of the land applied for allotment by the above titled petitioners and now during Rabi and Kharif 2025 land is in possession of the provincial government. Rest of the paras of the petition have been denied that the petitioners have not come to this court with clean hands and that they were occupying the land illegally. Hence, they are not eligible to reclaim the said land, and it has been prayed that the application be dismissed as it lacks substantive merit too.

4. Learned counsel for the petitioners argued the case at a considerable length covering all the aspects of the case relating to the claim, provisions of law and jurisdiction of this court. Learned counsel argued that this is a simple case of cultivating possession during the crucial harvests, according to which the land shall only be granted to the persons/tenants who have been found in such cultivating possession during Kharif 1976 and Rabi 1975-76 under the provisions of Section 15(1)(2) of Land Reforms Act, 1977. Learned counsel argued that the petitioners are continuously cultivating the said resumed land for decades. They themselves and earlier through their fathers had been in cultivating possession of this very resumed land long before its resumption and then after resumption under the Land Reforms Act, 1977. He stressed that the petitioners are found in an unbroken lineage of bona fide cultivators, who have tilled and maintained the land since resumption, which have now become their source of livelihood also. He contended that they being residents of the mouza and hereditary cultivators of the resumed land, are squarely covered within the ambit of Section 15(1)(2) of the Land Reforms Act, 1977, and are fully eligible and entitled to allotment of the said resumed land. He argued that they are the sitting tenants and meet the qualifications mentioned therein the said law. Learned counsel stressed in his arguments that being sitting tenants under cultivating possession during the crucial harvests, they have a preferential and lawful rights to the grant of the resumed land in accordance with the above provisions of the Law and not exceeding 100 kanals each including their own ownership, if any. Learned counsel argued that the Deputy Land Commissioner, Hafizabad was under obligation to allot the said resumed land to the petitioners soon after resumption, but he couldn't exercise his vested powers at appropriate times and now the Punjab Land Commission, Lahore have imposed certain restrictions on allotment of resumed land, vide letter dated 08.07.2021, thus the supervisory/original jurisdiction of this court has been invoked under the law. Learned counsel further argued that the declared objectives of Land Reforms, as enshrined in the Preamble to MLR-15/72, are to uplift the standard of living of the peasantry and to serve the supreme national interest by improving their economic well-being by making agriculture their principal occupation enabling them to contribute effectively to the national economy. He argued that the promulgation of Land Reforms Laws was intended to secure an equitable distribution of agricultural wealth while Section 27 of the Land Reforms Act, 1977 empowers the Federal Land



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Commission with supervisory and judicial roles to protect this national objective by ensuring its allotment to deserving tenants and other eligible persons in accordance with law.

5. Advancing his arguments, learned counsel for the petitioners contended that by virtue of Section 15 read with Section 27 of the Land Reforms Act, 1977, and in consonance with Notification dated 23.09.1978 issued by the Federal Government, the Federal Land Commission has the jurisdiction to proceed with and adjudicate upon all such cases which fall under the ambit of Land Reforms Laws. He contended that keeping in view the revisional jurisdiction, which is essentially supervisory and corrective in nature, the Federal Land Commission, in exercise of its powers under Sections 27 and 18(4) of the Land Reforms Act, 1977 read with all other enabling provisions thereof, is competent to call for the record, assume seisin of the matter and pass such order, direction or decision as it may deem just, fair and necessary for due implementation of the land reforms law, including affirming, reversing, modifying or setting aside the impugned order or proceedings in toto, as well as passing or regulating any consequential allotment order. Learned counsel vehemently argued that in view of Section 18 of the Land Reforms Act, 1977, the Federal Land Commission – entrusted to (i) coordinate the functioning of the Provincial Land Commissions, (ii) assist the Federal Government in deciding disputes or differences between two or more Provincial Land Commissions, (iii) assist the Federal Government in the exercise of its powers under Section 27 (herein delegated to Chairman & Members, FLC acting severally), (iv) issue such directions to any or all Provincial Land Commissions as may be necessary for the purposes of the Act, and (v) perform such other functions as may, from time to time, be assigned to it by the Federal Government – has the statutory competence and responsibility not only to supervise, regulate and guide the implementation of land reforms at the Provincial level, but also to pass, regulate or approve allotment orders in respect of resumed land in accordance with the provisions of the Land Reforms Act, 1977, which includes the reappraisal of the record produced by the authorities below either revenue record of the case or report/para-wise comments submitted in the court during hearing of the land reforms cases. Learned counsel argued that in view of Section 27 of the Land Reforms Act, 1977, the Federal Government (herein Chairman and Members, being delegates and acting severally) is vested with plenary revisional and supervisory powers to, at any time and of its own motion or otherwise, (i) take cognizance of a case not taken up by a Commission (herein a Provincial Land Commission), (ii) withdraw a case pending before a Commission, or (iii) call for a case decided by a Commission or by any authority empowered by a Commission in this behalf, and to pass such order thereon as it may deem necessary – subject only to the proviso that no order adversely affecting the rights of any person shall be passed without affording such person an opportunity of being heard, and that any order so passed shall attain finality. Learned counsel stressed that in view of Notification dated 23-09-1978, whereby the Federal Government has authorized the Federal Land Commission (Chairman and Members sitting severally) to exercise the powers contemplated by section 27 of the Land Reforms Act, 1977, the Federal Land Commission is lawfully vested with jurisdiction to take cognizance, *suo motu* or otherwise, of cases not taken up by a below Commission, to withdraw cases pending before a below Commission, and to adjudicate and finally decide such matters so taken up, in exercise of its inherent and statutory powers including allotment approvals after hearing the



parties and appraising the whole record available in the judicial file. Placing reliance upon the judgments of the higher courts, learned counsel contended that in view of the authoritative pronouncement of Hon'ble Supreme Court of Pakistan in Mirza Shahjahan Haider Gorgani vs. Chairman, Federal Land Commission, Islamabad & others (2008 SCMR 575), as well as the subsequent judgment of the Lahore High Court in Muhammad Yousaf vs. Deputy Land Commissioner, Multan (2020 CLC 1548) affirming the existence and validity of the Federal Government's notification under Section 27 of the Land Reforms Act, 1977, there is no hurdle in the way of disposal of resumed land under the provisions of land reforms laws by the Federal Land Commission. He further contended that in light of the ratio decidendi laid down by the learned Division Bench of the Peshawar High Court in Chief Land Commissioner vs. Chairman Federal Land Commission Islamabad & 101 Others (CLC 2018, p.166), the issue of allotment of resumed land already stands conclusively adjudicated upon, which supports the powers of allotment of FLC under Section 27 of Land Reforms Act, 1977 read with Section 18(4) of the said Act. Learned counsel argued that on a true and harmonious construction of Section 27 of Land Reforms Act, 1977 read with all other enabling provisions of the law, the Federal Land Commission continues to be the exclusive statutory forum vested with jurisdiction to adjudicate all matters arising under the land reforms regime, and the overriding non-obstante clause in Section 30 of the said Act thereby ousts and nullifies any purported assumption or exercise of parallel or inconsistent jurisdiction by any other court, tribunal or authority is unlawful and unjustified. Learned counsel thus vehemently stressed that Federal Land Commission is the only authority under Section 27 of Land Reforms Act, 1977 to adjudicate upon all the cases of land reforms laws including the approval of allotments under the provisions of Section 15 of Land Reforms Act, 1977.

6. Learned counsel arguing the case contended that the land is available and stood retrieved from the encroachers, who were not the present petitioners. He contended that the DLC, Hafizabad in his report has not touched the eligibility and entitlement of the present petitioners in terms of the cultivating possession of them during the crucial harvests of Kharif 1976 and Rabi 1975-76 and also have not denied their cultivating position during those crucial crops. He referred the revenue record and relevant khasra girdawaris which reflect the names of the petitioners and their fathers during the crucial harvest of 1975-76. Eventually, learned counsel for the petitioners contended that the disposal of resumed land is governed by Section 15 of the Land Reforms Act, 1977. Sub-sections (1) and (2) thereof prescribe the qualifications and priorities for allotment of resumed land to sitting tenants who were found in cultivating possession of such land during the Kharif 1976 and Rabi 1975-76 crops. He argued that, in the present case, the resumed land is duly recorded in the revenue record as being under the cultivating possession of the petitioners through themselves and their fathers during the said crucial crops. Accordingly, the petitioners, squarely, fall within the category of persons entitled to allotment under Sections 15(1) and 15(2) of the Land Reforms Act, 1977. Learned counsel added that as per the mandate of law, land found untenanted at the time of resumption is to be allotted to other tenants and landless persons owning less than 12½ acres, and no portion of such resumed land can lawfully be diverted for any public or non-agricultural purpose by the Government as law only provides the disposal to the sitting and deserving tenants/persons. Learned counsel stressed that under the above provisions of the Land Reforms Laws, the grant/allotment of resumed land to present petitioners/tenants establishes a primary judicial function of this court to



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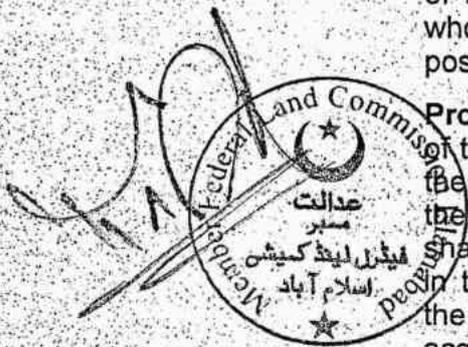
dispose of the land under the said provisions of the law as the authority below could not dispose of the same at appropriate time and now Punjab Land Commission, Lahore, by an instructive letter dated 08.07.2021 has restricted the Deputy Land Commissioners of the Province from passing allotment orders etc. Keeping in view the jurisdiction of this court, reappraisal of the available record pertaining to the sitting tenancy of the above-titled petitioners and considering the provisions of Section 15(1)(2) of Land Reforms Act, 1977 learned counsel prayed for acceptance of the petition in terms of para 8 of the petition, as amended, and grant of resumed land as per given details to the above titled petitioners.

7. Heard and record perused. Learned counsel for the petitioners has rendered forceful arguments in the case pertinent to the jurisdiction of this court as well as powers for the grant of resumed land as per required qualifications given in Section 15(1)(2) of Land Reforms Act, 1977 along with reliance placed upon the verdicts of the higher courts. I am in agreement with arguments of the learned counsel for the petitioners reproduced in paragraph 5/above of this order wherein the powers/competence of this court has been elaborated. Section 27 of the Act has been explained lawfully and with careful aptitude, which is very convincing and seems to be irrefutable in respect of exercise of jurisdiction, and approval of allotment of resumed land. I am in agreement with the arguments of the learned counsel that the statutory competence and responsibility of FLC is not only to supervise, regulate & guide the implementation of land reforms at the Provincial level, but also to pass, regulate or approve allotment orders in respect of resumed land in accordance with the provisions of the Land Reforms Act, 1977, which includes the reappraisal of the record produced by the authorities below either revenue record of the case or report/para-wise comments submitted in the court by the authorities below during hearing of the land reforms cases. Resultantly, I hold that FLC has the statutory competence to take cognizance of the allotment cases for disposal of balance resumed land to the deserving tenants/persons under the provisions of Section 15 of Land Reforms Act, 1977 read with Section 27 of the said Act.

8. Now I come to the disposal of resumed land applied for by the petitioners under the provisions of Section 15(1)(2) of Land Reforms Act, 1977, which is reproduced as below for better comprehension:

**"15. Disposal of surrendered land.-** (1) Land vested in Government under this Act, shall, subject to the provisions of this section, be granted free of charge to the tenants who are shown in the Revenue Records to be in cultivating possession of it during Kharif 1976 and Rabi 1975-76.

**Provided that** where, at any time after the commencement of this Act, a person acquires any land by reason of which the area of the land owned or possessed by him exceeds the limit fixed by section 3, the land surrendered by him shall be granted free of charge to such tenant as is shown in the revenue records to be in cultivating possession of the land in the Kharif and Rabi immediately preceding such acquisition:



Provided further that no land shall be granted to a tenant who but for the coming into force of this Act, would have been entitled to inherit land from a person who is required to surrender land under section 9.

(2) Where any tenant who is entitled to grant of land under sub-section (1) already owns land, he shall be granted only so much land which together with the land already owned by him, does not exceed twelve acres.

(3) 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."

Land Reforms Act, 1977 sets the order of preference for utilization of the surrendered land. Under the above stipulation, subsection (1) of section 15 of the *ibid* Act, such land is to be granted to the tenants who were in cultivation possession of the land during Kharif 1976 and Rabi 1975-76 crops while under subsection (2) where any tenant who is entitled to the grant under subsection (1) but already owns some land, he shall be granted land not exceeding 12½ acres including his owned land. Under subsection (3) of Section 15, the land which is not granted under subsections (1) and (2) shall be granted to other landless tenants or persons owning less than twelve acres. The claims of the tenants of that land, that of other tenants and other persons have to be satisfied first before considering the utilization of the land for any other person or purpose. As regards the report submitted by the DLC, Hafizabad, it clearly reflects that land measuring 420 kanals 13 marlas, which was confirmed from the revenue record of the Halqa Patwari, present in the court, is available and it shall be firstly granted to those tenants who were in cultivating possession during the crops of Kharif 1976 and Rabi 1975-76. Report does not include the names of the present petitioners being encroachers, but they are found in cultivating possession in the revenue record produced by the Halqa Patwari and attached with the petition as well as with the para-wise report submitted by the DLC, Hafizabad. Original revenue record has also been seen, which reflects the names of the above-titled petitioners during the crucial harvests irrespective of the quantity of the land as the law is silent about the quantity of land to be in cultivating possession. However, grant of land shall not exceed 100 kanals while granting to the individuals/tenants.

9. Considering the above criteria of law, reappraisal of the record reveals that the above titled petitioners are found to be in cultivating possession of the resumed land during the above mentioned crucial crops of 1975-76. Being sitting tenants, either themselves or through their predecessors-in-interest, they are not only eligible but also entitled to the grant of resumed land to the extent of 100 kanals each including their owned personal land. Resumed land applied by the above titled petitioners is available for disposal under Section 15(1) (2) of Land Reforms Act, 1977 and in exercise of jurisdiction of this court under Section 27 of Land Reforms Act, 1977 read with Sections 15 and 18(4) of the said Act, the prayer in the petition is allowed and the following order is passed:

**Petitioner No.1 (Mubashar Hassan)** is allotted resumed land measuring 62 Kanals 05 Marlas comprising Khaiwat No. 5/4, Khasra Nos.1335(8-17), 1336(8-18), 1337(8-18),

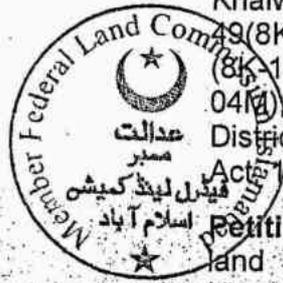


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1338(8-18), 1339(8-18), 1340(8K-18M), 1341(8K-18M) situated in Mouza Burjdara, Tehsil and District Hafizabad under Section 15(1)(2) of Land Reforms Act, 1977.

**Petitioner No.2 Nazir Ahmed through Muhammad Ashraf** is allotted resumed land measuring 58K-16M comprising Khaiwat No. 33, Khasra Nos. 1315/1(5-09), 1342 (8K-18M), 1346(8K-9M), 1347(8K-9M), 1348(6K-18M), 91(3K-6M), 92 (8K-18M), 96 (8K-9M) situated in Mouza Burjdara, Tehsil and District Hafizabad under Section 15(1)(2) of Land Reforms Act, 1977.

**Petitioner No.3 (Ahmed Ali through Nazar Abbass)** is allotted resumed land measuring 100 Kanals comprising Khaiwat No. 33, Khasra Nos. 46(6K-16M), 48(8-18), 49(8K-18M), 50(8K-18M), 51 (8K-18M), 52 (8K-18M), 53 (8K-18M), 78 (8K18M), 79 (8K-18M), 82(8K-04M), 83(8K-04M), 91 (5K-12M) situated in Mouza Burjdara, Tehsil and District Hafizabad under Section 15(1)(2) of Land Reforms Act, 1977.

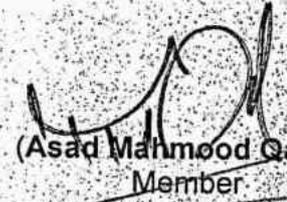


**Petitioner No.4 (Noor Muhammad)** is allotted resumed land measuring 99K-18M comprising Khaiwat No. 33, Khasra Nos. 911(8K-18M), 912(K8-18M), 913(8K-18M), 914 (8K-18M), 915(8K-18), 1342(8K-18M), 1348(2K), 1349 (8K-18M), 1350(8K-18M), 1351(8K-18M), 1352(8K-18M) and 1353 (8K-18M) situated in Mouza Burjdara, Tehsil and District Hafizabad under Section 15(1)(2) of Land Reforms Act, 1977.

**Petitioner No.5 (Muhammad Yousaf)** is allotted resumed land measuring 100 Kanals comprising Khaiwat No. 33, Khasra Nos. 916(8K-18M), 917(8K-18M), 918(8K-18M), 372(8K-18M), 384 (8K-18M), 385 (8K-18M), 671 (8K-18M), 295 (8K-18M), 39 (8K-18M), 42(8K-18M), 43(8K-18M), 46 (2K-2M) situated in Mouza Burjdara, Tehsil and District Hafizabad under Section 15(1)(2) of Land Reforms Act, 1977.

10. The judgment was reserved, which is announced today. The Deputy Land Commissioner, Hafiza bad is directed to implement this order in true letter and spirit and the concerned Revenue Officer/Sub-Assistant Land Commissioner, Tehsil Hafizabad is directed to execute entries in the revenue record as ordered above within a period of 30 days positively. Learned DLC, Hafizabad is further directed to submit compliance report to this court through Registrar, Federal Land Commission, Islamabad within stipulated period from the official date of communication of this order.

**Announced**  
22.12.2025

  
(Asad Mahmood Qazi)  
Member