

Judgment sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Present
Mr. Justice Muhammad Jaffer Raza

Judicial Misc. Application No. 20 of 2025

Travel Agents Association of Pakistan & another Plaintiffs

Versus

International Transport Association & others Defendants

Mr. Faisal Siddiqui, Advocate for the Plaintiffs.
Ms. Maria Ahmad, Advocate for Defendant No.1.

Dates of hearing: 18.08.2025 & 29.09.2025

Date of announcement of order: 21.11.2025

ORDER

Muhammad Jaffer Raza, J: Whilst arguing the application bearing CMA No.14908/2024 preferred by the Defendant¹ under Section 4² of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (**‘Act’**), the learned counsel appearing for the Defendant argued that the noted application ought to be heard by the Civil Court under the provisions of the Act. Thereafter, the following question was framed vide order dated 18.08.2025 and shall be adjudicated vide the instant order: -

“Whether the applications are to be heard and decided by this Court or should the matter be referred to the Civil Court in terms of Sections 3 and 4 of the Civil Court Amendment Act, 2025?”

¹ For the sake of clarity, it is noted that Civil Suit bearing No. 882 of 2024 was converted into the current Judicial Misc. Application No. 20 of 2025 after passing of the Civil Court Amendment Act, 2025. Subsequently no amended title was filed, hence the respective parties shall be referred to in the instant order as Plaintiff and Defendant.

² 4... Enforcement of arbitration agreements.—(1) A party to an arbitration agreement against whom legal proceedings have been brought in respect of a matter which is covered by the arbitration agreement may, upon notice to the other party to the proceedings, apply to the court in which the proceedings have been brought to stay the proceedings in so far as they concern that matter.

(2) On an application under sub-section (1), the court shall refer the parties to arbitration, unless it finds that the arbitration agreement is null and void, in operative or incapable of being performed.

2. Learned counsel appearing for the Defendant firstly argued that Court has been defined under Section 2(d)³ of the Act as the “High Court” or any such other “superior court” of Pakistan as notified by the Federal Government in the official gazette. She has further argued that the “Court” as used in the definition clause mentioned above, has also been referred in Section 5⁴ and 6⁵ of the Act, which primarily pertains to enforcement of foreign arbitral awards. She has averred that the present proceedings do not pertain to enforcement of a foreign arbitral award and the application pending adjudication, has been filed under Section 4 of the Act for stay of proceedings. Highlighting the language under Section 4 she has correctly pointed out that the “court” has been used with a small “c”. In that respect, she has submitted that it is not the same “Court” as defined under Section 2(d) and the “court” referred to in the noted section refers to the Civil Court. She has further argued that this discrepancy is not grammatical in nature and the same reflects the deliberate intent of the legislature.

3. Advancing her arguments further, she has stated that the deliberate choice of the legislature envisaged that all the applications under Section 4 of the Act are to be filed in the Civil Court whereas all the applications for enforcement under Section 6 ought to be filed in the Court as defined in Section 2(d) of the Act. She in reliance and while referring to section 4 of the Act argued usage of “*apply to the court in which the proceedings has been brought*” indicate that any application under the noted Section ought to be adjudicated by a Civil Court and not the High Court. To advance her arguments further, she has stated that no redundancy can be attributed to the legislature in ousting the jurisdiction of the Civil Court. It is the “court”, which is *seized* of

³ 2(d)...“Court” means a High Court and such other superior court in Pakistan as may be notified by the Federal Government in the official Gazette.

⁴ 5... Furnishing of documents.—(1) The party applying for recognition and enforcement of foreign arbitral award under this Act shall, at the time of the application, furnish documents to the Court in accordance with Article IV of the Convention.

⁵ 6.... Enforcement of foreign arbitral award.—(1) Unless the Court pursuant to section 7, refuses the application seeking recognition and enforcement of a foreign arbitral award, the Court shall recognize and enforce the award in the same manner as a judgment or order of a court in Pakistan.

(2) A foreign arbitral award which is enforceable under this Act, shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in Pakistan.

the matter, by virtue of a Civil Suit preferred by the Plaintiff, which has the jurisdiction to adjudicate the pending application. She has also placed on record, various orders and proceedings in different provinces of Pakistan in which the Civil Courts, according to her, routinely adjudicate applications filed under Section 4 of the Act. Succinctly stated, she argued that whilst all applications filed for enforcement of foreign arbitral award can only be filed in the High Court, it is only the Civil Court which can entertain applications under Section 4 for stay of proceedings.

4. Conversely, learned counsel for the Plaintiff stated that there is no cavil to the arguments advanced by the counsel for the Defendant, that for the purposes of enforcement, it is only the High Court which has jurisdiction. Whilst appreciating the discrepancy highlighted by the learned counsel for the Defendant, learned counsel has argued that the “court” in Section 4 of the Act ought to be read as the High Court. In this regard, he has invited my attention to Section 3⁶ of the Act, which according to him, vests exclusive jurisdiction in the High Court. He has further argued that accepting the interpretation advanced by the learned counsel for the Defendant, would inevitably require reading down of “Court” in Section 3(2) and all efforts must be made to save the statute, and to the extent possible, aim for a harmonious interpretation. He has lastly argued that intention of legislature in formulating the Act was to ensure that foreign arbitral awards are dealt with in an efficient and expeditious manner. In that respect, he has stated that reading down of Section 3(2) of the Act would entail consequences and would likely frustrate enforcement because the Act establishes the High Court as the exclusive

⁶ 3 Jurisdiction of Court.

(1) Notwithstanding anything contained in any other law for the Time being in force, the Court shall exercise exclusive jurisdiction to adjudicate and settle matters related to or arising from this Act.

(2) An application to stay legal proceedings pursuant to the provisions of Article II of the Convention may be filed in the Court, in which the legal proceedings are pending.

(3) In the exercise of its jurisdiction, the Court shall, —

(a) follow the procedure as nearly as may be provided for the Code of Civil Procedure, 1908 Act V of 1908); and

(b) have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908).

forum for recognition and enforcement. Lastly, learned counsel has submitted that in order to harmoniously interpret the provisions of the Act directions may be passed to the Civil Courts to refer all applications filed under Section 4 to the High Court which shall then exercise exclusive jurisdiction vested in it by virtue of Section 3 of the Act.

5. I have heard equally compelling arguments from both the learned counsels who have rendered valuable assistance. The precise question under adjudication has never surfaced, at least in the Province of Sindh, for the reason that prior to the enactment of the Sindh Civil Courts (Amendment) Act, 2025 (**“Act 2025”**) most, if not all matters, were filed before the principal seat at Karachi, being beyond the pecuniary jurisdiction of the Civil Courts. It is only after the promulgation of the Act 2025 that the instant question has surfaced, although theoretically the noted question was always relevant. I have perused the Act in its entirety and prior to rendering my findings on the question noted above, it will be expedient to first refer to the preamble of the Act.

6. From the bare perusal of the preamble⁷ of the Act, it transpires that it is an Act codified to provide for the recognition and enforcement of arbitration agreements and foreign arbitral awards. Similar language is also employed in Section 1⁸ of the Act which refers to both the arbitration agreements and foreign arbitral awards. There is no cavil of the proposition that the Court referred to under Section 2(d) means the High Court and such other superior courts of Pakistan as notified by the Federal Government. For the purposes of enforcement of a foreign arbitral award it will be the Court as defined under the noted section.

⁷ WHEREAS, Pakistan is a signatory to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958;

WHEREAS, it is expedient to provide for the recognition and enforcement of arbitration agreements and foreign arbitral awards pursuant to the said Convention and for matters connected therewith;

⁸ 1... Short title, extent, application and commencement. □(1) This Act may be called the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011.

(2) It extends to the whole of Pakistan.

(3) It shall apply to arbitration agreements made before, on or after the date of commencement of this Act.

(4) It shall not apply to foreign arbitral awards made before the 14th day of July, 2005.

(5) It shall come into force at once.

7. The dichotomy and apparent contradiction only arises in the bare reading of Section 4, which as mentioned above, mentions “court”. To untangle this web, it will be relevant to peruse Section 2⁹ of the Act from where the definition of “Court” stems. The words *“In this Act, unless there is anything repugnant in the subject or context”* (emphasis added) reveal that the definitions are qualified and not absolute, meaning thereby that where the context so requires, a different meaning can be ascribed to the definitions. It is in that context Section 4 will have to be read and understood.

8. Perusal of Section 4 reveals that an application for enforcement of arbitration agreements has to be filed in *“the court in which the proceedings have been brought to stay the proceedings”* (emphasis added). To read the noted section in the context of the Act it will also be expedient to refer to Article II¹⁰ of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (**“Convention”**), which is set forth in the schedule of the Act¹¹. In the present context the words *“The court of a Contracting State, when seized of an action in a matter”* (emphasis added) used in Article II (3) are analogous to the language adopted in Section 4 of the Act. To understand the context further, it will also be necessary to examine Section 3(2), which without specifying the section, refers to an application under Section 4. Even in the noted section, the usage of the words *“in which the legal proceedings are pending”* is in line with the

⁹ 2. Definitions. -In this Act, unless there is anything repugnant in the subject or context,-

(a) "Article" means an Article of Convention;

(b) "Contracting State" means a State which is a Party to the Convention;

(c) "Convention" means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10th June, 1958, set forth in the Schedule to this Act;

(d) "Court" means a High Court and such other superior court in Pakistan as may be notified by the Federal Government in the official Gazette; and

(e) "foreign arbitral award" means a foreign arbitral award made in a Contracting State and such other State as may be notified by the Federal Government, in the official Gazette.

¹⁰ ARTICLE II

1. Each Contracting State shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

¹¹ Section 8 of the Act deals with any potential inconsistency between the provisions of the Act and Convention. The same reads as under: -

8. Inconsistency. -In the event of any inconsistency between this Act and the Convention, the Convention shall prevail to the extent of the inconsistency.

language employed in Section 4 and Article II, which has been specifically referred to in the noted section. The confusion only surfaces due to use of the word “Court” immediately before the portion reproduced above. That is the extent of the inconsistency which shall be deliberated upon in the following paragraphs.

9. Perusal of Sections 3(2), 4 of the Act and Article II of the Convention indicate that an application under Section 4 shall be filed in a court in which proceedings are pending. To my mind this can only refer to the Civil Court, as it is now the only court in which civil suits can be instituted. Reading the court as the High Court in the context of Section 4 of the Act would make the reproduced portions in the aforementioned paragraph of the noted sections and article, redundant. The same ought to be avoided following the dicta in the case of Kashif Mumtaz¹² wherein it was held as under: -

“10. It is pertinent to observe at this juncture that as per a well established principle of statutory interpretation, the statute is to be read as a whole and every part and word thereof is to be given effect, with an interpretation which renders any part redundant to be avoided, it being held as far back as the case of Queen v. The Bishop of Oxford (1879) 4 PBD 245 that whilst construing a statute, no part of it shall be 'superfluous, void or nugatory' and it also being observed by the Honourable Supreme Court in the case of East and West Steamship Co. v. Queensland Insurance Co. PLD 1963 SC 663 that "it is not permissible for us whilst interpreting a statute to hold that any part thereof or any word therein is surplusage. Every word has to be taken into account and a meaning given to it." (Emphasis added)

10. Similar views were expressed by the Hon’ble Supreme Court in the case of Waqar Zafar Bakhtawari¹³ in the following words: -

“It is settled that while interpreting the law, a specific provision of any statute, which is independent in nature, cannot and should not ordinarily be held to be redundant, especially on the touchstone of another independent provision of the same statute; rather all possible efforts should be made to apply and adhere to the rules of purposive and harmonious construction, so that the allegedly conflicting provisions should be reconciled and saved.” (Emphasis added)

¹² Kashif Mumtaz versus Faysal Bank Limited reported at **2020 CLD 904**.

¹³ Waqar Zafar Bakhtawari versus Mazhar Hussain Shah reported at **PLD 2018 SC 81**.

11. References to applications under Section 4 of the Act have been made in several judgements rendered by other provincial high courts in cases of enforcement. In the judgment rendered in the case of Tallahasee Resources Incorporated¹⁴, albeit in different circumstances, a learned single judge¹⁵ of the Islamabad High Court opined in reference to the jurisdiction of the Civil Court to adjudicate applications under Section 4 in the following words: -

“39. If one is to accept the contention of the learned counsel for the appellant that the applicability of the provisions of the 1940 Act to a dispute between the President and a local WIO would, by implication, oust the applicability of the said Act to a dispute between the President and a foreign WIO, this would not denude the learned Civil Court of its power to stay the proceedings in the appellant's suit. It is the substance of the application that has to be seen, and not just its form. The learned Civil Court had ample jurisdiction to treat respondent No.1's application seeking a stay of the proceedings in the appellant's suit as an application under Section 4 of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 ('the 2011 Act'),....

40. There is no denying the fact that the learned Civil Court had jurisdiction under Section 4 of the 2011 Act to stay the proceedings in the appellant's suit on the basis of the arbitration clause in the PCA. As can be seen, unlike Section 34 of the 1940 Act, the power of the Court to stay the proceedings under Section 4 of the 2011 Act is not discretionary.”
(Emphasis added)

12. A learned single judge¹⁶ of the Lahore High Court in the case of A.M. Construction¹⁷ set out a similar but not identical question in paragraph No.21 of the judgement and rendered his finding, after extensively deliberating upon other reported judgements, in paragraph No. 25. Both the noted paragraphs are reproduced below: -

“21. Another objection is relating to the scope of jurisdiction exercisable by the Civil Court in the context of exclusive jurisdiction extended to the High Court in terms of section 3 of Act, 2011, being the Court as defined in clause (d) of section 2 of Act, 2011.

25. However, the question of jurisdiction extended under section 3 of the Act, 2011 needs examination in the context of the facts of the case, wherein Civil Court at Lahore, exercised jurisdiction under section 4 of the Act, 2011, whereby suit filed by respondent No.1 was stayed. The Act, 2011 neither provides the option / remedy of filing Civil Suit nor regulates such

¹⁴ Tallahasee Resources Incorporated versus Director General Petroleum Concession, Ministry of Energy reported at **2021 CLC 423**.

¹⁵ Miangul Hassan Aurangzeb, J.

¹⁶ Asim Hafeez, J.

¹⁷ A.M. Construction Company (Private) Limited versus Taisei Corporation and others reported at **2025 CLC 474**.

remedy, however, conspicuously the remedy of initiating action for the recognition and enforcement of foreign arbitral award is provided in terms of section 6 of the Act, 2011, which is an exclusive remedy, exercisable by the Courts, having and exercising jurisdiction under section 3 of the Act, 2011 - this is the ratio of the case in Orient Power Company (Private) Limited, (supra). Subsection (2) of section 3 and section 4 of the Act, 2011 provides remedy for seeking stay of legal proceedings - both of which apparently manifest similarity / commonness in the context of the scope of remedies available, though forum may differ in the context of the original civil jurisdiction and ordinary original civil jurisdiction. The scope of instant decision is not to ascertain or identify the circumstances, wherein remedy of subsection (2) of section 3 of the Act, 2011 is available or invoked, nor issue at hand relates to examine and construe the extent of jurisdiction exercisable thereunder - under subsection (2) of section 3 of the Act, 2011 -, which issue will be examined in some other case when arises. In the instant case, the scope of jurisdiction under section 4 of the Act, 2011 is relevant, exercised by the Civil Court, while determining the question to stay or continue with the legal proceedings. Jurisdiction exercised by the Civil court, in this case, is an ordinary original civil jurisdiction, whereunder court is invested with all the powers extended under the Code of Civil Procedure 1908. Section 4 of the Act, 2011, in the context of jurisdiction exercised by the Civil court, in the instant case, has had to be interpreted and given effect, independent of section 3 of the Act, 2011 - section 4 may be invoked by the Sindh High Court at Karachi, while exercising ordinary original civil jurisdiction, where the occasion arises. Section 4 of the Act, 2011 provides remedy / mechanism for stay of pending legal proceedings, where subject matter of the suit is common to the matter otherwise covered by the arbitration agreement. Section 4 of the Act, 2011 has its source in clause (3) of Article II of the NY Convention, reproduced hereunder for convenience," (Emphasis added)

13. During the course of my own research, I came across the judgment in the case of Zaver Petroleum Corporation¹⁸, wherein the opinion rendered by me in paragraph No.9 of the instant order finds support. Relevant portions of the noted judgement, which I concur with, are reproduced below: -

“76. It could be argued that an application under Section 3(2) of the 2011 Act to stay legal proceedings could be brought before the High Court because the legislature has used the term "Court" in the said Section in capitalized form. Closer scrutiny of the said provision leads one to a different conclusion. Section 3(2) reads thus:-

¹⁸ Zaver Petroleum Corporation (Pvt.) Limited Versus Saif Energy Limited reported at **2025 CLD 695**.

I have deliberately withheld adjudication in reference to a situation where a party is desirous of challenging the existence or validity of an arbitration agreement providing for foreign seated arbitration. The same is beyond the scope of the question being adjudicated vide instant order. However, the learned single judge in the noted case, in paragraphs No.83 and 86, has expounded extensively upon the jurisdiction of the High Court in cases where arbitration agreements are under challenge.

77. *Where the legal proceedings have been brought in the High Court, it is indeed the High Court where an application under Section 3(2) to stay legal proceedings can be filed. However, where the legal proceedings have been brought in a court other than the High Court, it is the court in which the legal proceedings have been brought where the application to stay the legal proceedings has to be filed. To hold otherwise would also amount to attributing redundancy to the expression "an application to stay legal proceedings .. may be filed in the Court, in which the legal proceedings are pending."*

78. *Now, Section 3(2) is to be read with Article II(3) of the NY Convention which obligates the Court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement to submit to arbitration, to refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed. For the purposes of clarity, Article II(3) of the NY Convention is reproduced herein below:-*

79. *The expression "the court of a Contracting State, when seized of an action" used in Article II(3) has an obvious reference to the court where an action is instituted or in other words where the legal proceedings have been brought. One cannot accept the argument of the learned counsel for Zaver Petroleum that an application under Section 3(2) for staying legal proceedings brought before a civil court is to be filed in the High Court because in such a situation, the High Court would obviously not be the court "in which the legal proceedings are pending." Therefore, it is my view that it is only in circumstances where the legal proceedings have been brought by a party to an arbitration agreement before the High Court that the application under Section 3(2) will have to be filed in the High Court but not where the legal proceedings have not been brought or are not pending in the High Court. In the latter case, the term "Court" used in Section 3(2) need not be given the meaning given to it in the definition Section, otherwise it would lead to a manifest absurdity."* (Emphasis added)

14. This adjudication will be incomplete and partial without highlighting the view rendered by a learned single judge¹⁹ of the Lahore High Court in the case of *Messrs Tradhol International*²⁰, where a contrary view has been taken, whilst deciding an application for enforcement under Section 6 of the Act. Relevant portion of the judgment, albeit in a different context, is reproduced below: -

"10. Accordingly, it follows from the above sections that the "High Courts" have exclusive jurisdiction to adjudicate and settle the matters relating to or arising out from the "Act". The notified Courts in Pakistan, in order to protect the sanctity of foreign arbitral awards as defined under section 2(d) of the "Act" are the High Court and such other superior Courts as may be

¹⁹ Jawad Hassan, J.

²⁰ *Messrs Tradhol International Sa Sociedad Unipersonal versus Messrs Shakarganj Limited* reported at 2023 CLD 819.

*notified by the Federal Government. If the parties have any issue with the foreign agreements or the awards, they can only refer the matter to the Court as defined under section 2(d) of the "Act" and not any other Court which is not notified. To protect the confidence of investors, the Courts (the High Court under section 2(d) of the "Act") can then, if need be, deal the matter of pre-arbitration, pro arbitration and post arbitration. If we examine the jurisdiction of this Court as defined under section 3 of the "Act" which states that the Court shall exercise exclusive jurisdiction to adjudicate and settle matter relating to or arising out from this "Act", the Court has to enforce (i) foreign arbitral award and (ii) foreign agreements; although foreign agreements are not defined under the "Act" but the agreements are defined under Article II of the "NY Convention" therefore, any issue with regard to enforcement of foreign arbitral award or foreign agreement, as defined under the "Act" and the Article II, is arisen, then this can further be examined under section 3(2) of the "Act" where again in proceeding regarding the stay application may be filed in the Court. The word "Court" is defined in capital which means the High Court and has been referred in various sections of the "Act" which again means the High Court but under Section 4, the word "court" is not in capital but it still means it is in capital and would be the High Court notified by the Federal Government. Section 3 of the "Act" gives exclusive jurisdiction to this Court in terms of section 2(d) of the "Act" and the section *ibid* starts with 'notwithstanding anything contained in any other law for the time being in force' the Court shall exercise exclusive jurisdiction to adjudicate and settle matters related to or arising from the "Act". If section 3 of the "Act" be read with Section 4 of the "Act" it makes it clear that jurisdiction is only confined to the High Court because section 4(1) of the "Act" do mentions the word "court" and it is intertwined with section 3 of the "Act".... (Emphasis added)*

15. I am more inclined to subscribe to the view rendered by the learned single judge²¹ in the case of Zaver Petroleum Corporation, which is similar to the deduction made by me in paragraph No.9 of the instant order. With respect, I find myself unable to concur with the opinion rendered in the case of Messrs Tradhol International for the reason that it renders portions of Sections 3(2), 4 and Article II redundant. The learned single judge opined in the noted judgment that an application for stay of proceedings may be filed in the High Court. However, the opinion rendered doesn't cater to or account for the words "*in which the legal proceedings are pending*". It is apparent from the bare reading of Section 3(2) that an application for stay of proceeding can only be filed in the Court in which legal proceedings are *pending*. Therefore, the noted judgment did not deliberate on this aspect, and it is for this reason that I

²¹ Miangul Hassan Aurangzeb, J.

respectfully disagree with the deduction made. Concurring with the opinion rendered in the case of Zaver Petroleum Corporation I hold that the term “Court” used in Section 3(2) need not be ascribed the meaning given to it in the definition section. The same would lead to an absurdity which the legislature did not intend.

16. The methodology of interpreting the definition clauses was expounded succinctly by the Hon’ble Supreme Court in the case of Muhammad Khan²² in the following words: -

"Usually, definition clauses in the Statutory Instruments are scribed subject to the rider that the words and expressions so defined will carry the meaning ascribed to them where the context and the subject so permit. Where the defined meaning being employed results in an obvious anomaly or absurdity, it is not permissible to mechanically and mindlessly inflict such meaning regardless of repugnancy to the context or the subject, to the words or expressions in the provision sought to be interpreted." (Emphasis added)

17. In an earlier judgment rendered by the Hon’ble Supreme Court in the case of Bank of Bahawalpur Ltd²³ the express qualification, identical to the one in Section 2 of the Act, in the definition section was interpreted in the following words: -

"Although normally an expression if defined in a Statute has to be given the same meaning wherever it occurs therein, yet there is ample authority for the principle of interpretation that a definition of a term in a Statute is merely declaratory in nature and should not be unnecessarily inflicted where it does not fit in with the subject or context and might lead to anomalies and absurd results. Further strength is lent to this justifiable invocation of the above principle by the express qualification or exception with which section 2 was prefaced, namely "unless there is something repugnant in the subject or context". (Emphasis added)

18. Whilst I appreciate the arguments advanced by the learned counsel for the Plaintiff, I find myself unable to concur with the same. Accepting the argument advanced would inevitably require the Civil Court to refer the civil suit to the High Court to adjudicate an application filed under Section 4 of the Act. In the event such an application is dismissed, it would render the civil suit

²² Muhammad Khan versus Obaidullah Jan Babat reported at **PLD 2016 SC 492**.

²³ Bank of Bahawalpur Ltd. versus Chief Settlement and Rehabilitation Commissioner reported at **PLD 1977 SC 164**.

to be transferred back to the Civil Court for adjudication. Irrespective of the outcome on the noted application, what is apparent is that the same would require me reading into the Act, a procedure which is alien to it. To my mind the only way in which the Act can be read harmoniously is to give it the interpretation advanced by the learned counsel for the Defendant. The opinion rendered in the instant order is the only way in which the provisions within the Act and the Act of 2025 can be read harmoniously. Further, the same will avoid jurisdictional complexity which would inevitably delay proceedings, contrary to the objectives of the Act and Convention.

19. For reasons which are obvious, I do not wish to opine on the application preferred by the Defendant under Order 7 Rule 11. However, if the argument of the Plaintiff was accepted then it would render the High Court adjudicating on the noted application after passing of the Act of 2025 i.e. exercising a jurisdiction not vested in it.

20. In light of what has been held above the instant Judicial Misc. Application²⁴ is referred to the Civil Court, to be renumbered as a civil suit in terms of Sections 3 and 4 of the Civil Court Amendment Act, 2025. Order accordingly.

21. Before parting with the instant order, I would like to record my appreciation for both the learned counsels who have rendered valuable assistance. More particularly, I would like to acknowledge the assistance provided by Ms. Maria Ahmad. Her submissions were clear and well researched.

JUDGE

Nadeem Qureshi P.A.

²⁴ Civil Suit number 882 of 2024. The same was renumbered as Judicial Misc. Application No.20 of 2025 after promulgation of Act of 2025.