

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD

Revision Application No.S-147 of 2025

[S.M. Imran Alvi

vs.

General Manager Master Changan Motor Limited & another]

Applicant	S.M. Imran Alvi s/o Muhammad Shafi, through Mr. Muhammad Zakaria Baloch, advocate.
Respondent No.1	General Manager Master Changan Motors Limited, Karachi, through Mr. S. Asad H. Kazmi, advocate.
Respondent No.2	Nemo.
Amicus Curaie	Mr. Salahuddin Ahmed, Barrister-at-law, assisted by Mr. Chaudhry Atif Rafiq, Barrister-at law.
Date of Hearing:	9 March 2026
Date of Order:	20 April 2026

ORDER

MOHAMAMD ABDUR RAHMAN, J This Revision Application, maintained under Section 115 of the Code of Civil Procedure, 1908, seeks to revise a Judgement dated 28 August 2025 passed by the District Judge Hyderabad in Appeal No. 15 of 2025 setting aside an Order dated 10 October 2022 passed in Consumer Complaint No. 01 of 2022 by the Consumer Protection Court, Hyderabad.

A. Question regarding Maintainability.

2. An objection was raised by counsel for the Respondent No.1 that a Revision Application under Section 115 of the Code of Civil Procedure, 1908 would not lie against an order passed on an appeal maintained under the Sindh Consumer Protection Act, 2014 (hereinafter referred to as "Act 2014") as the provisions of the Code of Civil Procedure, 1908 have not in toto been applied to

the statute and which are limited in terms of the provisions of sub-section 3 of Section 31 of Act, 2014.

B. Contentions on behalf of the Applicant.

3. Mr. Muhammad Zakaria Baloch, entered appearance on behalf of the applicant and has contended that:

- (i) in term of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 there being no specific prohibition in the Act 2014 to maintain a Revision Application under Section 115 of the Code of Civil Procedure, 1908, this revision application was maintainable;
- (ii) Section 3 of the Act 2014 states that the Act, 2014 shall be in addition to and not in derogation of the provisions of any other law for the time being in force and as such the provisions of the Code of Civil Procedure, 1908 would continue to apply to a complaint made under the Act, 2014

He did not rely on any case law in support of his contentions.

C. Contentions on behalf of the Respondent

4. Mr. S. Asad H. Kazmi, advocate entered appearance on behalf of the Respondent No.1 and contended that provisions of Sub-Section (3) of Section 31 of the Act, 2014 restricts the application of the Code of Civil Procedure, 1908 in similar terms as does the provisions of Section 20 of Sindh Rented Premises Ordinance, 1979 and as a consequence of which the provisions of Section 115 not being available a Revision application would not lie. He however conceded that even if a revision application would not lie, a petition however would be maintainable under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 as against order passed by District Judge Hyderabad in Appeal No.15 of 2025 under the Act, 2014. In this context he has relied upon decision reported as **Municipal Committee, Bahawalpur versus Sh. Aziz Elahi**,¹ **Shaista Jamil versus Daraz and another**,² and **Dr. Muhammad Asif Osawala versus Mrs. Qamar-un-Nisa Hakro through attorney and another**³

¹ PLD 1970 Supreme Court 506

² 2024 PCr.LJ 1987

³ PLD 2022 Sindh 430.

D. Opinion of the Amicus Curaie

5. Considering the importance of the question raised, I had appointed Mr. Salahuddin Ahmed as Amicus Curaie to assist the Court on the following questions:

- (i) Whether a Revision, under Section 115 of the Code of Civil Procedure, 1908 could be maintained as against an order passed by a Court even where the provisions of the Code of Civil Procedure, 1908 are not in toto application to regulate the procedure of the lis?
- (ii) Whether the provisions of a “non-derogation” or “non-obstante” clause in a statute would impact the exercise of such a jurisdiction?
- (iii) Whether the provision of a section indicating the decision to be final would impact a Revision Application from being maintained?

6. Mr. Salahuddin Ahmed contended that the Code of Civil Procedure, 1908 is a law of general applicability and which would, in terms of Section 9 of the Code of Civil Procedure, 1908, apply to all civil proceedings unless expressly or impliedly prohibited. He clarified that while strictly not applicable to quasi judicial proceedings, they nevertheless would be applied in principle on the threshold of justice, equity and good conscience to regulate such proceedings.

7. In this context of the Act, 2014 he maintained that the procedure for hearing of a complaint maintained under the provisions of the Act, 2014 is regulated by section 29, 30, 31 and 32 of the Act, 2014 and being a special provision must prevail. Referring to Sub-Section (3) of Section 31 of the Act, 2014 he said this provision regulated only the trial before “Consumer Court.” He thereafter referred to Section 34 of the Act, 2014 and contended that as Sub-Section (3) of Section 31 of the Act, 2014 had not been made applicable to appeals and there existed no provision in the Act, 2014 to regulate the procedure for hearing Appeals, the provisions of the Code of Civil Procedure, 1908 would be applicable to regulate those proceedings as the appeal lay to the “District and Sessions Court” as such a Court was clearly regulated by the provisions of the Code of Civil Procedure, 1908, be in principle or otherwise. He next made reference to Section 35 of the Act, 2014 and contended that the failure to avail an Appeal as against a final order of the Consumer Court would also not render a revision as against the order of the Consumer Court as not being maintainable.

8. In the context of the evolution of the law of procedure in Pakistan, Mr. Salahuddin Ahmed contended that the Code of Civil Procedure, 1908 is a consolidating statute as held in **Hussain Bakhsh vs. Settlement Commissioner Rawalpindi**,⁴ and **Habib Bank Limited vs. WRSM Trading Company LLC and others**⁵ and in the latter decision the Supreme Court of Pakistan confirmed the general applicability of the provisions of the Code of Civil Procedure, 1908 to all civil proceedings holding that:

“ ... Where special statutes regulating the civil rights of citizens are silent on some matter the C.P.C. will appl and will fill the lacunae/vacuum. In this regard the C.P.C will apply to all Courts whether of plenary or restricted jurisdiction. The right of the appellant bank to sue for recovery of money lent by it is a civil right which could be enforced in the civil courts notwithstanding the fac that the money may have been lent outside Pakistan Does the right cease to be a civil right simply because some portion of the plenary jurisdiction of the civil court has been carved away by a special law, i.e. the F.I.O. 2001? Plenary jurisdiction of the civil courts means that i is full, entire, complete, absolute, perfect and unqualified A special statute simply slices away some of this jurisdiction in respect of certain persons or certain matters. Therefore to our mind the answer to the question *ibid* is a resounding no.”

9. Referring to the decision of the Supreme Court of Pakistan and various High Courts reported as **Khadim Mohyuddin vs. Rahmat Ali**,⁶ **Abdul Haq. Vs. Saif ur Rehman and others**,⁷ and **Motabar vs. Messrs S.M. Rehman & Co, Quetta and another**⁸ and **Messrs S.M. Rahman & Co. vs. Motabar and others**⁹ he clarified that it had been clearly established that were a statute referred to a persona designata as an appellate authority and not a Court, a revision would not lie but where the appellate authority was designated by the statute as a Court a revision , under Section 115 of the Code of Civil Procedure, 1908 would be maintainable and which would be the case irrelevant as to the provisions of Section 35 of the Act, 2014 holding that an order of the Consumer Protection Court would be final under the Act, 2014. On the premise of these decisions, he contended that as Section 34 of the Act, 2014 specified that the Appeal from an order of the Consumer Court lay to the District and Sessions Court and not an Appellate Authority i.e., a persona designata, the provisions of a revision, under Section 115 of the Code of Civil Procedure, 1908 would be available as against a Judgement passed in Appeal under Section 34 of the Act, 2014.

⁴ PLD 1970 Supreme Court 1

⁵ PLD 2018 Supreme Court 795

⁶ PLD 1965 Supreme Court 459

⁷ PLD 1968 Lahore 478

⁸ PLD 1971 Quetta 47; Upheld in **Messrs S.M. Rahman & Co. vs. Motabar and others** PLD 1981 Supreme Court 282

⁹ PLD 1981 Supreme Court 282

E. Order of the Court

10. I have heard Mr. Muhammad Zakaria Baloch, Mr. S. Asad H. Kazmi, and Mr. Salahuddin Ahmed and have perused the record.

11. Sub-section (3) of Section 31 of the Act 2014 reads herein under;

“ ... (3) For the purposes of this section, the Consumer Court shall have the same powers as are vested in Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), while trying a suit, in respect of the following matters, namely:-

(a) the summoning and enforcing attendance of any defendant or witness and examining him on oath;

(b) the discovery and production of any material object which may be produced as evidence.

(c) the receiving of evidence or affidavits;

(d) issuing of any commission for the examination of any matter; or

(e) any other matter which may be prescribed;”

A perusal of Sub-Section (3) of Section 31 of the Act, 2014 would reveal that the entire provisions of the Code of Civil Procedure, 1908, have not been made applicable to the Act 2014 and which have been limited by that section **to a “Consumer court” while “trying a suit” and which hence does not extend to the procedure regulating appeals.** This can be contrasted with Section 20 of the Sindh Rented Premises Ordinance, 1979 which reads as hereinunder:

“ 20. (1) Subject to this Ordinance, the **Controller** and the **appellate authority** shall, for the purpose of any case under this Ordinance, have powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of only the matters, namely: –

(a) Summoning and enforcing the attendance of any person and examining him on Oath;

(b) Compelling production or discovery of documents;

(c) Inspecting the site; and

(d) Issuing commission for examination of witnesses or documents.”

As can be seen Section 20 of the Sindh Rented Premises Ordinance, 1979 limits the application of the provisions of the Code of Civil Procedure, 1908 to both the Rent Control and to the Appellate Authority and on account of which the Supreme Court of Pakistan in decision reported as **Haji Usman Bhai vs. Syed Ali Imam Zaidi and 2 others**¹⁰ has in this context held as hereinunder:

¹⁰ 1994 SCMR 1918, See also **Khyber Insurance Company Ltd. vs Pakistan National Shipping Corporation** PLD 1994 Supreme Court 725

“ ... A plain reading of the above-quoted section 20 of the Ordinance shows that all the provisions of the Civil Procedure Code have not been made applicable to the proceedings under the Ordinance, but the Controller and the Appellate Authority i.e. High Court have been given powers of a Civil Court under the C.P.C. for the purposes specified in the above-quoted clauses (a), (b), (c) and (d). In this view of the matter, the provisions of rule 22 of Order XLI, C.P.C. which is applicable to an appeal against a decree cannot be invoked in aid by the learned counsel for the respondents. The position was somewhat different when a second appeal was provided to the High Court under the Late West Pakistan Rent Restriction Ordinance and provisions of C.P.C. were made applicable to such appeals.”

12. The Supreme Court of Pakistan in the decision reported as **Messrs S.M. Rahman & Co. vs. Motabar and others**¹¹ while considering the point as to whether a revision, under Section 115 of the Code of Civil Procedure, 1908 lay as against an order passed from on an appeal from a court designated as an appellate authority under a special law has held as hereinunder:

“ ... The main ground on which leave to appeal was granted in this case, and which has been argued before us by the learned counsel for the appellant, is that as the order of the Authority under section 15 of the Act was final; subject only to the appellate jurisdiction of the District Court under section 17(c) of the Act, such finality could not be interfered with by the High Court under section 115 of the Civil Procedure Code. It was also argued at the Bar that, in any case, the District Court while hearing an appeal under the Act, could not be regarded as being subordinate to the High Court, as the subordination indicated and defined in section 2(4) and section 3 of the Civil Procedure Code is only for the purposes of that Code, and does not extend to the jurisdiction otherwise exercised by the District Court under different statutes.

From a review of the precedent cases cited before us, we are of the view that the learned Judge in the High Court has rightly held that the appellate order made by the District Court under the Payment of Wages Act was amenable to the revisional jurisdiction of the High Court. The term "District Court" has not been defined in the Payment of Wages Act, and, accordingly, it has to be given its ordinary connotation, as indicated in the General Clauses Act and in the Civil Procedure Code, according to which it is a Court subordinate to the High Court. The argument that there is a finality attaching to the order of the Authority under section 15 of the Act suit only to the appellate jurisdiction of the District Court under section 17 of the Act, does not advance the case any further, as such finality only means that the order of the Authority can be challenged only by way of appeal to the District Court and not otherwise; but there is no such limitation in respect of the appellate order made by the District Court a ordinarily constituted, in which capacity it is subordinate to the High Court.”

The decision of the Supreme Court of Pakistan clarifies that where the appeal is not made to a persona designata and is by the provisions of the statute made to a court, a revision application under Section 115 of the Code of Civil Procedure, 1908 would be applicable.

13. Section 34 of the Act, 2014 as originally drafted read as hereinunder:

“ ... 34. Any person aggrieved by any final order of the Consumer Court may file an appeal in the Sindh High Court within 30 days of such order.”

¹¹ PLD 1981 Supreme Court 282

This Section was amended by Section 4 of the Sindh Consumer Protection Act, 2023 (Sindh Act, XXIX of 2023) and which made the following amendment in Section 34 of the Act, 2014:

“ ... 4. In the said Act, in section 34, for the words “Sindh High Court”, the words “District and Sessions Court” shall be substituted.”

After the amendment, an Appeal, under Section 34 of the Act, 2014, necessarily having to be presented before the “District and Sessions Court” and not a Persona Designata, in terms of the decision of the Supreme Court of Pakistan reported as **Messrs S.M. Rahman & Co. vs. Motabar and others**¹² a revision, under Section 115 of the Code of Civil Procedure, 1908 would be maintainable as against a Judgement or an order passed by the District and Sessions Court under Section 34 of Act, 2014. This Revision Application is maintainable.

14. While concluding this Order, I would like to appreciate the assistance afforded by Mr. Salahuddin Ahmed and Mr. Chaudhry Atif Rafiq, who Mr. Salahuddin Ahmed stated had assisted in him the preparation of the amicus brief.

J U D G E

Hyderabad dated 20 April 2026

J U D G E

(Jawad Akbar Sarwana, J)

Hyderabad dated 20 April 2026

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¹² PLD 1981 Supreme Court 282