

IN THE HIGH COURT OF SINDH AT KARACHI
C.R.A. No. 196 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection a/w. reply at A.
2. For hearing of CMA No.9199/2025.
3. For hearing of Main Case.
4. For orders on Nazir's Report dated 05.01.2026.

Applicant : through Mr. Muhammad Ali Lakhani,
Advocates

Respondent No.1 : Through Mr. Mohammad Haseeb
Jamali, Advocate

Respondents No.3 to 6 : Through Mr. Ahmed Khan Khaskheli,
AAG Sindh along with Anwer Ali
Panhwar, Survey Superintendent.

Respondent No.7 : Through Mr. Sarmad Khan, Barrister -at -
law

Respondents No.8 to10 : Nemo.

Date of Hearing : 6 January 2026, 17 January 2026 and 24
January 2026 and 7 February 2026

Date of Decision : 21 February 2026

O R D E R

MOHAMMAD ABDUR RAHMAN, J This Order will decide a Revision Application, maintained under Section 115 of the Code of Civil Procedure, 1908, seeking to revise an Order dated 2 December 2025 that had been passed by the IVth Senior Civil Judge Malir, Karachi in Suit No. 2756 of 2025 on two applications maintained under Rule (1) and (2) of Order XXXIX of the Code of Civil Procedure, 1908 and under Section 94 of the Code of Civil Procedure, 1908 by the Respondent No. 1

A. Facts

(i) The Pleadings of Mst. Badar Jahan

2. Mst. Badar Jahan, the Respondent No.1, contends that she was initially allotted 16 Acres of land and 10 Acres of land, each in Na Class No. 26, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi, in the year 1994. Both the parcels of land

were surveyed in the year 1996 and demarcated as Survey No. 145, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 10 Acres and Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 16 Acres.

3. Mst. Badar Jahan submits that thereafter through a Sale Agreement dated 22 June 2009 she agreed to sell Survey No. 145, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 10 Acres to the brother of one Muhammad Rashid Qureshi. She contends that after the execution of the Agreement of Sale dated 22 June 2009, Muhammad Rashid Qureshi encroached on Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 16 Acres and which led to criminal proceedings bearing FIR No. 88 of 2016 being instituted at PS Ibrahim Hyderi but which subsequently, by an order dated 23 September 2016, was disposed of in "A" Class by the concerned Magistrate.

4. She further contends, that Muhammad Rashid Qureshi and his brother Muhammad Aslam Qureshi, who had entered into an agreement to purchase Survey No. 145, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 10 Acres, caused to be carried out a sub-division and demarcation of Survey No. 145, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 10 Acres to be and which she contends was carried out by the Survey Superintendent, without causing notice of the Survey to be issued to her and which she contends is illegal. Consequentially, Mst. Badar Jahan maintains that, Survey No. 145, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 10 Acres was reconstituted as Survey Nos., 166, 167, 184, 185, 186, 187, 188, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi and the location of which overlaps with her land i.e., Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 16 Acres

5. After the creation of Survey No., 166, 167, 184, 185, 186, 187, 188 Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi, Mst. Badar Jahan contends, that a fraud took place in the record of the Board of Revenue and as a consequence of which the following sale deeds were executed and on the basis of which mutations were recorded in the record of rights:

- (i) a Sale Deed dated 24 July 2018 and on the basis of which Mohammad Rashid Qureshi acquired Survey No. 166, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 3 Acres and Survey No. 167, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 1 Acre;
- (ii) a Sale Deed dated 24 July 2018 and on the basis of which Mohammad Rashid Qureshi acquired Survey No. 185, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres and

Survey No. 186, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres; and

- (iii) a Sale Deed dated 24 July 2018 and on the basis of which Mohammad Rashid Qureshi acquired Survey No. 187, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres and Survey No. 188, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres.

Mst. Badar Jahan contends that the location of Survey No. 166, 167, 184, 185, 186, 187, 188, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi overlaps with the location of Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 16 Acres, that is owned by her, and has instituted Suit No. 2756 of 2025¹ seeking a declaration in respect of her ownership over Survey No. 146, Na Class No. 26, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 16 Acres, challenging the creation of Survey No. 184, 166, 167, 185, 186, 187, 188 Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi and seeking the cancellation of each of the Sale Deeds mentioned hereinabove.

(ii) The Pleadings of Syed Najam Raza Naqvi

6. Syed Najam Raza Naqvi, the Applicant herein, contends that Survey No. 184 (out of NC 126), Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 4 Acres was never created through the sub-division of Survey No. 145, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 10 Acres but was initially allotted to one Muhammad Anwar Samoo. This allotment in favour of Muhammad Anwar Samoo was cancelled under the Sindh Urban State Land (Cancellation) of Allotments, Conversions and Exchanges) Ordinance, 2000 and subsequently regularised thereunder. It is contended by Syed Najam Raza Naqvi, that Muhammad Anwar Samoo regularised Survey No. 184 (out of NC 126), Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 4 Acres and thereafter he, through a registered Sale Deed dated 8 February 2016, acquired Survey No. 184 (out of NC 126), Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 4 Acres. Syed Najam Raza Naqvi contends that he has, since then, caused for Survey No. 184 (out of NC 126), Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 4 Acres to be further sub-divided and allotted plots carved thereon to third parties some of whom are residing thereon.

¹ Originally instituted as Suit No. 741 of 2022 before the High Court of Sindh at Karachi.

(iii) Pleadings of Mohammad Rashid Qureshi

7. Mohammad Rashid Qureshi, the Respondent No. 6, contends that:

- (i) Survey No. 185, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres and Survey No. 186, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres were originally allotted to one Ghulam Hussain as un-surveyed land in Na Class No. 26, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi and which after being regularised under the Sindh Urban State Land (Cancellation) of Allotments, Conversions and Exchanges) Ordinance, 2000 were surveyed and assigned the aforementioned Survey numbers and thereafter were purchased by him through a registered Sale Deed dated 23 July 2018;
- (ii) Survey No. 187, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres and Survey No. 188, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 2 Acres were originally allotted to one Pervez Ahmed as un-surveyed land in Na Class No. 26, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi and which after being regularised under the Sindh Urban State Land (Cancellation) of Allotments, Conversions and Exchanges) Ordinance, 2000 were surveyed and assigned the aforementioned Survey numbers and thereafter were purchased by him through a registered Sale Deed dated 24 July 2018; and
- (iii) Survey No. 166, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 3 Acres and Survey No. 167, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 1 Acre were originally allotted to one Masood Ahmed Khan as un-surveyed land in Na Class No. 26, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi and which after being regularised under the Sindh Urban State Land (Cancellation) of Allotments, Conversions and Exchanges) Ordinance, 2000 were surveyed and assigned the aforementioned Survey numbers and thereafter were purchased by him through a registered Sale Deed dated 24 July 2018.

He contends that these properties are not overlapping with Survey No. 145, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 10 Acres or with Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi admeasuring 16 Acres.

(iv) The Survey Superintendent

8. The Respondent No. 6, i.e., the Survey Superintendent, had submitted his written statement and therein pleaded that Survey No. 166, 167, 184, 185, 186, 187, 188 Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi do not overlap with the location of Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi. These pleadings are however contradicted by the Survey Superintendent in a report dated 16 May 2023 wherein it was contended that these Survey No. 166, 167, 184, 185, 186, 187, 188 Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi do overlap with the location of Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi and wherein it was concluded that:

“ ... *From perusal of facts discussed above/ record available in this office and detailed report furnished by the field Survey Staff, it reveals that the owner Khatedar Attempted to change the locations of Survey Number 166 & 167 on his own will illegally with the illegal support of field survey staff of this office several times. However, Survey Number 184, 185, 186, 187 & 188 of Deh Rehti are created by the field survey staff without confirmation of possession at site and without getting the original sketch prepared at the time of allotment. It is pertinent to mention that Survey no 145 & 146 were created adjacent to one another in the year 1996 and the newly Created Survey Nos. 184, 185, 186, 187, 188, 166 & 167 are shown to have been created adjacent to Survey no. 145 of Deh Rehri, overlapping the old Survey Number 146. But the location of Survey Number 145 & 146 has been changed on Deh Map as well as in Demarcation Plan issued by this office vide letter No: SS/KYC/(F-1176)/2022/218, dated: 07-04-2022 (copy letter & demarcation plan is attached at Annexure-F).*

Keeping in view of report furnished by the field survey staff (copy enclosed at Annexure-G) and facts discussed, it is requested that the Survey Numbers 166, 167, 184, 185, 186, 187 & 188 of Deh Rehri may be cancelled from the Deh Map only and the demarcation plan issued vide this office letter dated: 07.04.2022, may also be cancelled. and Survey No 145 & 146 may be corrected on Deh Map after verification of current physical position at site.

Brief facts are submitted for kind perusal and orders.

*(Anwar Ali Panhwar)
Ex-Pcs
Survey Superintendent, Karachi”*

(v) Applications maintained by Mst. Badar Jahan and orders passed by the IVth Senior Civil Judge, Malir Karachi in Suit No. 2756 of 2025.

9. Mst. Badar Jahan maintained two applications seeking injunctive relief as against the construction that was ongoing on Survey No. 166, 167, 184, 185, 186, 187, 188 Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi.

10. The IVth Senior Civil Judge Malir Karachi, primarily on the averments made by the Survey Superintendent in his report dated 16 May 2023 has allowed the applications and against which this Revision Application has been maintained.

B. Contentions on behalf of the Applicant

11. Mr. Muhammad Ali Lakhani has entered appearance on behalf of the Syed Najam Raza Naqvi and after contending that Syed Najam Raza Naqvi has title to his property that is independent of the title of Mst. Badar Jahan and Mr. Mohammad Rashid Qureshi, has pleaded that the only issue is with regard to the location of each of their properties. In this context he has contended that the contentions of the Survey Superintendent, in the report dated 16 May 2023, are contrary to his own pleadings in Suit No. 2756 of 2025. He stated that such contradictions warrant that a fresh demarcation should be carried out by the Survey Superintendent, under the supervision of the Court and which would clarify the location of each of the properties owned by Syed Najam Raza Naqvi, Mst. Badar Jahan and Mr. Mohammad Rashid Qureshi and would then permit a proper determination to be made as to whether the location of Survey No. 166, 167, 184, 185, 186, 187, 188 Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi did or did not overlap with the location of Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi on the basis of which injunctive relief could be properly determined.

12. On a question put by the Court as to the maintainability of this Revision Application against an interlocutory order passed by the IVth Senior Civil Judge, Malir Karachi in Suit No. 2756 of 2025, Mr. Muhammad Ali Lakhani averred to the provisions of Section 115 of the Code of Civil Procedure, 1908 and contended that the section gave concurrent jurisdiction to the High Court to revise an order passed by any court subordinate to it from which an appeal did not lie to it and which included, but was not limited to, the interlocutory order passed by the IVth Senior Civil Judge, Malir Karachi in Suit No. 2756 of 2025. He relied on case law which is considered hereinbelow.

C. Contentions on behalf of Respondent No. 7

13. Mr. Sarmad Khan entered appearance on behalf of Mr. Mohammad Rashid Qureshi and supported the contentions of Mr. Muhammad Ali Lakhani. While maintaining that the property owned by Mr. Mohammad Rashid Qureshi was distinct from the property owned by the Mst. Badar Jahan, he contended that the contentions of the Survey Superintendent, in the report dated 16 May 2023, are contrary to his own pleadings in Suit No. 2756 of 2025. He stated that such contradictions warrant that a fresh demarcation should be carried out by the Survey Superintendent, under the supervision of the Court and which would clarify the location of each of the properties owned by Syed Najam Raza Naqvi, Mst. Badar Jahan and Mr. Mohammad Rashid Qureshi and would then permit a proper determination to be made as to whether the location of Survey No. 166, 167, 184,

185, 186, 187, 188 Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi did or did not overlap with the location of Survey No. 146, Deh Rehri, Taluka Ibrahim Hyderi, Malir, Karachi and on the basis of which injunctive relief could be considered.

D. Contentions on behalf of the Respondent No. 1

14. Mr. Muhammad Haseeb Jamali entered appearance on Mst. Badar Jahan and contended that this Application was not maintainable and relied on numerous orders passed by Learned Single Judges of this Court holding that on account of the amendment made by the insertion of Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908, concurrent jurisdiction had been given to the High Court and the District Judge to entertain revision applications and which applying the principles of Section 15 of the Code of Civil Procedure, 1908 warranted that such applications should be made before the District Judge and not before this Court.

15. On merits he contended that there was no further requirement for a demarcation to be carried out prior as the Survey Superintendent had carried out various demarcations each of which admittedly contradicted the other as admitted by the Survey Superintendent himself and as such the orders impugned were warranted otherwise the entire land admittedly owned by Mst. Badar Jahan would be encroached. He further contended that the demarcation on record were subject to evidence and which was the proper forum to consider the location of each of these properties.

E. Order of the Court

16. I have heard Mr. Muhammad Ai Lakhani, Mr. Sarmad Khan and Mr. Muhammad Haseeb Jamali and have perused the record.

17. The power to revise an order was first conferred on a High Court under Section 622 of the Code of Civil Procedure, 1882 and which read as hereinunder:

“ ... *The High Court may call for the record of any case in which not appeal lies to the High Court if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law or to have failed to exercise a jurisdiction so vested or to have acted in the exercise of its jurisdiction illegally or with material irregularity and may make such order in the case as the High Court thinks fit.*”

After the repeal of the Code of Civil Procedure, 1882, the power of the High Court to revise was found in Section 115 of the Code of Civil Procedure, 1908 and which

was slightly different to the provisions of Section 622 of the Code of Civil Procedure, 1882 and which read as hereinunder:

“ ... *The High Court may call for the record of any case which has been decided by any Court Subordinate to such High Court and in which not appeal lies thereto, and if such subordinate court appears:*

- (a) *to have exercised a jurisdiction not vested in it by law, or*
- (b) *to have failed to exercise a jurisdiction so vested,*
- (c) *or to have acted in the exercise of its jurisdiction illegally or with material irregularity*

and may make such order in the case as the High Court thinks fit.”

Amendments were made in the years 1972, 1980, 1992 and 1994 to this Section and whereafter Section 115 of the Code of Civil Procedure, 1908 now reads as hereinunder:

“ ... 115.-(1) *The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears*

- (a) *to have exercised a jurisdiction not vested in it by law, or*
- (b) *to have failed to exercise a jurisdiction so vested, or*
- (c) *to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit;*

Provided that where a person makes an application under this subsection, he shall in support of such application, furnish copies of the pleadings, documents and order of the subordinate Court and the High Court shall, except for reasons to be recorded, dispose of such application without calling for the record of the subordinate Court.

Provided further that such application shall be made within ninety days of the decision of the subordinate Court which shall provide a copy of such decision within three days thereof and the High Court shall dispose of such application within six months,

- (2) *The District Court may exercise the powers conferred on the High Court by subsection (1) in respect of any case decided by a Court subordinate to such District Court in which no appeal lies and the amount or value of the subject-matter whereof does not exceed the limits of the appellate jurisdiction of the District Court.*
- (3) *If any application under subsection (1) in respect of a case within the competence of the District Court has been made either to the High Court or the District Court, no further such application shall be made to either of them.*
- (4) *No proceedings in revision shall be entertained by the High Court against an order made under subsection (2) by the District Court.*

While interpreting Section 115 of the Code of Civil Procedure, 1908 there can be no cavil that the jurisdiction that has been conferred on this Court by the section is

in the nature of a supervisory jurisdiction over a “Court” subordinate to it², is discretionary³ and is akin, but not identical, to the prerogative writ of certiorari.⁴ Whether or not the exercise of such a jurisdiction is only supervisory or would also constitute a right is however of some dispute as while some of the Judgements of the Supreme Court of Pakistan have identified it as supervisory other Judgements of the Supreme Court of Pakistan have considered it to be a right.⁵ Further, the manner in which the power can be exercised is twofold. Either the High Court can exercise such powers of its own motion⁶ or it can exercise such a jurisdiction on an application made by a party, the primary difference being that the former is not limited by time while the latter must be presented within 90 days of the passing of that order or judgement. Under Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908 the District Judge has been conferred with the same jurisdiction as conferred on the High Court with regard to any Court Subordinate to it i.e., a Civil Judge or a Senior Civil judge

18. Both the jurisdiction of the High Court and the District Judge relate to an order decision in respect of a “case which has been decided”. What is a “case which has been decided” which can be revised under Section 115 of the Code of Civil Procedure, 1908 was considered by a Full Bench of Seven Judges of this

² See Muhammad Aslam vs. Munshi Muhammad Behram 1991 SCMR 1971; Evacuee Trust Property Board vs. Muhammad Siddique 1995 SCMR 1748; Muhammad Mian vs. Shamimullah 1995 SCMR 69; Anjum Zafar vs Abbas Aki Shah 2000 SCMR 59; Ch Muhammad Shfi vs. Shamim Khanum 2007 SCMR 838; Mst. Banori vs. Jilani PLD 2010 Supreme Court 1186; Hafeez Ahmed vs. Civil Judge Lahore PLD 2012 Supreme Court 400; Province of Punjab through District Officer Revenue, Rawalpindi vs. Muhammad Sarwar 2014 SCMR 1358; Mandi Hassan alias Mehdi Hussain vs. Muhammad Arif PLD 2015 Supreme Court 137; MFMY Industries Ltd. vs. Federation of Pakistan through Ministry of Commerce 2015 SCMR 1550; Noor Ahmed vs. Province of Punjab 2016 SCMR 2174; Ghulam Qadir vs. Sh. Abdul Wadood PLD 2016 Supreme Court 712; Government of Khyber Pakhtunkhawa vs. Latif ullah Khan 2021 SCMR 829; Muhammad Yousuf Bhindi vs. A.G.E. & Sons (Pvt.) Ltd. PLD 2024 Supreme Court 864

³ See Shahzada Muhammad Umer Beg vs. Sultan Mahmood Khan PLD 1970 Supreme Court 139; ; Muhammad Bashir vs. Province of Punjab 2003 SCMR 83; Suleman vs. Mst. Zeenat Jan and 2 others PLD 2003 Supreme Court 362; Ataullah alias Billa vs. Muhammad Ilyas 2004 SCMR 830; Muhammad Feroze and others vs. Muhammad Jammal Ali 2006 SCMR 1304; Hafeez Ahmed vs. Civil Judge Lahore PLD 2012 Supreme Court 400; Province of Punjab through District Officer Revenue, Rawalpindi vs. Muhammad Sarwar 2014 SCMR 1358; Ghulam Qadir vs. Sh. Abdul Wadood PLD 2016 Supreme Court 712; and Government of Khyber Pakhtunkhawa vs. Latif ullah Khan 2021 SCMR 829;

⁴ See Manager, Jammu & Kashmir, State Property in Pakistan vs. Khuda Yar PLD 1975 Supreme Court 678; Muhammad Mian vs. Shamimullah 1995 SCMR 69; Muhammad Feroze and others vs. Muhammad Jammal Ali 2006 SCMR 1304; Iqbal Ahmed vs. Managing Director Provincial Urban Development Board, N.E.F.P., Peshawar 2015 SCMR 799

⁵ See Karamat Hussain and others vs. Muhammad Zaman and others PLD 1987 Supreme Court 139, Mandi Hassan alias Mehdi Hussain vs. Muhammad Arif PLD 2015 Supreme Court 137, Muhammad Yousaf and 3 others vs. Khan Bahadur through Legal Heirs 1992 SCMR 2334 and Mandi Hassan alias Mehdi Hussain vs. Muhammad Arif PLD 2015 Supreme Court 137

⁶ See Haji Rehdil vs. The Province of Balochistan 1999 SCMR 1060; Province of Punjab through Collector T.T. Singh and others vs. Muhammad Farooq and others PLD 2010 Supreme Court 582; Mst. Banori vs. Jilani PLD 2010 Supreme Court 1186; Hafeez Ahmad vs. Civil Judge, Lahore PLD 2012 Supreme Court 400; Province of Punjab through District Officer Revenue, Rawalpindi vs. Muhammad Sarwar 2014 SCMR 1358; Muhammad Imran Bashir Malik vs. Amera Khan 2020 CLC 574; Khan Bahadur Khan vs. Khan Malok Khan PLD 2022 Supreme Court 482; Rasool Bux vs. The Province of Sindh through Secretary Revenue Department, Karachi 2025 CLC 1744

Court in in the decision reported as **S. Zafar Ahmad vs. Abdul Khaliq**⁷ and in which it was held as hereinunder:

- “ ... 19. The position with reference to section 115 may thus be summarized in the following proposition :-
- (i) The High Court may, **in respect of any state of facts judicially considered**, on which a Court subordinate to High Court has given a decision, make such order as it thinks fit, if in the opinion of the High Court, such Court in giving the decision,
- (a) has exercised or assumed a jurisdiction not vested in it by law, or
- (b) has failed to exercise or declined to assume a jurisdiction vested in it by law, or
- (c) while exercising its jurisdiction has taken a procedural step which is contrary to a mandatory provision of the law, or has omitted to take a procedural step which is required by a mandatory provision of the law to be taken, or
- (d) while exercising its jurisdiction has taken a procedural step which is contrary to a directory provision of the law, or to a general principle of law, and which in the final result has given to one party an advantage over the other which it would not have got but for the fact that that step was taken.
- (ii) The High Court cannot exercise this power if that same matter could have been brought before it by way of appeal.
- (iii) When a complaint is made to the High Court that a Court subordinate to it has acted in any of the four ways mentioned in the first proposition and the High Court is of the opinion that the Court appears to have acted as complained, it may send for the record relevant for the purpose of ascertaining whether the complaint is correct or not, but is not bound to send for the record, if it can satisfactorily ascertain by other means the facts necessary for a decision of the point raised.

The criteria determined by a Full Bench of this Court i.e., that a “case which has been decided” is where a “state of facts has been judicially considered” by a Court subordinate to the High Court was approved by the Supreme Court of Pakistan in the decision reported as **Bashir Ahmad Khan vs. Qaiser Ali Khan and 2 others**⁸ in which it was held as hereinunder:

- “ ... An appraisal of the cases cited by the learned counsel shows that they deal generally with the scope of revisional powers conferred on the High Court by section 115 of the Code of Civil Procedure, but not with the precise question of the maintainability of a revision petition in certain situations. There has undoubtedly been a conflict of judicial opinion as to the meaning of the phrase “case decided” but it seems to us that the view, taken by the majority of the Full Bench of 7 Judges of the High Court of West Pakistan in *S. Zafar Ahmad v. Abdul Khaliq* (PL D 1964 Kar. 149), states the position correctly, namely, that section 115 would be attracted if a Court subordinate to the High Court has given a decision in respect of any state of facts after judicially considering the same. The decision need not necessarily dispose of the whole matter or suit pending before the subordinate Court. Two of the present Judges of this Court (Muhammad Yaqub Ali and Waheeduddin Ahmad, JJ.) were party to this decision. Applying this test, it would appear that the order made by the trial Court in this case, rejecting the two applications made by the plaintiff respondents did amount to a case decided,

⁷ PLD 1964 (W.P.) Karachi 149

⁸ PLD 1973 Supreme Court 507, See also **Pakistan Fisheries Ltd, Karachi and others vs. United Bank Ltd.** PLD 1993 Supreme Court 109

and was therefore amenable to correction in the exercise of the revisional power of the High Court, if it fell within the ambit of any of the clauses of section 115 of the Code.

As to whether an order granting an interlocutory injunction application would amount to “case which has been decided” so as to permit an application to revise that order being maintained was considered by the Supreme Court of Pakistan in the decision reported as **Nestle Milkpak Limited vs. Classic Needs Pakistan (Pvt.) Ltd. and 3 others**⁹ wherein it was held as hereinunder:

“ ... 4. We having heard the learned counsel for the parties at length have also gone through the orders of the Appellate Court and that of the High Court impugned in the present petition. There is no cavil to the proposition that an order which does not qualify the test of ‘case decided’ cannot be challenged in revisional jurisdiction under section 115, C.P.C. and normally a revision petition against an interim order is not maintainable but an interim order which is passed after considering the facts, if is found perverse or suffering from jurisdictional defect, the revisional Court may in the interest of justice, interfere in such order. The expression ‘case decided’ is not necessarily confined to the final order rather it may, in the peculiar facts and circumstances of the case, relate to an interlocutory order passed at any stage of the proceedings including an interim order requiring application of judicial mind. It may be seen that an order passed in an improper exercise of jurisdiction if is not interfered, it may lead to injustice or hardship and if an interim order by its inception, appears to be a final order and also has an effect of final order, such an order can be corrected in the revisional jurisdiction. The Court at the time of preliminary hearing of a matter, is expected to also safeguard the interest of the party which is not present before the Court and should not pass an order at this stage which may cause inconvenience to other parties or public in general.”

It would seem that therefore, as per the decision of the Supreme Court of Pakistan, a **final decision** on an interlocutory injunction application has been considered to being a “decision in respect of a state of facts” which are “judicially considered” and which would therefore be subject to revision, however, an **interim order** would not, unless it is found to be “perverse or suffering from jurisdictional defects,” be amenable to be revised.

19. The next limitation that exists in Sub-Section (1) of Section 115 on the jurisdiction of the High Court to revise a “case which has been decided” is that “no appeal must lie thereto” to the High Court from such an order. The expression has been judicially considered by the Supreme Court of Pakistan in the decision reported as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**¹⁰ wherein, overruling three judgements of High Courts, it was held as hereinunder:

“ ... From the above analysis I have come to the conclusion that the trend of judicial opinion is now to the effect that if a decree or an order, which is in the nature of a decree under the Code of Civil Procedure, has been passed by the Court of first instance, and it is appealable under the Code, then, whether the appeal lies immediately to the High Court or only after another appeal has been taken before the District Judge, the revision would not be competent.

⁹ 2006 SCMR 21

¹⁰ PLD 1970 Supreme Court 506; Followed in **S Aziz ul Hasan and another vs. Malik Ghulam Muhammad** 1971 SCMR 123

Section 115 of the Code reads as follows:-

"115. The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears- _

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit."

I am of the opinion that this view is also sound on general principles, for, if the framers of section 115 of the Code of Civil Procedure had been of the opinion that a revision would be incompetent only where an immediate appeal lay to the High Court, they would have used the word "from" and not "in" before the words "which no appeal lies." To hold otherwise would indeed, as observed by the learned Judge in the judgment under appeal, lead to anomalous situations, for, a person would thereby be entitled to circumvent the ordinary procedure laid down for preferring an appeal or appeals, as the case may be. He would also be in a position to take advantage of his own negligence by not filing an appeal within the prescribed time, as was actually done in the case under consideration. I also see no reason why the word "appeal" used in section 115 of the Code of Civil Procedure should be given the restricted meaning of a first appeal. The words "no appeal lies thereto" are words of general import and there is nothing in the section to confine their operation only to first appeals. If this is not done, and an "appeal" is held to include a second appeal, then no difficulty is created by the word "thereto".

On principle also I can see no valid reason for barring the revisional jurisdiction only where an appeal lies directly to the High Court. To adopt such a narrow interpretation would lead to the result that a party aggrieved from a decree or order from which an appeal lies to the District Judge would try to short circuit the procedure prescribed by the Code and come direct to the High Court. There is, of course, nothing in the Code to justify this nor am, I, in the absence of clear and express words, inclined to adopt a construction which is likely to result in complexity rather than simplicity of procedure.

Even in cases where the order or a decision sought to be challenged does not amount to a decree, the question will arise as to whether the High Court will, in the exercise of its discretion' under section 115 of the Code of Civil Procedure, favour interference if another remedy; which was open to a party, has not been pursued by him. The words used in section 115 are that the "High Court may call for the record" and, as such, it is not incumbent upon the High Court to call for the record in every case. As a general rule the principle to be followed in all such discretionary matters is that special and extraordinary powers ought not to be exercised in favour of an applicant who has been negligent in pursuing the normal remedies open to him. Thus where an appeal lay to some other Court and could have been filed if the applicant was diligent but he has not done so, then the High Court should not ordinarily entertain a revision even if the order or decision complained of does not amount to a decree. Similarly, where an aggrieved party could have brought a separate suit to challenge the order sought to be revised, the High Court will not, as a rule, interfere in revision. Thus an order under Order XXI, rule 52 of the Code of Civil Procedure, determining the priority between the decree-holder and a third person or a decision under section 9 of the Specific Relief Act, which could have been challenged by a separate suit, will not ordinarily be interfered with in revision. This rule is not, however an inflexible one and it will, no doubt end upon the special circumstance of each case whether it will be followed or not. Normally, where the applicant has no other remedy left, the High Courts are inclined to take a liberal view but where the case is one which does not which does not clearly fall under the terms of section 115; no revision can be entertained in any event."

It would therefore seem that as per the decision of the Supreme Court of Pakistan the High Court would not have the requisite jurisdiction to entertain a revision

application as against a “case which has been decided” from a Civil Judge, Senior Civil Judge or from a District Judge from which order or judgement an appeal lies either under Section 96 of the Code of Civil Procedure, 1908 to the District Judge or under Section 100 of the Code of Civil Procedure, 1908 to itself or under Section 104 read with Rule 1 of Order XLIII of the Code of Civil Procedure, 1908 against an interim order to the District Judge. This judgement was reconsidered in the decision reported as **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**¹¹ wherein it was held as hereinunder:

“ ... *"As a general rule the principle to be followed in all such discretionary matters is that special and extraordinary powers ought not to be exercised in favour of an applicant who has been negligent in pursuing the normal remedies open to him. Thus where an appeal lay to some other Court and could have been filed if the applicant was diligent but he has not done so, then the High Court should not ordinarily entertain a revision even if the order or decision complained of does not amount to a decree ...*

This rule is not, however, an inflexible one and it will, no doubt, depend upon the special circumstances of each case whether it will be followed or not."

and in the decision reported as **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadhi**¹² wherein the Supreme Court of Pakistan held that:

“ ... *Learned counsel also contended, on the basis of Municipal Committee v. Sh. Aziz Elahi (PLD 1970 SC 506) and S. Azizul Hassan and another v. Malik Ghulam Muhammad (1971 SCMR 123), that no revision under section 115 was competent if no appeal was preferred from the order which was appealable. This point, however, is concluded and determined by a judgment of this Court in Manager, Jammu and Kashmir State Property in Pakistan v. Khuda Yar and another (PLD 1975 SC 678), in which it was held that although ordinarily Courts have declined to exercise revisional jurisdiction where an alternative remedy is available, yet this is not an inflexible rule to be rigidly followed and a departure could be justifiably made if required from circumstances of the case. Having regard to all the circumstances of this case we feel that in this case the High Court ought to have entertained the revision application and set aside the order impugned before it whereby the plaintiffs were non-suited for a trivial formality."*

Each of these decisions was also followed in **Naseem Ahmad and another vs. Air Bostwana (PTY) Ltd. and 5 others**.¹³ It would therefore seem that the decision of the Supreme Court of Pakistan reported as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**¹⁴ wherein the High Court could not exercise its revisional jurisdiction where an appeal lay to a District Judge had been tempered by the Supreme Court of Pakistan in the decisions reported as **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**¹⁵ **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadhi**¹⁶ and **Naseem**

¹¹ PLD 1975 Supreme Court 678

¹² 1988 SCMR 82

¹³ 1993 SCMR 647

¹⁴ PLD 1970 Supreme Court 506; Followed in **S Aziz ul Hasan and another vs. Malik Ghulam Muhammad** 1971 SCMR 123

¹⁵ PLD 1975 Supreme Court 678

¹⁶ 1988 SCMR 82

Ahmad and another vs. Air Bostwana (PTY) Ltd. and 5 others¹⁷ and wherein it was held that while the rule was that the High Court should not exercise its revisional jurisdiction from a “case which has been decided” wherein an appeal lay either to it or to the District Judge, it nevertheless could exercise its revisional jurisdiction “upon the special circumstances of each case.”

20. It is, however, to be considered that the provisions of Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 were interpreted by the Supreme Court of Pakistan in the decisions reported as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**,¹⁸ **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**,¹⁹ **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadhi**²⁰ and **Naseem Ahmad and another vs. Air Bostwana (PTY) Ltd. and 5 others**²¹ at a time when amendments, inter alia in the form of Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908 had not been made and which were inserted into that Section in the year 1994. A perusal of the language of that section, when contrasted with the language of Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908, would show that while the restriction on the High Court to exercise its jurisdiction under Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 is limited to where no appeal lies “thereto,” the language of Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908 prescribes the jurisdiction of the District Court to revise a “case which has been decided” simply reads as to where “no appeal lies.” While an interpretation could have been cast on account of the difference as between the language of Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 and Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908 when considering the jurisdiction of the High Court to revise a “case which has been decided” i.e., to consider that only where an appeal lying “thereto” meaning directly to the High Court under Section 100 of the Code of Civil Procedure, 1908 would the High Court’s power to revise a “case which has been decided” be curtailed, the interpretation cast by the Supreme Court of Pakistan in the decision reported as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**²² in respect of the expression “thereto” used in Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 subject to the decisions of the Supreme Court of Pakistan reported as **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**²³ **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadhi**²⁴ and **Naseem Ahmad and another vs. Air Bostwana**

¹⁷ 1993 SCMR 647

¹⁸ PLD 1970 Supreme Court 506

¹⁹ PLD 1975 Supreme Court 678

²⁰ 1988 SCMR 82

²¹ 1993 SCMR 647

²² PLD 1970 Supreme Court 506

²³ PLD 1975 Supreme Court 678

²⁴ 1988 SCMR 82

(PTY) Ltd. and 5 others²⁵ rejects such an interpretation and hence it must therefore be considered that, irrelevant as to the variation in this language, where an appeal lies to the District Court either under Section 96 of the Code of Civil Procedure, 1908 or under Section 104 read with Rule 1 of Order XLIII of the Code of Civil Procedure, 1908 the jurisdiction of the High Court to revise a “case which has been decided” cannot ordinarily be exercised other than in “*the special circumstances of each case.*” While the alternative contention that since the word “thereto” in Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 could not have been interpreted by the Supreme Court of Pakistan in the context of the language of Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908, as that section did not exist when the Supreme Court of Pakistan was interpreting the afore mentioned decisions, is quite clearly a plausible argument, I am of the opinion that in terms of Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973 such an interpretation cannot be taken by this Court and can only be addressed by the Supreme Court of Pakistan.

21. Independent of the above contention, after the insertion of Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908 a line of authority has developed in this Court in the decisions reported as **Karachi Building Control Authority vs. Muhammad Arif Qureshi, Advocate,**²⁶ **Sindh E.S.S.I vs. Habib Sugar Mills;**²⁷ **Khalil Ahmed vs. Hassan Shah Bukhari,**²⁸ **Hoechst Pakistan Ltd. vs. Maqbool Ahmed;**²⁹ **Syed Abdul Ghani Shah vs. Syed Ali Akbar Shah**³⁰ and **Arthur Lawrence (Private) Ltd. vs. Actlaw**³¹ wherein it has been considered that the jurisdiction that is exercised by this Court in terms of Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 has to be read in terms of the **principles** indicated in Section 15 of the Code of Civil Procedure, 1908. In this context, the provision of Section 15 of the Code of Civil Procedure, 1908 reads as hereinunder:

“ ... 15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Respectfully, on a point of interpretation, I am not inclined to follow these decisions. The first principle of interpreting a statute is that where the words of a statute are clear and unambiguous, those provisions of the statute should be given their grammatical meaning and a Court should not, while interpreting such provisions,

²⁵ 1993 SCMR 647

²⁶ 1992 CLC 1904

²⁷ PLD 1993 Karachi 61

²⁸ 1994 MLD 903

²⁹ 1998 CLC 134

³⁰ 2017 CLC 1379

³¹ PLD 2020 Karachi 129

add or reject words contained in that statute.³² By contrast, the principles of another statute are applied, on the threshold of justice equity and good conscience, where there is not law to regulate rights or obligations³³ and which is not the case here as the language of Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 clearly regulates that jurisdiction. To my mind, the provisions of Section 15 of the Code of Civil Procedure, 1908, as is apparent, applies to a “suit” and which is by the applications of Order I, Order II and Order IV of the Code of Civil Procedure, 1908, wholly different to an application that is made for revision under Section 115 of the Code of Civil Procedure, 1908 and therefore there should be no cavil, whatsoever, that an application under Section 115 of the Code of Civil Procedure, 1908 is not a suit so as to make the provisions of Section 15 of the Code of Civil Procedure, 1908 directly applicable to a Revision Application under Section 115 of the Code of Civil Procedure, 1908. The argument, that the provisions of Section 15 of the Code of Civil Procedure, 1908 only apply to suits, would also exclude an argument being raised that the provisions of the Code of Civil Procedure, 1908 should be read as a whole as clearly the language of Section 15, which applies to a suit, does not apply to an application maintained under Section 115 of the Code of Civil Procedure, 1908. Indeed, each of the decisions of learned Single Judges of this Court, as referred

³²See *Pakistan Textile Mill-Owners Association, Karachi and two others vs. Administrator of Karachi and two others* PLD 1963 Supreme Court 137; *Mastita vs. Razi ur Rehman* 1981 SCMR 267; *Saleh Muhammad vs. Jumma Khan Agha* 1983 SCMR 587; *Bakshi Elahi vs. Wasif Ali* 1985 SCMR 291; *New Jubilee Insurance Co. Ltd. vs. Enquiry Officer, War Risks Insurance Co. Ltd.* 1985 SCMR 1317; *Standard Printing Press vs. Sind Employees Social Security Institution* 1988 SCMR 91; *Zafar Qureshi vs. Maqsoodul Hassan* 1989 SCMR 392; *Sumaeea Zareen vs. Selection Committee Bolan Medical College* 1991 SCMR 2099; *Messrs. State Cement Corporation of Pakistan Ltd. vs. Collector of Customs, Karachi* 1998 PLD 2999; *World Trade Coproration vs. Excise & Sales Tax Appellate Tribunal (Lahore Bench), Lahore* 1999 SCMR 632; *Federation of Pakistan vs. Ammar Textile Mills (Pvt.) Limited* 2002 CLD 17; *Mirza Shuakat Baig vs. Shahid Jamil* PLD 2005 Supreme Court 530; *Federation of Pakistan through Secretary, Ministry of Finance vs. Haji Muhammad Sadiq and others* PLD 2007 Supreme Court 133; *Mushtaq Ahmed and others vs. Secretary, Ministry of Defence through Chief of Air and Army Staff* PLD 2007 Supreme Court 405; *Tanveer Hussain vs. Ravi Ryan Limited through Managing Director* 2007 SCMR 737; *Kamaluddin Qureshi vs. Ali International Co.* PLD 2009 Supreme Court 367; *Mumtaz Hussain vs. Dr. Nasir Khan* 2010 SCMR 1254; *Syed Mukhtar Hussain Shah vs. Mst Saba Imtiaz* PLD 2011 Supreme Court 260; *Syed Mehmood Akhtar Naqvi vs. Federation of Pakistan through Secretary Law* PLD 2012 Supreme Court 1089; *Baz Muhammad Kakar vs. Federation of Pakistan through Ministry of Law and Justice* PLD 2012 Supreme Court 923; *Federation of Pakistan through Secretary M/o Petroleum and Natural Resources vs. Durrani Ceramics* 2014 SCMR 1630; *Commissioner of Income Tax Legal Division, Lahore vs. Khurshid Ahmad* PLD 2016 Supreme Court 545; *Dr. Zahid Javed vs. Dr. Tahir Riaz Chaudhary* PLD 2016 Supreme Court 637; *Zahid Iqbal vs. Hafiz Muhammad Adnan* 2016 SCMR 430; *The Collector of Sales Tax, Gujranwala vs. Super Asia Mohammad Din and Sons* 2017 SCMR 1247; *Waris Ali vs. The State* 2017 SCMR 1572; *Abid Hussain vs. Secretary, Ministry of Defence, Government of Pakistan* 2021 SCMR 645; *Allied Bank Limited vs. Zulfiqar Ali Shar* 2022 SCMR 1213, *Justice Qazi Faez Isa vs. President of Pakistan* PLD 2022 Supreme Court 119; *Government of the Punjab through Secretary School Education Department, Lahore vs. Abdur Rehman* 2022 SCMR 25; *Muhammad Salman vs. Naveed Anjum* 2022 SCMR 42; *Government of Khyber Pakhtunkhwa vs. Intizar Ali* 2022 SCMR 472 *Hadayat Ullah vs. Federation of Paksitan* 2022 SCMR 1691; *Allied Bank Limited vs. The Commissioner of Income Tax, Lahore* 2023 SCMR 1166; *Abdul Nafey vs. Muhammad Rafique* 2023 SCMR 2096 *Mst. Rehmat Begum vs. Mehfooz Ahmed* 2024 CLD 1254; *Ghulam Mustafa Lund vs. National Accountability Bureau* PLD 2024 Supreme Court 54; *Kassim Textile Mills (Pvt) Limited vs. Commissioner Inland Revenue, Karachi* 2025 SCMR 1248; *Syed Saad Ali vs. Federation of Pakistan through Secretary Ministry* 2026 SCMR 22; *Commissioner Inland Revenue (Legal Zone) Large Taxpayers Office, Lahore vs. Seven Star Sugar Mills (Private) Limited, Karachi* 2026 SCMR 69

³³ See *Barkat Ullah Khan vs Abdul Hamid* 1981 SCMR 1200; *Malik Naveed Ahmed vs. Mrs. Nasreen Hameed* 2005 SCMR 357; *Haji Abdul Ghafoor Khan through Legal Heirs vs. Ghulam Sadiq through Legal heirs* PLD 2007 Supreme Court 433; *Shabnam Arif vs. Muhammad M. Iqbal* 2003 YLR 495; *M.C.B. Bank Ltd. vs Duty Free Shop Ltd.* 2011 CLD 1430,

to above, interpret Section 15 and Section 115 of the Code of Civil Procedure, 1909 on that same basis as if the provisions of Section 15 of the Code of Civil Procedure, 1908 would be directly applicable to Section 115 of the Code of Civil Procedure, 1908 there would have been no reason to assert that the provisions of Section 15 of the Code of Civil Procedure, 1908 should in “principle” apply to Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 and Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908.

22. To my mind, the provisions of Section 115 of the Code of Civil Procedure, 1908 should be subject to a literal interpretation and which would, as considered hereinabove show, that the only restriction that has been imposed under Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 the only restriction that has been imposed on the High Court to entertain an application or to exercise such a jurisdiction on its own motion seeking to revise a “case which has been decided,” aside for a period of 90 days in terms of maintaining an application, is where an appeal lies “thereto” as interpreted by the Supreme Court of Pakistan in the decisions reported as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**³⁴ subject to the decisions of the Supreme Court of Pakistan reported as **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**³⁵ **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadhi**³⁶ and **Naseem Ahmad and another vs. Air Bostwana (PTY) Ltd. and 5 others.**³⁷ If the intention of the legislature was to exclude the jurisdiction of the High Court in circumstances where a jurisdiction could be exercised by the District Judge under Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908, language to such an effect should necessarily have been made in Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 and which has not been done. I am therefore of the opinion that it was not the intention of the legislature to exclude the jurisdiction of the High Court on the ground that the District Court had been conferred with such a jurisdiction as, while the right to maintain an appeal before the High Court, in terms of the decisions of the Supreme Court of Pakistan as indicated hereinabove, would exclude the ability of a High Court to revise a “case which has been decided,” the absence of such language in Sub-Section (1) of Section 115 of the Code of Civil Procedure, 1908 to exclude that jurisdiction where a right is available under Sub-Section (2) of Section 115 of the Code of Civil Procedure, 1908, would render each of those jurisdictions as concurrent and which would thereafter be regulated by the principles of comity as determined by the Supreme Court of

³⁴ PLD 1970 Supreme Court 506

³⁵ PLD 1975 Supreme Court 678

³⁶ 1988 SCMR 82

³⁷ 1993 SCMR 647

Pakistan in the decision reported as **Water and Sanitation Agency, Lahore through M.D. vs Lotte Akhtar Beverages (Pvt.) Ltd. Lahore and others**³⁸

23. To summarise:

- (a) the jurisdiction of a High Court to revise a “case which has been decided” under Sub-Section (1) Section 115 of the Code of Civil Procedure, 1908 would arise only where an appeal did not lie thereto in terms of the decisions of the Supreme Court of Pakistan reported as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**³⁹ subject to the decisions of the Supreme Court of Pakistan reported as **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**⁴⁰ **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadhi**⁴¹ and **Naseem Ahmad and another vs. Air Bostwana (PTY) Ltd. and 5 others**⁴² and which would hence ordinarily exclude an application being made to the High Court or the High Court on its own motion seeking to revise a “case which has been decided” where an appeal either lay to the High Court under Section 100 of the Code of Civil Procedure, 1908 or to the District Judge under Section 96 of the Code of Civil Procedure, 1908 or under Section 104 read with Rule 1 of Order XLIII of the Code of Civil Procedure, 1908 but which in special circumstances would nevertheless permit the High Court to exercise such a jurisdiction.
- (b) the jurisdiction of a District Judge to revise a “case which has been decided” under Sub-Section (2) Section 115 of the Code of Civil Procedure, 1908 would arise only where an appeal did not lie under Section 96 of the Code of Civil Procedure, 1908 or under Section 104 read with Rule 1 of Order XLIII of the Code of Civil Procedure, 1908.
- (c) that the jurisdiction of the High Court under Sub-Section (1) Section 115 of the Code of Civil Procedure, 1908 and the District Judge under Sub-Section (2) Section 115 of the Code of Civil Procedure, 1908 are concurrent and which regulated by principles of comity as settled by the Supreme Court of Pakistan in the decision reported as **Water and Sanitation Agency, Lahore through M.D. vs Lotte Akhtar Beverages (Pvt.) Ltd. Lahore and others**⁴³

³⁸ 2019 SCMR 1146

³⁹ PLD 1970 Supreme Court 506

⁴⁰ PLD 1975 Supreme Court 678

⁴¹ 1988 SCMR 82

⁴² 1993 SCMR 647

⁴³ 2019 SCMR 1146

24. In the case in hand Mst. Badar Jahan has maintained two applications and on which an Order dated 2 December 2025 had been passed by the IVth Senior Civil Judge Malir, Karachi in Suit No. 2756 of 2025. Being applications maintained under Rule (1) and (2) of Order XXXIX of the Code of Civil Procedure, 1908 and under Section 94 of the Code of Civil Procedure, 1908 of the Code of Civil Procedure, 1908 each were subject to appeal in terms of clause (r) of Rule 1 of Order XLIII of the Code of Civil Procedure, 1908 and which as per the decision of the Supreme Court of Pakistan reported as as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**⁴⁴ subject to the decisions of the Supreme Court of Pakistan reported as **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**⁴⁵ **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadh**⁴⁶ and **Naseem Ahmad and another vs. Air Bostwana (PTY) Ltd. and 5 others**⁴⁷ would not be maintainable. The only question that therefore remains to be answered is as to whether any special circumstances existed for this Court in terms of the decisions of the Supreme Court of Pakistan, to exercise its jurisdiction

25. I have considered the Order dated 2 December 2025 that had been passed by the IVth Senior Civil Judge Malir, Karachi in Suit No. 2756 of 2025 on the two applications maintained under Rule (1) and (2) of Order XXXIX of the Code of Civil Procedure, 1908 and under Section 94 of the Code of Civil Procedure, 1908 by the Respondent No. 1. The order basically states that as the Survey Superintendent has contradicted himself and admitted that there may exist an overlap of the location of the properties owned by Mst. Badar Jahan, Syed Najam Raza Naqvi and Mohammad Rashid Qureshi, a prima facie case for injunctive relief had been made out. I can't see how this can be considered to be special circumstances where the IVth Senior Civil Judge Malir, Karachi has either assumed a jurisdiction not vested in it or has failed to exercise or declined to assume a jurisdiction vested in it by law or has taken a procedural step or has omitted to take a procedural step which is contrary to a mandatory provision of law or has taken procedural step pursuant to law which, albeit directory in nature, which prejudices the Applicant. The only argument put forward by Mr. Muhammad Ali Lakhani and by Mr. Sarmad Khan was that such an order should have followed after a demarcation had been carried out by the Survey Superintendent. That being the case, and there being a tacit admission, by the Applicant and the Respondent No. 7, of their being overlap, what one would have to consider is as to whether that during the pendency of any demarcation being carried out as to whether further rights should be created or

⁴⁴ PLD 1970 Supreme Court 506

⁴⁵ PLD 1975 Supreme Court 678

⁴⁶ 1988 SCMR 82

⁴⁷ 1993 SCMR 647

whether evidence should be read and which I do think the IVth Senior Civil Judge Malir, Karachi in its Order dated 2 December 2025 that had been passed by in Suit No. 2756 of 2025 considered and hence, **without dilating on the merits of the finding**, I don't see any special circumstances that warrant interference in that order. This Revision Application is therefore not maintainable and is therefore dismissed.

26. For the foregoing reasons, this Revision Application in terms of ratio decidendi of the Judgements of the Supreme Court of Pakistan reported as **Municipal Committee, Bahawalpur vs. Sh Aziz Elahi**⁴⁸ subject to the decisions of the Supreme Court of Pakistan reported as **Jammu and Kashmir State property in Pakistan and others vs. Khuda Yar and another**⁴⁹ **Messrs Bank Limited vs. Youfus Haji Noor Muhammad Dhadhi**⁵⁰ and **Naseem Ahmad and another vs. Air Bostwana (PTY) Ltd. and 5 others**⁵¹ is not maintainable as not special circumstances exist to warrant interference with Order dated 2 December 2025 that had been passed by the IVth Senior Civil Judge Malir, Karachi in Suit No. 2756 of 2025 on two applications maintained under Rule (1) and (2) of Order XXXIX of the Code of Civil Procedure, 1908 and under Section 94 of the Code of Civil Procedure, 1908m and is dismissed, along with all listed applications with no order as to costs.

J U D G E

Karachi dated 7 February 2026

⁴⁸ PLD 1970 Supreme Court 506

⁴⁹ PLD 1975 Supreme Court 678

⁵⁰ 1988 SCMR 82

⁵¹ 1993 SCMR 647