

THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Review Jurisdiction)

Present

Justice Syed Hasan Azhar Rizvi
Justice Aamer Farooq
Justice Syed Arshad Hussain Shah`

C.R.P. No. 825/2024 & F.C.R.P. No. 44/2025 in C.P.L.A. No. 304/2022

(for review of the judgment dated 21.08.2024, passed by the Supreme Court of Pakistan in CPLA No. 304/2022)

Metropolitan Corporation through its Chief Officer, Old Naval Headquarters, G-6, Islamabad (CRP 825/2024)

Capital Development Authority, through its Review Petitioner(s) Chairman, Islamabad, and others (FCRP 44/2025)

Versus

Monal Group of Companies through its Sole Proprietor, Lahore & others (CRP 825/2024)
(FCRP 44/2025)
.....Respondent(s)

For the Review Petitioners	: Barrister Qasim Chohan, ASC (in CRP 825/2024)
	Ms. Misbah Gulnar Sharif, ASC Mr. Shehryar Tariq, Chief Legal Advisor (in FCRP 44/2025)
For the Federation	: Ch. Aamer Rehman, Addl. AGP
For ICT	: Mr. Naveed Hayat Malik, AG Islamabad Mr. Jameel Fayyaz, State Counsel
For Respondent No.1/The Monal	: Mr. Muhammad Ahsan Bhoon, ASC Mr. Saad Mumtaz Hashmi, ASC (in both cases)
For Respondent No.2/MCI	: Barrister Qasim Chohan, ASC (in FCRP 44/2025)
Date of Hearing	: 13.07.2026

J U D G M E N T

Syed Hasan Azhar Rizvi, J.—The law undoubtedly attaches great importance to the finality of judicial decisions. Finality, however, is a means to secure certainty and stability in the administration of justice; it cannot be elevated into an end that

perpetuates an error resulting in manifest injustice. As **Benjamin N. Cardozo** aptly observed:

‘The final cause of law is the welfare of society. The rule that misses its aim cannot permanently justify its existence.’¹

2. The Metropolitan Corporation, Islamabad (**‘the Corporation’**), and the Capital Development Authority, Islamabad (**‘the CDA’**) have filed separate petitions under Article 188 of the Constitution of the Islamic Republic of Pakistan, 1973 (**‘the Constitution’**), read with Order XXVI, Rule 1 of the Supreme Court Rules, 1980 (**‘the Rules of 1980’**), seeking review of the judgment dated 21.08.2024 reported as PLD 2024 SC 925 (**‘the judgment under review’**), rendered by the Supreme Court of Pakistan in Civil Petitions for Leave to Appeal Nos. 304 and 305 of 2022 (**‘the C.P.L.As.’**), Civil Miscellaneous Application No. 888 of 2022, and Constitution Petition No. 3 of 2024.

3. At the outset, it is appropriate to delineate the jurisdictional basis upon which these petitions came to be heard by this Court. This Court was established through the Constitution (Twenty-Seventh Amendment) Act, 2025. Under the clause (1) of the newly inserted Article 175F, this Court enjoys exclusive jurisdiction to hear appeals arising out of judgments, decrees, or final orders of the High Courts, namely: (a) where an Act of *Majlis-e-Shoora* (Parliament) so provides; (b) where the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution; or (c) from a judgment or order of a High Court made under Article 199, provided that this Court grants leave to appeal. Clause (2) of the same Article (Article 175F) further provides that all petitions for leave to appeal, appeals, review petitions to which the above clause 1 applies, and all other proceedings falling within the jurisdiction of this Court, which had been filed or were

¹ Benjamin N. Cardozo, *The Nature of the Judicial Process* (1921), Yale University Press.

pending before the Supreme Court immediately prior to the commencement of the above amendment Act of 2025, shall stand transferred to this Court. Consequently, the Supreme Court ceased to exercise jurisdiction over the above-enumerated matters, and the present review petitions, being covered by Clause (1) above, automatically stood transferred to this Court by operation of Clause (2) thereof. Thereafter, these review petitions were fixed before this Bench by the Hon'ble Chief Justice of this Court for adjudication in accordance with law.

Review Petition No. 825 of 2024 (filed on 26.09.2024)

4. In this petition, the Corporation has taken the position that the CDA, being responsible for planning and development in the Federal Capital, leased a site situated at *Gokina Moor, Pir Sohawa*, Islamabad, to the Monal Group of Companies, through its sole proprietor, Luqman Ali Afzal, respondent No. 1 in both the captioned review petitions (**'the respondent'**), for the establishment and operation of a restaurant under a lease agreement dated 10.03.2006 (**'the 2006 Agreement'**). Following the establishment of the local government in the Federal Capital in 2015, the management of the said restaurant site, along with the revenue generated therefrom, vested in the Corporation, being the then elected local body. However, through the judgment under review, the Supreme Court not only set aside the 2006 Agreement but also declared the Wildlife Management Board (**'the WMB'**) constituted under the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance, 1979 (**'the Ordinance of 1979'**) entitled to receive the rent in respect of the restaurant site deposited by the respondent before the Court, notwithstanding the fact that the WMB had never asserted any such claim before any forum. This uncalled-for declaration has deprived the Corporation of a valuable source of revenue generated from its already limited financial resources for the provision of essential municipal services to the citizens and residents of the Federal Capital. Consequently, subparagraph 4 of paragraph 34 of the judgment under review, insofar

as it deprives the Corporation of its lawful financial resources, deserves to be set aside and/or suitably modified.

Review Petition No. 44 of 2025 (filed on 08.01.2025)

5. The case set up by the CDA in the instant review petition, supplemented through a Miscellaneous Application No. 3112 of 2026 raising additional grounds, is that the Supreme Court did not fully appreciate the true scope, object, and legislative intent underlying Section 21(3) of the Ordinance of 1979, as well as Section 12(3) of the succeeding enactment, the Islamabad Nature Conservation and Wildlife Management Act, 2024 (**‘the Act of 2024’**). Both provisions expressly authorize, subject to regulatory approval and compliance with prescribed environmental safeguards, the establishment and construction of access roads, rest houses, hotels, and other ancillary buildings together with public amenities within the National Park. The Supreme Court, however, proceeds on an interpretation that effectively imports into the statutory framework restrictions which the legislature has consciously chosen not to impose, thereby rendering substantial portions of the statutory scheme otiose and frustrating the very legislative intent underlying the enactments. Thus, the judgment under review is vitiated by errors apparent on the face of the record, arising principally from the above interpretation of the relevant statutory provisions that is contrary to their plain language and legislative intent. The Supreme Court, without first recording a categorical finding that the lease agreement executed in favour of the respondent was void *ab initio*, unlawful, or procured through fraud or misrepresentation, nevertheless returned adverse findings and issued coercive directions affecting its vested contractual and proprietary rights. It has, therefore, been submitted that the judgment under review has resulted in a grave miscarriage of justice and, to that extent, warrants reconsideration and deserves to be recalled and set aside.

6. The learned counsel for the petitioners, while reiterating materially the assertions made in the above review petitions, further submitted that the judgment under review suffers from errors apparent on the face of the record, warranting interference in the exercise of this Court's review jurisdiction. Further, the Court misinterpreted the relevant provisions of the *erstwhile* Ordinance of 1979 and the new Act of 2024, thereby imposing restrictions not contemplated by the legislature and frustrating the statutory scheme. The relief granted by the Court travelled beyond the pleadings and prayers of the Constitutional Petition, contrary to Article 199(1A) of the Constitution. It has also been urged that, while deciding the earlier review petitions, the Supreme Court not only dismissed them but also observed that all other matters pending before any court involving the same subject matter would be deemed infructuous. Consequently, numerous parties, who were neither heard nor afforded an opportunity of being heard, have been deprived of their fundamental right to a fair trial and due process guaranteed under Article 10A of the Constitution. The direction entitling the WMB to the rent in respect of the restaurant site as deposited by the respondent before the Court unlawfully deprived the Corporation of a valuable source of public revenue. On these grounds, learned counsel prayed that the judgment under review be recalled and/or suitably modified to the extent of the errors pointed out.

7. The learned counsel for the respondent (the Monal Group of Companies), through Miscellaneous Application No. 3108 of 2026, supported the stance taken by the petitioners and further submitted that the Islamabad High Court (**'the High Court'**) erred in directing the demolition of an existing structure without first recording a finding that the construction was illegal, unauthorized, or in violation of any law, and without considering the doctrine of proportionality. Further, the rights flowing from a valid lease, governmental approvals, vested rights, and the doctrine of legitimate expectation could not be nullified without a lawful declaration of

invalidity. The High Court exceeded its constitutional jurisdiction under Article 199 of the Constitution by granting relief beyond the pleadings and prayers, thereby virtually exercising *suo motu* jurisdiction. The judgment under review was rendered in violation of Article 10A of the Constitution and the principle of *audi alteram partem*, as all affected persons were neither impleaded nor afforded an effective opportunity of being heard. Lastly, it was argued that the High Court misapplied the governing statutory framework by treating a restaurant as a hotel and by failing to distinguish between the legality of the lease and the permissible use of the leased premises. According to the learned counsel, these errors, considered cumulatively, constitute manifest errors of law warranting review under the Constitution.

8. We have heard the learned counsel for the parties and, with their able assistance, examined the record. It transpires from the record that the judgment under review, containing detailed reasons, was rendered by the Supreme Court on 21.08.2024 in support of its earlier short order dated 11.06.2024. In the intervening period, the aggrieved parties, namely, Capital View Point Restaurant (*La Montana*), the Monal Group of Companies, Brigadier ^(R) Falak Naz Bangash, Sunshine Heights (Pvt.) Limited, and Dr. Muhammad Amjad, filed separate review petitions assailing the said short order and judgment. The review petitions, however, were dismissed by the Supreme Court vide its judgment dated 10.09.2024 (**‘the review judgment’**). When confronted with the admitted fact that the earlier review petitions had already been dismissed, learned counsel for the petitioners contended that, although the present petitioners had been impleaded as respondents in those review proceedings, they neither filed review petitions of their own nor were they served with notice thereof. Consequently, they remained unrepresented throughout those proceedings and were denied an effective opportunity of being heard before the earlier review petitions were finally decided. Learned counsel further submitted that the review judgment was rendered

with unusual expedition, even before the expiry of the statutory period prescribed for filing review petitions. As a result, the petitioners' constitutional right to seek review was effectively frustrated, and the judgment sought to be reviewed prematurely attained statutory finality. It was also pointed out that Civil Review Petition No. 825 of 2024, filed by the Corporation, had been instituted well within the prescribed period of limitation but, for reasons not discernible from the record, remained unattended and pending without adjudication, while the other review petitions were taken up and finally decided. The foregoing facts, if correct, raise a substantial question regarding the maintainability of the present review petitions. They require this Court to first satisfy itself that the present petitions are competent in law before embarking upon an examination of their merits. Accordingly, the Court shall first address the question of maintainability with reference to the law governing the subject before proceeding to examine the merits of the petitions.

Question of Maintainability of the review petitions

a) Statutory framework & Jurisdiction of the Court

9. The present review petitions have been filed under Article 188 of the Constitution, read with Order XXVI, Rule 1 of the Rules of 1980. Under the extant constitutional dispensation, these petitions validly stood transferred to this Court for adjudication by virtue of Clause (2) of Article 175F of the Constitution, as discussed in paragraph 2 of this judgment. As regards the procedure regulating these review proceedings, it is pertinent to note that the Rules of 1980 have expressly been revoked by the succeeding rules, namely, the Supreme Court Rules, 2025 (**‘the Rules of 2025’**) notified on 06.08.2025, which were subsequently adopted by this Court. However, to avoid any anomaly or uncertainty during the transitional period, Rule 1(3) of the Rules of 2025 expressly provides that all proceedings pending under the revoked Rules of 1980, whether by way of an application, petition, appeal, reference, review,

or otherwise, at the commencement of the Rules of 2025, shall continue and be proceeded with and disposed of as if the Rules of 2025 had not been made. Since the present review petitions were filed prior to the promulgation of the Rules of 2025, they are to be governed and decided in accordance with the Rules of 1980. It is, however, significant to note that both the Rules of 1980 and the Rules of 2025 contain substantially identical provisions governing the review of judgments and orders, namely, Order XXVI and Order XXVIII, respectively. For a proper appreciation and understanding of the issue involved, the relevant provisions of the Rules of 1980 are reproduced hereunder for ease of reference:

**PART IV
ORDER XXVI
REVIEW**

‘1.

2. **Application for review shall be filed in the Registry within thirty days after pronouncement of the judgment, or, as the case may be, the making of the order, which is sought to be reviewed.** The applicant shall, after filing the application, for review, forthwith give notice thereof to the other party and endorse a copy of such notice to the Registry.

3. **Every application for review shall be accompanied by a certified copy of the judgment or order complained of,** and when the application proceeds on the ground of a discovery of fresh evidence, certified copies of the documents, if any, relied upon, shall be annexed to the application together with an affidavit setting forth the circumstances under which such discovery has been made.

4. The Advocate signing the application shall specify in brief the points upon which the prayer for review is based and shall add a certificate to the effect that consistently with the law and practice of the Court, **a review would be justifiable in the case.** The certificate shall be **in the form of a reasoned opinion.**

.....

.....

9. After the final disposal of the first application for review **no subsequent application for review shall lie to the Court and consequently shall not be entertained by the Registry.**’

Emphasis supplied.

10. A careful reading of the above provisions leaves no manner of doubt that the statutory scheme governing the review jurisdiction contemplates the filing of a reasoned and substantive review petition, and not a mere formal or skeletal application. Rules 3 and 4, when read conjointly, unmistakably reflect the legislative intent that the petitioner, as well as the Advocate signing the petition, must undertake a careful and informed examination of the judgment sought to be reviewed before invoking the Court's extraordinary review jurisdiction. It is for this reason that Rule 3 requires every review petition to be accompanied by a certified copy of the judgment or order impugned. The requirement is not a matter of empty formality; rather, it enables the petitioner and the Advocate to scrutinize the reasoning of the Court so as to identify the specific error or errors alleged to justify the exercise of the limited power of review. This legislative intent is further reinforced by Rule 4, which obliges the Advocate to specify, *albeit briefly*, the precise grounds on which the review is sought and to append a certificate affirming that, consistently with the law and practice of the Court, a review is justifiable in the case. Significantly, the Rule further mandates that such certificate 'shall be in the form of a reasoned opinion.' The expression 'reasoned opinion' is of considerable legal significance. It necessarily postulates that the Advocate has independently examined the judgment, identified the particular error or errors warranting review, and applied his professional judgment before certifying that the invocation of the review jurisdiction is legally justified. Such a statutory obligation cannot be discharged by a bald or mechanical certification; rather, it necessarily presupposes the availability of the reasons recorded in the judgment sought to be reviewed. Similar observations were made by a five-member Bench of the Supreme Court in Supreme Court Bar Association of Pakistan through its President v. Federation of Pakistan through Secretary, Ministry of Interior, Islamabad and others (PLD 2024 SC 1228), where, keeping in view the practical impossibility of filing a

meaningful review petition without the benefit of the reasoned judgment, the delay in filing the review petition was condoned.

11. The above interpretation also accords with the very nature and scope of the review jurisdiction. A review is not an appeal in disguise, nor does it permit a rehearing of the entire controversy. It lies only on limited and well-recognized grounds, such as an error apparent on the face of the record or other analogous grounds recognized by law. The existence of such an error can ordinarily be ascertained only after a careful examination of the reasons forming the basis of the impugned judgment. It would, therefore, be practically impossible for an Advocate to comply with the mandatory requirements of Rule 4 by specifying the grounds of review and furnishing a reasoned opinion unless the detailed reasons recorded by the Court are first made available. Viewed in this perspective, the procedural requirements embodied in Rules 3 and 4 are not matters of mere form; they constitute substantive safeguards designed to ensure that the extraordinary jurisdiction of review is invoked only after due deliberation and on clearly identifiable legal grounds. They also serve an equally important purpose of discouraging speculative, premature, or frivolous review petitions, particularly in view of Rule 9, which permits only one opportunity to invoke the review jurisdiction and bars the entertainment of any subsequent review petition after the first has been finally disposed of. The statutory scheme, therefore, envisages that the first review petition must itself be comprehensive, well-considered, and founded upon a reasoned examination of the judgment sought to be reviewed. Any interpretation requiring an aggrieved party to institute a review petition before the detailed reasons are made available would substantially dilute the mandatory requirements of Rules 3 and 4 and render the statutory obligation of furnishing a reasoned opinion largely illusory.

b) Computation of the Limitation period

12. Having examined the statutory framework governing review jurisdiction, the pivotal question that now falls for determination is whether the period of limitation for filing a review petition commences from the date of the short order or from the date on which the detailed reasons are made available, particularly in the light of the scheme, object, and mandatory requirements of the above-referred Rules. To answer this question, we have first examined the jurisprudence developed by the Supreme Court on the subject. We have found that the Supreme Court in several judgments has authoritatively expounded the legal status and effect of a short order vis-à-vis the detailed reasons subsequently recorded or not recorded in support thereof. Those decisions elucidate the jurisprudential significance of both forms of judicial pronouncement and provide valuable assistance on the question presently under consideration. Some of the more important judgments are reproduced and discussed hereunder:

- I. In the D.G. A.N.F. Rawalpindi and others v. Munawar Hussain Manj and others (2014 SCMR 1334), it was observed as under:

‘2. The law is quite settled by now that **a short order passed by this Court has all the effects of a judgment of this Court if such short order has been signed by all or a majority of the Hon'ble Judges hearing the matter even if for some reason such order is not followed by a detailed judgment.** A reference in this respect may be made to the cases of *The State v. Asif Adil and others* (1997 SCMR 209), *Chief Justice of Pakistan Iftikhar Muhammad Jhaudhry v. President of Pakistan through Secretary and others* (PLD 2010 SC 61) and *Dr. Agha Ijaz Ali Pathan v. The State* (2010 SCMR 322). In the case in hand all the Hon'ble Judges hearing the above mentioned appeal and jail petition had signed the short order passed on 11-11-2008 and, thus, for all intents and purposes that has to be treated as a final disposition of the above mentioned matters and absence of any detailed judgment does not require rehearing of the same. In these circumstances these matters are returned to the office.’

Emphasis added.

- II. In the matter of *Reviews on behalf of Justice (Retd.) Abdul Ghani Sheikh and others* (PLD 2013 SC 1024), it was observed as under:

‘3. It is not necessary at this stage, to go into the respective reasoning of the five learned Judges. **In my humble opinion, as settled by this Court it would be the short Order dated 11-4-2013 which will be determinative of the rights and obligations of the various parties in the matter.** It has not been said in the short Order that the consequences thereof will not follow in relation to some amounts despite the setting aside of the case of Ahmed Ali U. Qureshi. **The reasoning which was recorded at a later date can only be in support of the said short Order and not in deviation from the same. Short orders have consistently been considered sufficient by this Court for disposal of a lis as well as being operative for all intents and purposes.** In the case of *State v. Asif Adil and others* (1997 SCMR 209) it has been observed that "short orders which have been recorded and signed by the judges concerned and have been pronounced in Courts shall be fully operative in law and in consequence thereof the cases in respect of which the same have been passed shall stand disposed of in law". Similarly, in the case of Chief Justice of Pakistan Iftikhar Muhammad Chaudhry v. President of Pakistan (PLD 2010 SC 61) **while commenting upon the delay of almost two and a half years in providing the reasons of the short Order of July 20, 2007, it was observed that "the said judgment of the 20th of July had been signed by all the thirteen Honourable Members of the Bench and, even in the absence of the supporting reasons, was a valid judgment ..."**

Emphasis added.

- III. In *Justice Hasnat Ahmed Khan and others v. Federation of Pakistan* (PLD 2011 SC 680), it was observed as under:

‘58. Now turning towards the plea of the learned counsel for the parties relating to non-availability of the detailed reasons, which ought to have been followed after the short order dated 2-2-2011 passed by the Bench seized with the matter. **There is no cavil with the proposition that the detailed reasons have not been issued by the Bench, however, it is now well settled that in absence of the detailed reasons, short order has to be considered as an order of the Court.** In *Benazir Bhutto v. President* (PLD 1998 SC 388), it was held that the short order, when speaking, i.e. when it contained specific directions, had to be acted upon without waiting for detailed reasons.

A short order duly recorded, signed and pronounced in court would be fully operative.....'

Emphasis added.

- IV. In Wisram Das v. SGS Pakistan (Pvt.) Ltd. and another (2010 SCMR 1234), it was observed as under:

'5. We have perused the record with the able assistance of the learned counsel and find that nature of the duties discharged by the petitioner was that of a Inspector where he had to make decision on the subject in the pursuance of the discharge of duties which involved application of mind and decision based on rational approach therefore he does not fall within the definition of a workman. These duties are not merely clerical in nature. Further the report of the Enquiry Officer also supports the charge against the petitioner. The latter of dismissal is admitted by the employer therefore no ground of grievance is made out as no prejudice is caused to the petitioner on account of the fact that the Managing Director proceeded abroad. **A short order duly signed by the Presiding Judges operates as the final order or judgment if the learned Judge, for some reasons could not record the reasons as is in the instant case,** as held by this Court in the case of *The State v. Asif Adil and others* 1997 SCMR 209. Therefore, the contentions of the learned Advocate Supreme Court are devoid of any substance.'

Emphasis added.

- V. In Wafi Associates (Pvt.) Limited v. Farooq Hamid and others (2010 SCMR 1125), it was observed as under:

'15. The contentions put forth on behalf of the parties have been considered in the light of the short order dated 6-8-2007 and the record of the case which eventually resulted in passing of the said order by this Court including documents produced by the learned Advocate Supreme Court during the course of arguments, the Lahore Development Authority Act, 1975 and the Lahore Development Authority Buildings Regulations.....**The short order passed in the open Court was signed by the honourable Judges which order as it has been held in the case of the State v. Asif Adil 1997 SCMR 209 shall be fully operative in law and in consequence thereof, the case in respect of which the same has been passed shall stand disposed of in law.**'

Emphasis added.

VI. In Iftikhar Muhammad Chaudhry v. President of Pakistan through Secretary and others (PLD 2010 SC 61), it was observed as under:

*'204. The said judgment of the 20th of July had been **signed by all the thirteen honourable Members of the Bench and, even in the absence of the supporting reasons, was a valid judgment** as declared by this Court in the case of State v. Asif Adil and others (1997 SCMR 209).'*

Emphasis added.

13. A careful and contextual analysis of the above-referred judgments reveals that they were rendered by the Supreme Court in the backdrop of a particular and unavoidable eventuality, *namely*, the non-issuance of detailed reasons in support of a short order owing to the retirement of one or more members of the bench or some other unforeseen circumstance. Almost all of the above judgments trace their foundation to the earlier decision of the Supreme Court in State v. Asif Adil and others (1997 SCMR 209). This judgment was likewise rendered by the Supreme Court in the peculiar circumstances arising from the omission of the Division Bench of the High Court of Sindh to record detailed reasons in support of its short orders. The Supreme Court, while invoking the well-settled maxim *actus curiae neminem gravabit*, that no person should suffer on account of an act or omission of the Court, held that a short order, once duly signed and pronounced by the Judges constituting the bench, is final and operative for all intents and purposes. The judgment thus appears to be the seminal authority on the subject, laying down the jurisprudential foundation for the legal status and efficacy of a short order in the absence of a reasoned judgment. Following that decision, the Supreme Court consistently adopted the same approach and further emphasized that, where detailed reasons are recorded at a later stage, they are merely explanatory in nature and are intended to support and elucidate the short order already pronounced; they cannot alter, vary, or travel beyond the operative part of the decision. In our considered view, the principle enunciated in the above line of authorities was evolved to preserve the efficacy and enforceability of judicial orders in exceptional situations where detailed reasons could not be authored due to circumstances beyond the Court's control. The underlying object was to ensure that the rights of the parties declared by the

short order remained effective and enforceable, that the relief granted to them was not rendered illusory, and that the administration of justice was not frustrated merely because the reasons for the decision could not subsequently be recorded.

14. However, in *Petrosin Corporation (Pvt.) Ltd. and others v. OGDC through Managing Director* (PLD 2011 SC 235), a three-member Bench of the Supreme Court appears to have introduced a distinct dimension to the jurisprudence by holding that an aggrieved party intending to file an appeal or a review petition must avail the remedy within the prescribed period of limitation reckoned from the date of the short order, rather than await the detailed reasons and thereby allow the period of limitation to expire. The relevant paragraph of the above judgment is reproduced hereunder for ease of reference:

*‘5....that the short order even not elucidating the reasons when has been signed by all the Judges and it finally disposes of the matter and thus the Court does not retain any control over the lis, for all intents and purposes is the final judgment/order of the Court; **the party aggrieved of such order/judgment intending to assail the same in appeal or review must avail its remedy within the prescribed period of limitation from the date of short order etc., rather than waiting for the detailed reasons and allowing the limitation to pass by**, however, in such a situation a right can be reserved to add to the ground of attack as and when the reasoned judgment is made available.’*

Emphasis added.

15. Significantly, the judgment offers no independent reasoning or legal analysis for extending the earlier principle, developed to preserve the efficacy of short orders in exceptional circumstances, to the computation of limitation for instituting appellate or review proceedings. Nor does it examine the scheme of the procedural rules governing review petitions, particularly the statutory requirement that the petition be founded on specific grounds supported by a reasoned opinion of the Advocate. In the absence of such an analysis, the observation appears to have been made without addressing the practical and legal implications arising

from the relevant procedural framework. While expressing this view, the bench relied on its earlier decisions in State v. Asif Adil and others (supra), Abdul Hameed Dogar v. Federation of Pakistan and others (2010 SCMR 312), and Iftikhar Muhammad Chaudhry v. President of Pakistan through Secretary and others (PLD 2010 SC 61). Of these authorities, only Abdul Hameed Dogar v. Federation of Pakistan (supra) contains an observation to the effect that the period of limitation for filing a review petition is to be reckoned from the date of the pronouncement of the short order. However, that observation carries little precedential value, as it was made by a learned Single Judge while deciding a Chamber Appeal on the administrative side against an objection raised by the Institution Officer of the Supreme Court under the Rules of 1980, and, more importantly, without recording any cogent reasons in support of that conclusion. The remaining two judgments, namely, Asif Adil (supra) and Iftikhar Muhammad Chaudhry (supra), do not lay down any proposition analogous to that propounded by the three-member Bench in Petrosin Corporation (Pvt.) Ltd. (supra). They do not address, much less determine, the distinct question of the commencement of the period of limitation for filing a review petition.

16. At this stage, we deem it appropriate to express our respectful reservation regarding the view taken by the Supreme Court in Petrosin Corporation (Pvt.) Ltd. (supra), and the subsequent judgments that have followed the same line of reasoning. In our considered view, the principle laid down therein cannot be regarded as one of universal application. To illustrate, where an aggrieved party files a review petition within the prescribed period of limitation reckoned from the pronouncement of the short order, can the bench exercising review jurisdiction proceed to decide such petition before the detailed reasons for the impugned judgment have been issued? The answer, in our view, must necessarily be in the negative. As under Rule 7 of the Rules of 1980, as far as practicable, a review is to be heard by the same bench that rendered the impugned judgment. The review petition ordinarily remains pending (as in this

case) until the detailed reasons are authored and released. It is only thereafter that the concerned bench is in a position to examine whether the judgment suffers from any error apparent on the face of the record or any other ground warranting review. It would, therefore, be manifestly unjust to hold an aggrieved party bound by a period of limitation commencing from the date of the short order when the Court itself has deferred the adjudication of the review petition until the detailed reasons are rendered. A litigant cannot be made to suffer on account of circumstances wholly beyond his control, particularly where the delay in the issuance of the detailed reasons is attributable to the Court itself. To construe the Rule otherwise would not only diminish the efficacy of the constitutional remedy of review but, in appropriate cases, may also deprive an aggrieved party of a meaningful opportunity to challenge the very reasoning that constitutes the foundation of the judgment sought to be reviewed. Such an interpretation would elevate form over substance and frustrate the object underlying the remedy of review.

17. Anticipating the hardship that litigants may suffer on account of delays in the issuance of detailed reasons, and to discourage the undesirable practice of delivering detailed judgments long after the pronouncement of the short order while assigning to them the same date as the short order, thereby obscuring the true chronology of the judgment and potentially prejudicing the law of limitation, the Supreme Court, in Commissioner Inland Revenue, Lahore v. Sui Northern Gas Pipelines Limited, Lahore (**PLD 2023 SC 241**), authoritatively held that every judgment must expressly bear the date on which it is written, signed, and pronounced. The object of this direction is to ensure transparency in the judicial process, maintain an accurate record of the stages through which a judgment attains final form, and safeguard the procedural rights of litigants. In faithful compliance with this mandate, the short order and the detailed judgment in the present case bear different dates. It is difficult to conceive that the requirement of recording separate dates serves any purpose other than to preserve the rights of litigants in

matters governed by limitation and to ensure that no party is prejudiced by the delayed issuance of the detailed reasons. Accordingly, Rule 2 of Order XXVI of the Rules of 1980, which provides that an '*application for review shall be filed in the Registry within thirty days after the pronouncement of the judgment or order, as the case may be, which is sought to be reviewed,*' must receive a purposive, contextual, and justice-oriented interpretation. The Rule should be construed as preserving the right of an aggrieved person to institute a review petition within the prescribed period of limitation, whether computed from the date of the short order or from the date on which the detailed reasons are subsequently pronounced, depending upon whether the challenge is directed to the operative part of the judgment embodied in the short order or to the reasoning subsequently articulated in the detailed judgment. Any other interpretation would defeat the very purpose of recording separate dates for the short order and the detailed judgment, penalise litigants for delays attributable solely to the Court, and undermine the effectiveness of the constitutional remedy of review.

18. In the present case, the petitioner in Civil Review Petition No. 825 of 2024 applied for a certified copy of the judgment on 21.08.2024, the date on which the detailed reasons were announced, obtained the certified copy on 29.08.2024, and instituted the present review petition on 26.09.2024. The Office of the Supreme Court, while scrutinizing the petition, expressly found it to have been filed within the prescribed period of limitation vide Office Memorandum dated 18.12.2024, and that determination remained unquestioned. The record further reveals that, although the present petitioner had been impleaded as a respondent in the earlier review petitions, which culminated in the review judgment dated 10.09.2024, he was not duly served with notice and was, therefore, deprived of an opportunity to appear and contest those proceedings. Consequently, the earlier review petitions were decided without affording it the fair hearing contemplated by Article 10-A of the Constitution. It is equally significant that the earlier review

petitions were finally disposed of before the expiry of the statutory period available to the petitioner for instituting his own review petition. Thus, although the petitioner continued to enjoy a subsisting constitutional right to seek review within the prescribed limitation period, that right was rendered infructuous by the premature disposal of the earlier review petitions, whereupon the review jurisdiction came to be treated as exhausted under Order XXVI, Rule 9 of the Rules of 1980. Such a consequence cannot be sustained in law. A litigant cannot be deprived of a constitutional remedy merely because the Court, for reasons attributable to its own process, adjudicated other review petitions before the expiry of the limitation period available to him.

19. Even otherwise, Order XXVI, Rule 9 bars only a '*subsequent application for review.*' By its plain language, the expression necessarily contemplates a second or successive review petition filed by the same party (including the respondent(s)) who has already invoked the review jurisdiction and whose earlier review petition has been finally adjudicated. The embargo is, therefore, personal to the party who has once availed himself of the remedy of review and cannot be extended to another aggrieved person who has neither previously invoked the review jurisdiction nor been afforded an effective opportunity to do so. The mere fact that such person was impleaded as a respondent in an earlier review petition is of no legal consequence where he was not duly served with notice and, consequently, neither appeared nor participated in those proceedings through no fault of his own. In the present case, the petitioner neither instituted nor prosecuted any of the earlier review petitions. Though the petitioner was impleaded as a respondent in the earlier review petitions but was not duly served with notice and, consequently, neither appeared nor participated in those proceedings. This position was frankly acknowledged by the learned Addl. Attorney General for Pakistan, after perusing the record. Thus, the petition before us constitutes the petitioner's first and only invocation of the review jurisdiction conferred by Article 188 of the

Constitution. To hold that Rule 9 nevertheless bars the present petition would be to deny the petitioner his constitutional and statutory remedy through no fault of his own, merely because other aggrieved persons had earlier invoked the review jurisdiction and their petitions happened to be decided before the expiry of the limitation period available to him. Accordingly, we are satisfied that Civil Review Petition No. 825 of 2024 was instituted within the prescribed period of limitation and that the bar contained in Order XXVI, Rule 9 of the Supreme Court Rules, 1980 has no application to the facts of the present case. While the law undoubtedly attaches great importance to the finality of litigation, the demands of justice must prevail where the circumstances so require. As aptly observed by Lord Atkin in Ras Behari Lal & others v. Emperor (**AIR 1933 PC 208**), ‘Finality is a good thing, but justice is a better.’ The present petition is, both in law and in fact, the petitioner's first review petition and, therefore, cannot be characterized as a subsequent application for review. Accordingly, it is held to be maintainable.

20. As regards Civil Review Petition No. 44 of 2025, suffice it to observe that a petition filed beyond the prescribed period of limitation may, in appropriate circumstances, be heard and decided on the merits along with a connected petition that has been filed within time. In this regard, reference may be made to Mehreen Zaibun Nisa v. Land Commissioner, Multan and Others (**PLD 1975 SC 397**), Noon Sugar Mills Ltd. v. Market Committee and others (**PLD 1989 SC 449**), Syed Imran Raza Zaidi v. Government of the Punjab (**1996 SCMR 645**), Chairman Federal Board of Revenue v. Iqbal Hussain Shaikh and others (**2016 SCMR 773**), and Messrs Khurshid Soap and Chemical Industries (Pvt.) Ltd. v. Federation of Pakistan (**PLD 2020 SC 641**). This petition has also been filed against the same impugned judgment and raises substantial questions of law that, in any event, arise for determination in Civil Review Petition No. 825 of 2024. In these circumstances, it would neither serve the ends of justice nor advance judicial economy to decide one petition while leaving the other undecided. Accordingly, we proceed to hear

and decide both review petitions together on their merits. Hereinafter, the Corporation and the CDA shall, for the sake of convenience, be collectively referred to as **‘the petitioners.’**

On the Merits of the Case

a) The Factual Background of the case

21. We now proceed to examine the substantive merits of the controversy. The present controversy originated from a civil suit titled *‘The Monal Group of Companies v. Capital Development Authority and 2 others’*, instituted by the respondent (The Monal Group of Companies), against the Corporation (The Metropolitan Corporation, Islamabad), the CDA and the Remount, Veterinary and Farms Directorate, General Headquarters, QMG Branch, Rawalpindi (**‘the RV&FD’**), seeking a declaration, permanent and mandatory injunction. The respondent's case therein was that, pursuant to the approval of the Federal Minister for Interior, he obtained a restaurant site at *Gokina Moor, Pir Sohawa*, Islamabad, from the CDA on lease under the 2006 agreement for a period of fifteen years commencing from 01.08.2006. At the leased site, the respondent established the Monal Restaurant as an eatery open to the general public. However, on 24.06.2019, the respondent received a letter from the RV&FD stating that, with effect from 08.11.2016, ownership and control of approximately 8,603 acres of land in the Margalla Hills National Park (**‘the MHNP’**), including the restaurant site, had reverted to the RV&FD as being its original owner since 1910. Subsequently, the respondent received another letter dated 28.08.2019 from the RV&FD directing him to deposit rent with it with effect from November 2016 onwards. Thereafter, the respondent repeatedly approached the petitioners through various letters and reminders, seeking clarification regarding the aforesaid position and directions as to the authority with whom the rent was to be deposited. However, no response was received from the petitioners. Consequently, the respondent executed another lease agreement dated 30.09.2019 (**‘the 2019 Agreement’**) with the

RV&FD for a period of seventeen years, commencing on the date of its execution, to continue operating the Monal Restaurant without interruption.

22. As the term of the 2006 Agreement with the CDA was approaching its expiry, the respondent instituted the aforementioned suit on 27.02.2021, seeking a declaration that he was the lawful lessee of the RV&FD and that the CDA had no right to demand or receive any rent from him in respect of the Monal Restaurant site. He further sought recovery of the rent already paid to the CDA under the 2006 Agreement. Meanwhile, on 31.07.2021, the Corporation also instituted a separate suit titled '*Metropolitan Corporation, Islamabad v. Mr. Luqman Ali Afzal*' against the respondent, seeking recovery of possession of the restaurant site through his eviction, along with a decree for permanent injunction. In the earlier suit, the application of the respondent for the grant of an *ad interim* injunction was dismissed by the Trial Court (**'the Civil Court'**) vide order dated 27.02.2021. The Civil Appeal preferred thereagainst was also dismissed by the District Judge, Islamabad (West), vide order dated 01.03.2021. Aggrieved thereby, the respondent challenged the said orders by filing Civil Revision No.13 of 2021 (**'the Civil Revision'**) before the High Court. Meanwhile, the application of the respondent for the grant of a temporary injunction under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908, was also dismissed by the Civil Court vide order dated 04.10.2021. The respondent also assailed the legality of that order by filing a First Appeal Against Order (F.A.O.) No. 111 of 2021 before the High Court.

23. Before the High Court, at the relevant time, several public interest writ petitions regarding the protection, preservation, and management of the MHNP had been pending since 2011. While deciding one of them, i.e. the Writ Petition No. 4245 of 2014, the High Court clubbed together all the other writ petitions of a similar nature, along with the aforementioned Civil Revision and the F.A.O. Finally, the High Court, vide a short order dated 11.01.2022 followed

by a consolidated judgment containing detailed reasons, allowed the writ petitions and dismissed the Civil Revision and the F.A.O. filed by the respondent. Feeling aggrieved, the respondent assailed the legality of the said order and judgment by filing C.P.L.As. before the Supreme Court of Pakistan. During the pendency of those petitions, the WMB also instituted a Constitutional Petition under Article 184(3) of the Constitution, seeking recovery of possession of the Visitor Information Centre, alleging that the CDA had forcibly taken it over. The Supreme Court decided the above matters jointly vide a short order dated 11.06.2024, followed by the detailed judgment under review. Through this judgment, the Supreme Court not only upheld the judgment of the High Court but also made general declarations regarding the management and control of the MHNP, and restored possession of the above Visitor Information Centre to the WMB.

b) The Margalla Hills: Legislative and Regulatory Framework for Their Preservation

24. There can be no denying that the Margalla Hills constitute one of Pakistan's most treasured natural landscapes. Their lush green contours, remarkable biodiversity, and commanding presence enrich the environmental and aesthetic character of the Federal Capital, serving as a constant reminder that ecological preservation is indispensable to safeguarding the nation's natural heritage and ensuring the well-being of future generations. This area further harbours precious wildlife, including indigenous mammalian and avian species, which underscore its ecological significance and the imperative of its protection. Recognizing the paramount importance of the Margalla Hills and for a planned and sustainable development of the Federal Capital, the legislature first enacted the Capital Development Authority Ordinance, 1960 (**the Ordinance of 1960**). Under this Ordinance, the CDA was established as a statutory body entrusted with the planning, development, and regulation of the Federal Capital. Section 11 of the said Ordinance obligates the CDA to prepare a Master Plan and a

Phased Master Programme for the development of the Capital Site, subject to the approval of the Federal Government. Following this enactment, the second important enactment by the legislature on the subject was the Ordinance of 1979 (the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance, 1979) exclusively for the protection, preservation, conservation and management of wildlife and setting up of a National Park in the Federal Capital. Under the Ordinance of 1979, the Federal Government constituted the WMB (the Wildlife Management Board), *inter alia*, to supervise and watch the progress of the development activities in the field of wildlife protection, preservation, conservation and management.

25. Further, Section 21 of the Ordinance of 1979 empowers the Federal Government to notify any area to be a National Park with a view to protecting and preserving scenery, *flora and fauna* in their natural state. Accordingly, the Federal Government, in exercise of its power under the above section 21, notified the area of the Margalla Hills as an integral part of the National Park, vide notification dated 28.04.1980. Thereafter, the CDA, in discharge of its statutory obligations and in exercise of the powers conferred by Section 51 of the Ordinance of 1960, framed the Islamabad Capital Territory (Zoning) Regulations, 1992 (**‘the Regulations of 1992’**). These Regulations give effect to the objectives of the Ordinance of 1960 by dividing the Islamabad Capital Territory into five distinct zones and prescribe the conditions governing the development, use, and utilization of land within each respective zone. For the purposes of the present case, only Zone-3 is relevant and, therefore, our discussion shall be confined to that zone. Zone-3 comprises the Margalla Hills National Park (MHNP), as notified under section 21 of the Ordinance of 1979, together with the other protected ranges, forest areas, and unacquired land situated between the Margalla Hills and to the north of Murree Road. Regulation 4(3) of the Regulations of 1992 prescribes the following conditions for the development of land falling under the Zone-3:

**‘CHAPTER III
DEVELOPMENT CONTROL OF ZONES**

4. Development Strategies of Zones. - *The development of land in the Zones shall be subject to the following conditions: —*

(3) Zone-3. *In this zone,*

- (a) *no private residential, farming, orchard, poultry and dairy farming scheme shall be allowed;*
- (b) ***no change in land-use will be permissible except for such projects as may be related to conservation, preservation, afforestation and recreation** and area covered by Margallah Hills National Park Management Plan;*
- (c) *no sale/purchase of land which entails change in land use, shall be allowed;*
- (d) *some of the existing rural settlements, being central and important villages, shall be allowed to stay under controlled programme to cater for the basic necessities of the local population, selection of such settlements shall be in accordance with the provisions of Margallah Hills National Park Management Plan. These rural settlements would not be allowed to expand;*
- (e) *no residential scheme can be floated in this zone, nor construction of houses shall be allowed.’*

Emphasis added.

c) The High Court's Determinations

26. Undisputedly, the aforesaid writ petitions were filed before the High Court by individuals claiming to act in public interest. The petitioners alleged therein that the concerned governmental institutions and public authorities, responsible for protecting the biodiversity, habitats, *flora, fauna*, and ecological integrity of the MHNP, had failed to perform their constitutional and statutory duties, resulting in environmental degradation and defeat of the object of its protected status. Further, the land within the protected area of the MHNP had been unlawfully allotted or leased to restaurants and commercial entities in violation of environmental laws, the Islamabad Master Plan, and the applicable regulatory

framework. It was also alleged that certain government bodies themselves had encroached upon the area by constructing unauthorized structures and undertaking developments without lawful authority or environmental approvals, thereby seriously threatening the ecosystem and undermining the purpose of declaring the Margalla Hills as a National Park.

27. Considering the gravity of the aforementioned allegations, the High Court, *quite rightly*, vide order dated 20.02.2015 passed in Writ Petition No. 1276 of 2011, constituted a Commission to inquire into the extent of implementation of the above discussed regulatory framework governing the MHNP, the relevant environmental laws, and to recommend appropriate measures for preventing further environmental degradation and ensuring the preservation of the protected area of the MHNP. The Commission subsequently submitted a detailed report identifying various violations allegedly committed by different governmental authorities and public institutions in relation to the protection and management of the protected area of the MHNP. The said alleged violations, as quoted by the High Court in its judgment, are reproduced below for ease of reference:

‘VIOLATIONS

(3) Zone 3 comprises the most beautiful "nature" area of Islamabad. Even this Zone has, as shown in Annexure G, been subjected to the following violations:

- a) Transfer of area for Quaid-e-Azam University from Zone 3 to Zone 1 and is evident at Sector G-2, G-3 and F-1, F-2 and F.3.*
- b) Construction of Monal, Capital view, La'muntana restaurants at Pir Suhawa and Kashmir Wallas restaurant at Daman-e-Koh violated Regulation 4(3)(b) of the ICT Zoning Regulations which states with respect to Zone 3 that "no change in land-use will be permissible except for preservation, afforestation and recreation....."*
- c) Shifting of Parade Ground from Parade Avenue to Zone 3 with widening of roads and construction of China Friendship Centre in Shakarparian area is also a violation of Regulation 4(3)(b) of the ICT Zoning Regulations.*

- d) *Construction near D-12 within the boundaries of Margallah Hills National Park is violation of Regulation 4(3)(e) of the ICT Zoning Regulations that states "no construction of house shall be allowed".*
- e) *Development of hotels along Murree Road including Best Western, Hotel Embassy Lodges, Islamabad Club, Golf Course, Grand Regency, Dreamland and Park Palace.*
- f) *Prominent development of Housing Schemes in Zone 3 near Rawal Lake, that is Rawal Town, Orchard Scheme and part of Bannigala and new project of Chairlift from Daman-e-Koh to Pir Sohawa (violation of Regulation 4(3)(a-e) of the ICT Zoning Regulations.*
- g) *Expansion of rural settlements in Margallah Hills National park is evident and violates Regulation 4(3)(d) of the ICT Zoning Regulations that restricts the expansion of rural settlements.*
- h) *Setting up of FECTO Cement plant near Margallah Hills National Park in 1985 is also a violation of the original Master Plan.'*

28. After considering the report of the Commission, the High Court proceeded to decide the matter and concluded that the jurisdiction of the CDA under the Ordinance of 1960 stood excluded to the extent of any inconsistency or conflict with the provisions of the Ordinance of 1979 and the rules framed thereunder, the latter being a special law governing the subject. Further observed that the notified protected area of the MHNP was to be exclusively managed, protected, and preserved only by the WMB constituted under the Ordinance of 1979. Consequently, the CDA was found to be bereft of any power or jurisdiction to interfere in matters relating to the MHNP or to undertake, permit, or authorize any construction in violation of the Ordinance of 1979 or the Pakistan Environmental Protection Act, 1997 (**'PEPA'**). On the basis of the foregoing findings, the High Court declared that the Pakistan Navy had encroached upon state land, including the notified protected area of the MHNP, by unlawfully establishing a golf course beyond the boundaries of the allocated Sector E-8, Islamabad. Consequently, it held that the said golf course to be illegal and directed the CDA and the WMB to take over its possession. Insofar as the claim of the RV&FD was

concerned, the High Court held that its claim over 8,602 acres of the notified protected area of the MHNP was unconstitutional and in violation of the applicable statutory framework, particularly the Ordinance of 1979. The High Court further declared that the 2019 agreements executed by the RV&FD in favour of the restaurants and other food outlets operating within the notified protected area of the MHNP, as well as the collection of rent thereunder, were illegal, without lawful authority, and constituted an abuse of the powers conferred under the Constitution and the relevant laws. Likewise, the High Court held that the construction of buildings and the grant of leases in favour of Monal Restaurant and all other commercial food outlets operating within the notified protected area of the MHNP were in contravention of the Ordinance of 1960, the regulations framed thereunder, the Ordinance of 1979, and the PEPA. The High Court also examined the issue relating to the construction of the Defence Complex by the Armed Forces in Sector E-10, Islamabad. It held that the Armed Forces could lawfully undertake no activity whatsoever beyond the demarcated boundaries of Sector E-10, Islamabad and that any such activity would amount to an illegal and unauthorized encroachment upon state land, rendering the responsible officers and officials liable to disciplinary as well as criminal proceedings under the applicable laws, including the Ordinance of 1960 and the PEPA. Consequently, the High Court allowed all the writ petitions and dismissed the Civil Revision and the F.A.O. filed by the respondent, vide the consolidated judgment dated 11.01.2022.

d) The Supreme Court's Determination

29. Following the said judgment, the persons aggrieved by the decision in the writ petitions, including the present respondent (the Monal Group of Companies), filed Intra-Court Appeals (**'I.C.As.'**) before the same High Court. Simultaneously, the present respondent (the Monal Group of Companies) also instituted C.P.L.As. before the Supreme Court, challenging the dismissal of its Civil Revision and F.A.O. In these circumstances, the Supreme

Court was required, in exercise of its powers under the erstwhile Article 186A of the Constitution (since omitted by the Constitution (Twenty-sixth Amendment) Act, 2024), to withdraw and transfer to itself all the I.C.As. pending before the High Court so that they could be heard and decided together with the aforesaid C.P.L.As. already pending before it. However, the Supreme Court proceeded to decide the said C.P.L.As. without withdrawing the pending I.C.As. from the High Court and without issuing notice to, or affording an opportunity of hearing to, the petitioners who had instituted the said public interest writ petitions before the High Court. Ultimately, the Supreme Court, through the judgment under review, affirmed the judgment of the High Court and dismissed the C.P.L.As. In the concluding paragraph of its judgment, the Supreme Court issued a categorical direction to the WMB to take possession of the restaurants operating within the MHNP and thereafter demolish them with the assistance of the CDA and the police. The relevant paragraph is reproduced below for ready reference:

*‘35. That on 11 September 2024 the Wildlife Board will take over the possession of the said restaurants, that is, Monal, La Montana and Gloria Jeans, with the full assistance of CDA and the Islamabad Capital Territory Police, and the entrances to said area shall be barricaded. **Thereafter the same shall be demolished with minimal disturbance to the wildlife and by avoiding damage to the trees of the National Park.** The debris shall be removed and disposed of properly, and not within the precincts of the National Park. The Wildlife Board shall then determine how best to utilize the mountain ridge on which stood the said restaurants, and it may consult experts and environmentalists to examine whether the foundations of the said structures should also be removed or the same be left in and used to make an artificial lake to collect rainwater which can be used to put out fires that erupt in the National Park. However, under no circumstances should the building be left abandoned/ derelict nor leave any debris on the said site. Every effort should be made to ensure that the said land again becomes an integral part of the National Park.’*

Emphasis supplied.

30. In the judgment under review, the Supreme Court made omnibus declarations that any lease, licence, allotment, or permission granted by the CDA, the RV&FD, or any other

department or authority for the establishment or operation of restaurants within the MHNP was contrary to the Ordinance of 1979 and, therefore, of no legal effect. Consequently, all such leases, licences, allotments, and permissions were declared void and set aside. The Supreme Court further held that the WMB was entitled to withdraw the rent deposited by the respondent in the Court and to utilize the same for the preservation, conservation, and proper management of the MHNP. Subsequently, the review petitions filed by the aggrieved parties, other than the present petitioners, were also dismissed by the Supreme Court through its review judgment dated 03.09.2024. While deciding those review petitions, the Supreme Court, while addressing the arguments concerning proceedings pending before the High Court and subordinate courts, observed that once a matter has been finally decided by the Supreme Court, its judgment is binding on all courts in Pakistan to the extent provided under Article 189 of the Constitution. Accordingly, if any I.C.A. or other proceeding relating to the matters adjudicated upon in the judgment under review remained pending before the High Court or any other court, the judgment of the Supreme Court would govern such proceedings, with the result that they would become infructuous.

Analysis and Determination by this Court

a) Undue Reliance on the Commission's Report

31. The violations referred to above, as reported by the Commission in respect of Zone-III of the Federal Capital, *if established*, are undoubtedly serious in nature and raise substantial concerns regarding environmental protection, urban planning, and the rule of law. However, the gravity of the allegations, *by itself*, cannot dispense with the fundamental requirement of due process of law. The pivotal question, therefore, is whether a constitutional court can, solely on the basis of the findings and recommendations of a fact-finding Commission, issue coercive or adverse directions, particularly an order for the demolition of a building, affecting the

rights of individuals or public authorities without affording the affected parties an adequate opportunity of hearing and without requiring the allegations to be established through legally admissible evidence. Under the law, a Commission constituted by the Court undoubtedly serves a valuable fact-finding and advisory function. Nevertheless, unless the relevant law expressly provides otherwise, its report cannot be treated as conclusive proof of the facts stated therein. The findings of such a Commission are, *at best*, recommendatory in nature and are intended to assist the Court in identifying the issues requiring adjudication. Where the report contains disputed questions of fact or attributes illegality, misconduct, or liability to particular persons or institutions, such findings must necessarily be tested through the judicial process in accordance with the principles of natural justice. Any contrary approach would deprive the affected parties of their valuable right to contest the allegations and would undermine the fairness that lies at the heart of judicial proceedings. Experience has repeatedly demonstrated that judicial orders founded upon an incomplete factual inquiry may produce consequences extending far beyond the immediate dispute. Therefore, the High Court's unquestioning reliance on the Commission's report was misplaced, and, as such, the resulting judgment cannot be sustained in law.

b) Fundamental Misconception of Procedural Law

32. Moreover, the High Court, in particular, overlooked the fundamental legal position that the Civil Revision and the F.A.O. before it arose from interlocutory proceedings only, whereas the substantive disputes remained *sub judice* before the Civil Court in the form of civil suits. Those disputes were yet to be adjudicated upon after the parties had been afforded a full opportunity to lead their respective evidence, and the same had been properly appreciated in accordance with law. The High Court was required to decide those proceedings independently by making only tentative observations so that the merits of the main cases pending adjudication remained uninfluenced. However, the High Court,

while transgressing the limits of its jurisdiction, proceeded to adjudicate the entire controversy pending before the Civil Court and rendered a final determination by holding that the RV&FD lacked the jurisdiction and authority to execute the 2019 Agreement with the respondent and by declaring the said agreement to be void and of no legal effect. Not only did the High Court make findings in respect of the Monal Restaurant, but it also made observations regarding other restaurants that were not before it and directed the CDA to conduct an inquiry to identify the officials responsible for permitting or facilitating the construction of the Monal Restaurant and other buildings within the protected area of the MHNP in violation of the applicable law. Similarly, the Supreme Court, *with respect*, also failed to discharge its judicial duty as the then apex Court of last resort and affirmed the judgment of the High Court, thereby entailing serious consequences for the petitioners before it. It would be relevant to mention here that where a Court, by adopting a particular procedure, does something that it never intended, thereby resulting in a miscarriage of justice, it possesses inherent jurisdiction to rectify such an error. However, *with respect*, the Supreme Court once again failed to correct the said illegality while deciding the earlier review petitions.

c) Observations Founded on Personal Knowledge

33. In addition to the foregoing, it is of considerable significance that, in the judgment under review, the Supreme Court, instead of assigning sound legal reasons supported by law, based its decision on several statements founded upon its personal knowledge or information, neither of which finds support in the record. Before making any observation on these statements, we consider it appropriate to reproduce the relevant passages containing said statements for ready reference:

‘12. Mr. Afzal [the respondent] apparently cultivated and developed relationships with the powerful, and his brother was in the bureaucracy who then rose to the highest position in it. Therefore, he may have deluded himself in assuming that he was above the

law. *He violated the law for years and went on expanding his restaurant by encroaching into and destroying the National Park. **The protected status of the National Park was of no consequence to him and to the government servants who supported him...***

28. *The owner of La Montana and Gloria Jeans, namely, Dr. Muhammad Amjad, was also issued a notice by this Court, but he elected not to disclose how he managed to get possession on the mountain ridge next to Mr. Afzal's restaurant and who, if anyone, granted him permission to construct and run his establishments. However, it is unimaginable that without having connections with those at the power centre of the country he would have been able to raise illegal buildings and to do so by disregarding the laws of Pakistan. **He too had connections with General Pervez Musharraf, who after his retirement had made Dr. Muhammad Amjad his political party's Chairman.** When personal contacts with the paid servants of the State, trump the laws of Pakistan, and bureaucrats come to serve the interest of lawbreakers it is an abomination.*

Emphasis added.

34. With profound respect, we find ourselves constrained to express our concern regarding the above observations recorded in the judgment under review. As the then apex Court of the country, the Supreme Court was expected to determine the controversy solely on the basis of the pleadings, the evidence available on the record, and the law on the subject. The judicial findings and observations must emanate from the record before the Court and not from matters resting in the personal knowledge or information of the bench hearing the case. The observations reproduced above relate to the alleged personal relationships, private affairs, and political associations of the parties, none of which appears to have been established through admissible evidence forming part of the record. The incorporation of such matters into judicial reasoning is liable to create a perception that the controversy has not been adjudicated with complete detachment from unnecessary considerations. The public confidence in the administration of justice rests upon the assurance that every litigant shall be judged exclusively based on the law and the evidence placed before the Court. Therefore, where a bench possesses personal knowledge of disputed facts or circumstances relating to a party, or where the existence of such

knowledge is capable of giving rise to a reasonable apprehension of unfairness, judicial propriety demands that the Judge should decline to hear the matter. It is beyond cavil that Judges of the superior judiciary possess the discretion to recuse themselves in appropriate cases so as to preserve both the appearance and the reality of impartial justice. Reference in this regard may be made to Asif Ali Zardari and another v. The State (PLD 2001 SC 568).

35. However, despite recording observations founded upon matters stated to be within their personal knowledge or information, the learned bench proceeded to adjudicate the controversy. The observations of the learned Bench, *reproduced above*, suggest that the manner in which the proceedings were conducted may have given rise to a reasonable apprehension concerning impartiality. In the circumstances, the proceedings may not be regarded as fully satisfying the requirements of a fair trial. The constitutional guarantee of a fair trial under Article 10-A necessarily includes the right to a proper hearing before a competent, independent, and unbiased forum. Reference here may be made to the Suo Motu Case No.4 of 2010 (PLD 2012 SC 553) and Muhammad Naeem and another v. the State and others (PLD 2019 SC 669). In these circumstances, the said learned Bench of the Supreme Court ought not to have heard the case, in keeping with the high traditions of the institution and to give effect to the well-settled principle that justice should not only be done but should also manifestly be seen to be done. The legitimacy of the judicial process depends not merely upon actual impartiality but equally upon maintaining public confidence that justice has been administered fairly, objectively, and without predisposition. For these reasons, the aforesaid observations are legally unsustainable, as they are unsupported by the record and bear no discernible nexus to the determination of the legal issues involved in the case. To the extent that they are founded upon matters *dehors* the record, they constitute an error apparent on the face of the record, warranting correction in the exercise of this Court's review jurisdiction. It is, therefore, our onerous judicial duty

to rectify such error in order to preserve the integrity of the judicial record and to ensure that the judgment rests exclusively upon legally admissible material and sound judicial reasoning. Accordingly, the aforesaid observations are hereby expunged, being wholly unnecessary to the adjudication of the controversy and having no bearing whatsoever on the determination of the rights and liabilities of the parties.

36. We are equally unable to subscribe to the observation of the Supreme Court that the operation of the restaurants had, *in any way*, caused the recurrent fires in the MHNP, as that observation is founded on mere conjecture and speculation rather than on any evidence forming part of the record. No scientific study, expert opinion, or other admissible evidence was produced to establish any causal connection between the operation of the restaurants and the occurrence of the fires. The judicial findings affecting the rights of parties cannot be founded upon assumptions or possibilities unsupported by evidence. It is a matter of common knowledge that forest fires in the MHNP have occurred repeatedly over the years, particularly during periods of extreme heat and prolonged dry weather. Such fires may result from both natural and anthropogenic causes. The natural causes include exceptionally high temperatures, the spontaneous ignition of dry vegetation under conducive climatic conditions, lightning strikes, friction between rocks, and other environmental factors. The anthropogenic causes include unattended or uncontrolled campfires, discarded lit cigarettes, arson, the use of machinery or equipment capable of generating sparks, short-circuited electrical transmission lines, crop burning, and other forms of human negligence unrelated to the operation of any particular establishment. This is also borne out by the available literature. In their article, *'Forest Fires in Pakistan: Incidences, Management and Response'*², the Director, Forest Programme, and the Field Officer, WWF-Pakistan, Islamabad, observed that one of the major wildfire incidents in the MHNP

² <https://pecongress.org.pk/wp-content/uploads/2025/05/Paper-No.-822.pdf>

occurred in May 2024 and the same was attributed to a severe heatwave rather than to any commercial activity within the MHNP. Thus, in the absence of cogent evidence establishing that any specific fire originated from or was attributable to the activities of the respondent or its patrons, no adverse inference could legally have been drawn against the respondent. Accordingly, the aforesaid observation, being founded on conjecture rather than evidence and having no factual foundation on the record, cannot be sustained in law. The same is, therefore, set aside.

d) The State's Duty to Balance Wildlife Conservation and Public Recreation

37. The MHNP extends over a vast area comprising, *inter alia*, six public hiking trails³ which attract thousands of visitors throughout the year, including tourists, residents of the Federal Capital, and members of the diplomatic community. While the State undoubtedly owes a constitutional and statutory obligation to preserve wildlife and protect the ecological integrity of the MHNP, it simultaneously owes a corresponding obligation to facilitate members of the public who are lawfully entitled to access and enjoy the National Park for recreational purposes in terms of Section 21(2) of the Ordinance of 1979. The term 'recreation' mentioned therein necessarily carries with it certain incidental human requirements, including reasonable access to drinking water, sanitation facilities, places of rest, refreshment, and security. The provision of such basic amenities, if undertaken in a regulated and environmentally sustainable manner, cannot by itself be regarded as inconsistent with the statutory concept of recreation. The legislative intent becomes even more explicit from subsection (3) of Section 21, whereby the legislature expressly authorizes the construction of access roads, rest houses, hotels, and other buildings, together with amenities for the public, within the National Park, subject only to the overriding condition that such development shall neither impair

³ <https://www.cda.gov.pk/adventure#gsc.tab=0>

the object for which the area has been declared a National Park nor compromise its ecological character. The very inclusion of '*hotels and other buildings*' within the statutory text establishes that the legislature never intended to impose an absolute prohibition on all forms of construction or commercial activity within the National Park. Had such been the legislative intent, subsection (3) would have been wholly unnecessary.

38. The Supreme Court, with respect, failed to correctly appreciate the true scope and import of Section 21 of the Ordinance of 1979 read with Regulation 4(3) of the Regulations of 1992 (reproduced hereinabove), both of which govern the permissible use and development of land situated within Zone-3. Subsection (2) of Section 21 expressly provides that the National Park shall be accessible to the public for recreation, education, and research, subject only to such restrictions as the Federal Government may impose. Likewise, Regulation 4(3)(b) of the Regulations of 1992 stipulates that no change in land use shall be permissible except for projects related to conservation, preservation, afforestation, and recreation. The expression '*recreation*', employed in both the aforesaid provisions, assumes central importance. The expression '*recreation*' cannot be assigned an unduly narrow or restrictive meaning. Rather, it must receive a purposive and liberal interpretation that advances the object of the legislation while giving effect to every part of the above statutory scheme. It is a settled principle of statutory interpretation that a provision of law must not be construed in a manner that renders another provision redundant, superfluous, or devoid of practical effect. Every word employed by the legislature must, *as far as possible*, be given meaningful operation. Reference in this regard may be made to the Employees Old-Age Benefits Institution, Lahore and others v. Muhammad Rafique and others (2026 PLC (Labour) 107 FCCP). Unfortunately, the Supreme Court, without considering or even referring to the term '*recreation*', concluded in paragraph 15 of the judgment under review that '*the construction and running of*

*restaurants impaired the object of the national park and the same also had **no nexus with public education and/or research.** Therefore, the restaurants could not be allowed to operate.’ (Emphasis added).* By this observation, the Supreme Court effectively foreclosed the operation of any restaurant within the MHNP for all time, a consequence which, in our considered view, was never contemplated or intended by the statutory and regulatory framework governing the MHNP.

39. In arriving at the above conclusion, the Supreme Court appears to have inadvertently overlooked the significance and legal effect of the expression ‘*for recreation*’ occurring in Section 21(2) of the Ordinance of 1979 and Regulation 4(3)(b) of the Regulations of 1992. Moreover, a provision analogous to Section 21 of the Ordinance of 1979 was subsequently reenacted by the legislature in the form of Section 12 of the Act of 2024 (The Islamabad Nature Conservation and Wildlife Management Act, 2024). Consequently, the aforesaid conclusion is inconsistent with the plain language, legislative intent, and harmonious construction of Section 21 of the Ordinance of 1979 read together with Regulation 4(3)(b) of the Regulations of 1992. Such an interpretation effectively renders subsection (3) of Section 21 nugatory and deprives the statutory expression ‘*recreation*’ of its ordinary, natural, and purposive meaning. The correct inquiry was not whether restaurants could exist within the National Park *per se*, but whether the particular structures or activities, on the facts and evidence of the case, impaired the object for which the National Park had been established. That question required determination on the basis of the evidence on record rather than by adopting an absolute rule of prohibition unsupported by the statutory framework. Accordingly, the conclusion recorded by the Supreme Court in para 15 of the judgment under review is set aside.

e) **Statutory Roles of the CDA and the WMB in Relation to the MHNP**

40. It is pertinent to mention that the Ordinance of 1979 extends to the whole of the Islamabad Capital Territory; however, its special provisions relating to protected areas apply only to areas validly notified as sanctuaries, National Parks, or Game Reserves. The Ordinance itself neither identifies the MHNP by name nor delineates its boundaries. Those matters are determined by the relevant notification issued by the Federal Government under Sections 21 and 24 thereof. Once an area is validly included within the National Park, its dominant statutory purpose is the preservation of its natural scenery, *flora, and fauna*. Public recreation and the provision of public amenities, *as discussed above*, are permissible, but only subject to such restrictions as may lawfully be imposed and only to the extent that they do not impair the object for which the area has been declared as National Park. The CDA continues to exercise jurisdiction over master planning, zoning, land use, building control, infrastructure, and matters relating to unauthorized occupation and construction under the Ordinance of 1960. However, permission granted by the CDA cannot, by itself, legalize any activity prohibited under the Ordinance of 1979, nor does permission under the Ordinance of 1979 dispense with the requirement of obtaining the requisite planning or building approvals from the CDA. In other words, in relation to the MHNP, the two statutory regimes operate cumulatively rather than exclusively: the CDA regulates planning and development within its statutory domain, whereas the Ordinance of 1979 determines whether such development is environmentally and ecologically permissible within the notified National Park.

41. The Supreme Court, *with respect*, also appears to have overlooked the above legal position. Consequently, in paragraph 35 of the judgment under review (reproduced hereinabove), it directed

that the WMB should determine the manner in which the mountain ridge, upon which the restaurants had been established, should thereafter be utilized. Such a direction undermines the statutory jurisdiction of the CDA in matters relating to land use, planning, zoning, and development, which continues to subsist notwithstanding the applicability of the Ordinance of 1979. Accordingly, the aforesaid direction is also set aside, being contrary to the above-noted statutory scheme governing the respective jurisdictions of the CDA and the WMB. Consequently, any amount of rent withdrawn or recovered by the WMB pursuant to the impugned judgment shall forthwith be deposited into the public exchequer, subject to its lawful appropriation in accordance with the applicable law.

Conclusion

42. In view of the foregoing, these review petitions are allowed, and the judgment under review is set aside in the above terms. Consequently, the review judgment dated 10.09.2024 cannot survive independently and must necessarily meet the same fate. Accordingly, the earlier review petitions as well as other Miscellaneous Applications, if any, are also disposed of in the above terms. As a necessary consequence, the following directions are issued:

- I) that the I.C.As. filed by the aggrieved persons against the judgment of the High Court, which are presently pending before this Court, shall be decided independently, to the extent of the relief sought in the writ petitions, strictly in accordance with law and on their own merits, while keeping in view the observations made by this Court hereinabove;
- II) that since the Civil Revision and the F.A.O. arose out of interlocutory orders passed by the Civil Court, the judgment of the High Court, to the extent that it dismisses those proceedings, calls for no interference. However, the plaintiffs may institute any such fresh application at an appropriate stage before the Civil Court;

and

- III) that the Civil Court shall consolidate the aforesaid pending suits and, after impleading the Federal Government as a party, proceed with the matters, and shall decide the same expeditiously, strictly on their own merits and in accordance with law, without being influenced by any findings or observations made by this Court, the Supreme Court, the High Court, or the District Judge, Islamabad (West).

43. The foregoing are the reasons in support of our short order dated 13.07.2026. Since we had already recorded certain significant observations and issued necessary directions in the said short order, we do not consider it either necessary or appropriate to reiterate them in these detailed reasons. Accordingly, the short order shall be read as an integral part of this judgment. For ease of reference, the operative part of the said short order is reproduced hereunder:

'6. We are, therefore, constrained to observe that the present case represents an exceptional instance where the limits of judicial power were transgressed, resulting in a grave miscarriage of justice. In the course of deciding interlocutory proceedings arising out of pending civil suits, findings of a final and conclusive nature were recorded on questions that properly fell within the exclusive domain of the Civil Court after the recording and appreciation of evidence. Those findings not only prejudged the disputes pending before the Civil Court but also adversely affected the rights and liabilities of several persons who were neither parties to the proceedings nor afforded an opportunity of being heard as per the mandate of Article 10-A of the Constitution. The prejudice was further compounded in the review jurisdiction, where the present petitioners, who were arrayed as respondents, despite being directly affected by the impugned judgment, were not afforded an effective opportunity to present their case before the Court. A judgment affecting the rights of persons who have not been heard cannot ordinarily be permitted to attain finality merely because it has been pronounced by the highest Court. We are, therefore, firmly of the view that the duty to correct an error is an obligation cast upon every Judge by the solemn oath taken upon assuming judicial office to preserve, protect, and defend the Constitution and the law of Pakistan. The power to rectify a manifest wrong does not depend upon the existence of an enabling procedural rule; rather, it inheres in the very function of the Court. Whenever an error has occasioned injustice, it is not

merely within the Court's authority, but its bounden duty to correct it, for the administration of justice cannot permit a manifest illegality or injustice to endure merely on account of procedural constraints. In this regard, reference may be made to Chairman, Board of Intermediate & Secondary Education, Lahore and another v. Ali Mir (1984 SCMR 433) and Suba through Legal Heirs v. Fatima Bibi through Legal Heirs and others (1996 SCMR 158).

7. It may further be observed that justice is a virtue which transcends all barriers, and that rules of procedure, technicalities, or procedural formalities cannot be permitted to obstruct the administration of justice. Law must bend in aid of justice. Accordingly, where the Court is satisfied that an error identified in a review petition arose from a mistaken assumption of fact or law, and that the earlier judgment would not have been rendered but for such erroneous assumption, the perpetuation of which would result in a miscarriage of justice, nothing precludes the Court from recalling or rectifying the error in the exercise of its review jurisdiction. It is, therefore, concluded that the above-noted errors are glaring and self-evident, found floating on the surface of the record, and have a material bearing on the final result of the case. Therefore, for detailed reasons to be recorded later, and subject to such amplification and/or explanation therein as is considered appropriate, the above review petitions are allowed, and the impugned judgment is reviewed in the following terms:

- I) that the questions relating to the entitlement to, or ownership of, the restaurant site, its handing over to the respondent by way of lease, and the recovery of rent therefrom involve disputed questions of fact requiring adjudication by the competent Civil Court after allowing the parties to lead their respective evidence. Consequently, the conclusion recorded by the Supreme Court in the impugned judgment that any lease, licence, allotment, or permission granted by the CDA, the RV&FD, or any other department or authority for the operation of restaurants within the MHNP was contrary to the Ordinance of 1979 and was of no legal effect, is held to be contrary to law and the facts of the case and is, to that extent, set aside;
- II) that the MHNP forms an integral part of the Islamabad Capital Territory and is, therefore, subject to the laws, rules, and regulations applicable to the Federal Capital. Consequently, the approval of any construction plan or building activity for public purpose within the MHNP falls within the

statutory jurisdiction of the CDA. Accordingly, the findings recorded by the Supreme Court in the impugned judgment that the Islamabad Wildlife Management Board is entitled to withdraw the amount of rent deposited by the respondent in Court for the preservation, conservation, and proper management of the MHNP, and that the Board may regulate certain activities within the MHNP by issuing licences, are contrary to law and are, therefore, set aside. Resultantly, all matters regarding the administration of MHNP are to be regulated by the CDA strictly in accordance with the applicable law, rules and regulations;

- III) that, since the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance, 1979 has been repealed, the Nature Conservation and Wildlife Management Board constituted under section 3 of the Islamabad Nature Conservation and Wildlife Management Act, 2024 is responsible for implementing the provisions of the Act, including ensuring that the construction of rest houses, hotels, and other buildings for the public within the MHNP complies with sub-sections (3) and (4) of section 12 thereof. The High Court lost sight of the above-noted legal position and rendered a judgment that caused a grave miscarriage of justice and, as such, is not sustainable in law;
- IV) That the concerned Civil Court shall take up the aforesaid suits together by consolidating them and proceed from the stage at which they stood immediately before the impugned judgments were rendered. The plaintiffs in the suits at any appropriate time may file a fresh application for the interim relief regarding subject property to the suits before the trial court, which if and when are filed shall be decided in accordance with the law without being influenced by the judgment/orders passed by the Supreme Court of Pakistan, Islamabad High Court, District Judge Islamabad or its earlier orders. Upon the determination of the said application, the Civil Court shall proceed to decide the consolidated suits expeditiously on their own merits after providing the parties equal, fair, and adequate opportunity to produce their respective evidence; and

V) *that, in view of the above, it follows as an inevitable legal consequence that, once the impugned judgment of the Supreme Court has been reviewed to the aforesaid extent, every consequential or derivative judgment founded thereon, including the review judgment, cannot survive independently and must also fall.*

Resultantly, Miscellaneous Application No. 3108 of 2026 filed on behalf of the respondent, along with any other pending miscellaneous applications, stands disposed of in the above terms. No order as to costs.'

Judge

Judge

Judge

Islamabad, the
29th September, 2026.
APPROVED FOR REPORTING
Ghulam Raza/ *