

**THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN**  
(Appellate/Original Jurisdiction)

**Present:**

Justice Aamer Farooq

Justice Rozi Khan Barrech

**C.P.L.A.962/2023 to C.P.L.A.964/2023**

Riaz Hussain, through  
Legal Representatives.

in C.P.L.A.962 to  
964/2023

...Petitioner(s)

***Versus***

Chairman Federal Land Commissioner  
Etc.

...Respondent(s)  
*(in all the cases)*

For the Petitioner(s) : Nemo

For the Respondent(s) : N.R.

Date of Hearing : 02.12.2025

**ORDER**

**Rozi Khan Barrech, J:** - Through this order, we intend to adjudicate C.P.L.A Nos. 962, 963, and 964 of 2023 collectively, as they involve common questions of law and arise from the same impugned judgment of the Lahore High Court, Lahore.

2. The petitioner seeks leave to appeal against the judgment of the Lahore High Court, Lahore, dated 24.11.2022, whereby W.P No. 26860/2021 and CMA Nos. 01, 4 & 6/2019 in W.P No. 23118/2011, as well as CMA No. 02/2020 filed under Section 12(2) of the Code of Civil Procedure (CPC), in W.P No. 27943/2019 were accepted. Consequently, the impugned order dated 07.02.2011, issued by the Chairman Federal Land Commission, Islamabad, was set aside.

3. The essential facts necessary for the disposal of this lis are as follows: Karam Ali, the predecessor-in-interest of the petitioner, was declared a declarant, and by order dated 12.10.1977, his holding was determined to be 12691.260 Produce Index Unit (Hereinafter called **PIUs**). It was found that land equivalent to 4819 PIUs was in excess and was subsequently resumed from his holding in village Karak Muhammada. The petitioner challenged this order by filing appeals, revisions, and a Civil Petition for Leave to Appeal (hereinafter called **“CPLA”**) before the Supreme Court. The Supreme Court ultimately

resolved the matter by its order dated 06.12.1986, affirming the correctness of the order dated 12.10.1977 and dismissing the petitioner's plea.

4. Though the matter in issue was ultimately resolved by the Supreme Court in the aforementioned series of litigations, Karam Ali, the predecessor-in-interest of the petitioner, filed another revision before the Chairman Federal Land Commissioner without disclosing the fact of the earlier litigation that had reached the Supreme Court. This revision was filed against the orders dated 03.12.1979 and 03.08.1981. On 07.02.2011, the Chairman Federal Land Commissioner, Islamabad, allowed the said revision. In response to this order, the private respondents filed W.P No. 26860/2021.

5. Additionally, W.P No. 27943/2019 was initiated by a private respondent, and following the Supreme Court's decision, the resumed land was allotted to one Ghulam Muhammad. Subsequently, the private respondent purchased a portion of the land in question from Ghulam Muhammad and his successor.

6. Through W.P No. 23118/2011, the respondent challenged the validity of the order dated 07.02.2011. CM Nos. 1, 4, and 6/2019 were filed under Section 12(2) of the Code of Civil Procedure, (Act of V of 1908) (hereinafter called "CPC") by the applicants, seeking to set aside the order dated 26.09.2018, which dismissed W.P No. 23118/2011 as withdrawn based on a compromise reached between the parties out of court. Furthermore, another application, CM No. 02/2020, was filed under Section 12(2) CPC, wherein the applicants sought to set aside the order dated 27.02.2020, which similarly dismissed the aforementioned writ petition as withdrawn based on a compromise between the parties out of court.

7. On the last date of hearing, the matter was repeatedly called; however, none appeared on behalf of the petitioner(s). Consequently, having been left with no other option, we decided to proceed with the matter and adjudicate upon it based on the material available before us.

8. We have meticulously examined the record. It is undisputed that Karam Ali, the predecessor-in-interest of the petitioner, was a declarant, and by order dated 12.10.1977, his holding was determined to be

12691.260 PIUs, with land equivalent to 4819 PIUs identified as excess and resumed from his holding in village Karak Muhammada. Against this order, the declarant preferred an appeal before the Land Commissioner, Sargodha, which was declined on 01.03.1981. Subsequently, Karam Ali filed a revision petition before the Chief Land Commissioner, Punjab, on 03.08.1981. This revision petition was also dismissed by the Member of the Federal Land Commission via order dated 17.11.1981.

Feeling aggrieved, Karam Ali filed W.P No. 305/1982 before the Lahore High Court, Lahore, which was dismissed on 05.05.1985. Thereafter, Karam Ali filed Civil Petition No. 352-R of 1985 before the Supreme Court, which was dismissed on 06.12.1986.

9. Federal Land Commission, challenging the orders dated 03.12.1979 and 03.01.1981, again without disclosing the outcome of the earlier litigation that had reached the Supreme Court. This revision was allowed by the Chairman, Federal Land Commission, Islamabad, on 07.02.2011

10. It is undisputed that the Supreme Court conclusively decided the matter by its order dated 06.12.1986, and the issue has attained finality. This finality cannot be disturbed or re-adjudicated by any subordinate authority after the lapse of twenty-four years. The petitioner, Riaz Hussain, son of Karam Ali (the declarant), by completely concealing the earlier round of litigation, filed a de novo revision petition before the Chairman, Federal Land Commission, on 13.12.2010, challenging the order dated 03.12.1979 of the Additional Land Commissioner, as well as the order dated 01.03.1981 of the Deputy Land Commissioner, Jhang. However, the said revision petition was accepted by the Chairman, Federal Land Commission, Islamabad, in clear violation of Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the "**Constitution**"). Since the matter has already been finalized by the Supreme Court, it could not be reopened for adjudication by any lower forum.

11. Article 189 of the Constitution of the Islamic Republic of Pakistan stipulates that any decision rendered by the *Supreme Court*, which resolves a question of law or enunciates a principle of law, is binding upon all other courts within Pakistan, with the exception of the *Federal Constitutional Court of Pakistan*. This exception arises from the 27th

*Amendment* to the Constitution, which establishes that decisions issued by the *Federal Constitutional Court* are binding on all courts in Pakistan, including the Supreme Court itself. Consequently, all courts in Pakistan are constitutionally mandated to adhere to the judgments of the *Federal Constitutional Court*. Article 189 of the Constitution is reproduced for ready reference:

**“Art.189 189. Decisions of Federal Constitutional Court and Supreme Court binding on other courts. — (1) Any decision of the Federal Constitutional Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan including the Supreme Court.**

**(2) Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan except the Federal Constitutional Court.”**

Furthermore, *Article 190* of the Constitution imposes an obligation on all executive authorities to act in accordance with the judgments of the *Federal Constitutional Court*. This provision underscores the supremacy of constitutional interpretations rendered by the *Federal Constitutional Court*, ensuring that such interpretations are uniformly applied across all levels of the judiciary and by executive bodies. *Article 190* of the Constitution is reproduced for ready reference:

**“Article. 190. Action in aid of [Federal Constitutional Court and] Supreme Court. All executive and judicial authorities throughout Pakistan shall act in aid of [the Federal Constitutional Court and] the Supreme Court.”**

12. In the present case, the failure of the Chairman of the Federal Land Commission to recognize the binding nature of the Supreme Court's decision dated 06.12.1986 constitutes a clear violation of Article 189. The acceptance of Karam Ali's revision petition, without disclosing the prior litigation, not only undermines the finality of the Supreme Court's ruling but also sets a dangerous precedent that could invite further attempts to circumvent established legal principles.

Moreover, the principle of ***res judicata***, which is fundamental to the rule of law, dictates that once a matter has been conclusively adjudicated by a competent court, it should not be reopened or re-litigated. This principle is essential for maintaining the integrity of judicial decisions and ensuring public confidence in the legal system. The actions of the Chairman of the Federal Land Commission in this

instance contravene this principle, as well as the constitutional mandates outlined in Articles 189 and 190, thereby necessitating a reaffirmation of the Supreme Court's authority and the finality of its decisions.

13. The petitioner, in his petitions, has raised the argument that the impugned order was issued by the Chairman of the Federal Land Commission on 07.02.2011, whereas W.P No. 26860/2021 was filed on 22.04.2021, which is after a lapse of ten years, and W.P No. 27943/2019 was filed on 08.05.2019, which is after a lapse of more than eight years from the issuance of the impugned order. Consequently, these petitions are significantly affected by laches. Even if the writ petition filed by the private respondent were found to be suffered from laches, the learned Division Bench had the legal justification to entertain and decide the writ petitions on their merits. Even otherwise, the impugned order dated 07.02.2011, passed by the Chairman of the Federal Land Commission, Islamabad, is void ab initio, as it was issued in violation of Article 189 of the Constitution. The matter had already been conclusively resolved by the Supreme Court, and the Chairman acted without jurisdiction since no period of limitation runs against a void order.

14. Regarding the applications filed under Section 12(2) of the Code of Civil Procedure (CPC) for setting aside the orders dated 26.09.2018 and 27.02.2020, which dismissed W.P No. 23118/2011 as withdrawn based on a compromise between the parties out of court, it is acknowledged that W.P No. 23118/2011 was filed by twenty petitioners. However, the writ petition was dismissed as withdrawn based on the statement of Malik Amjad Pervez, Advocate, who appeared as counsel for the petitioners. According to the statement of Malik Amjad Pervez, the matter had been settled, and the parties had entered into a compromise out of court, leading to the dismissal of the writ petition on 26.09.2018. The applicants in the applications filed under Section 12(2) CPC have asserted that the writ petition was unauthorizedly withdrawn by the learned counsel without obtaining specific permission from all the applicants. They contend that they never entered into any compromise and were unaware of the proceedings regarding the withdrawal of the petition. Notably, one of the applicants, namely Muhammad, s/o Maanik, passed away in the year 2014, and he, along with applicant No. 19, never entered into any form of compromise. This

indicates that the writ petition was withdrawn by the counsel through misrepresentation, as no specific reason was provided by the learned counsel for the withdrawal of the petition on behalf of the petitioners/applicants.

15. It is imperative to mention here that no statutory law explicitly defines "*Wakalatnama*." However, in light of the provisions of *Rule 4 of Order III of the Code of Civil Procedure (CPC)*, in conjunction with *subsection (3) of Section 22 of the Legal Practitioners and Bar Councils Act, 1973*, it can be reasonably concluded that a *Wakalatnama* is a written document signed by a person or by their recognized agent, or by another person duly authorized by them, appointing an advocate to appear or act on their behalf in any court. This implies that the appointment of an advocate through a *Wakalatnama* grants the advocate the authority to represent and act for the appointing party in any court.

However, it is important to note that the *Wakalatnama* does not explicitly confer upon the advocate the authority to enter into a compromise with the opposing party without the express consent of the appointing party. Consequently, the counsel cannot be deemed to have been authorized to enter into a compromise regarding the subject matter of the dispute unless a settlement has been mutually agreed upon by the parties themselves. The authority to compound or settle the matter resides with the parties, and the counsel acts in accordance with the instructions provided by them. The advocate may enter into a compromise only if the *Wakalatnama* specifically empowers them to do so; otherwise, they cannot act unilaterally in this regard.

16. The learned Division Bench of the Lahore High Court, Lahore, after thoroughly deliberating upon the facts and circumstances of the case, rightly accepted the applications under Section 12 (2) of the Code of Civil Procedure (CPC). It is not within the purview of this court to reassess the findings of fact recorded by the learned High Court unless it can be demonstrated that such findings are manifestly against the evidence, so patently improbable that acceptance would result in a grave miscarriage of justice, or if there has been any misapplication of principles related to the appreciation of evidence. Furthermore, the findings must be shown to be physically impossible to warrant interference.

This principle is well established in the practice and rules of this court concerning civil petitions, placing a substantial burden on the petitioner to demonstrate that the findings recorded by the High Court are unsustainable on the record and warrant our intervention. This holds true even if an alternative view may also be conceivable.

17. The petitioner has failed to identify any legal, procedural, or jurisdictional error, defect, or flaw in the impugned judgment that would necessitate interference by this court. The impugned judgment of the Division Bench is well-reasoned, grounded in settled principles of law, and the conclusions drawn are adequately supported by the record.

Therefore, we are not inclined to grant leave to appeal in the matters at hand

18. For the aforementioned reasons, these petitions lack merit and are dismissed accordingly. Leave is refused.

Judge

Judge

Islamabad  
02.12.2025  
Zahid Hussain/  
**Approved for Reporting**