IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE MUNIB AKHTAR
MR. JUSTICE IRFAN SAADAT KHAN

C.P.L.A.148-L of 2023
(Against order dated 25.11.2022 passed by the Lahore High Court, Lahore in EFA No.2427/2022.)

Engineering Kinetics (Pvt.) Ltd. through its Director, Plot No.101-S,Quaid-e-Azam Industrial Estate Kot Lakhpat, Lahore ... **Petitioner**

Vs

Syed Muhammad Irfan Ali and others ... **Respondents**

For the Petitioner : Mr. Mushtaq Ahmad Mohal, ASC (via video-link, Lahore)

For the Respondents : Ex-parte

Federation : Mr. Rashdeen Nawaz Kasoori, Addl. A.G.P.

Date of Hearing : 10.02.2026

ORDER OF THE COURT

This matter was heard by a two-member Bench, comprising of Justice Munib Akhtar and Justice Irfan Saadat Khan and judgment was reserved on 10.2.2026. A difference of opinion having arisen, the matter was referred to a third Judge as referee (Justice Muhammad Shafi Siddiqui) in terms of the second proviso to Order XI of the Supreme Court Rules, 2025.

2. By majority of two to one (Mr. Justice Irfan Saadat Khan, dissenting) the leave petition is converted into an appeal and is allowed. The judgments of the Lahore High Court as well the Court below are set aside. There will be no order as to costs.

-sd/-
Judge

-sd/-
Judge

-sd/-
Judge

Announced in open Court on 19th day of November, 2026

-sd/-
Judge

Approved For Reporting.

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For the Petitioner	:	Mr. Mushtaq Ahmad Mohal, ASC (via video-link, Lahore)
For the Respondents	:	Ex-parte
Federation	:	Mr. Rashdeen Nawaz Qasoori, Addl. A.G.P.
Date of Hearing	:	10.02.2026

JUDGMENT

Munib Akhtar, J.: This matter requires consideration of a notification issued by the Federal Government in relation to the United Arab Emirates ("UAE") in terms of s. 44-A of the Code of Civil Procedure for the direct execution of the decrees of the courts of that country, as specified in the notification, in Pakistan. The notification, SRO 208(I)/2007 dated 06.03.2007 ("SRO 208"), specifies only one court, being the "Court of Appeal of the United Arab Emirates", as the court to which s. 44-A applies.

2. The present petitioner is the judgment-debtor of a decree made in the first instance by the Abu Dhabi Court of First Instance and then affirmed in appeal by the Abu Dhabi Court of Appeal. The dispute between the parties was of a civil and

commercial nature. The latter decree was brought to Pakistan and presented to the District Court at Lahore for direct execution in terms of s. 44-A by the present respondent No. 1, the decree holder. (It may be noted that said respondent, though served, chose not to appear in the present matter and therefore was proceeded against ex parte.) Reliance was placed in SRO 208. An objection was taken by the present petitioner that the decree could not be so executed as the notification did not apply. This was on the basis that the UAE is a federal country and the court notified under SRO 208 was a federal court, whereas the decree in question was made by the appellate court of one of the constituent Emirates, i.e., Abu Dhabi. That objection was not accepted and the application dismissed. This dismissal was upheld by the learned High Court by means of the impugned order, which led to the filing of the present leave petition.

3. Since the matter involved consideration of the constitution and legal system of another country Court notice was issued to the Attorney General for Pakistan to assist the Court. We are grateful for the assistance provided by the learned AAG who took us through the constitution of the United Arab Emirates and also placed on record an opinion expressed by the Ministry of Law and Justice dated 04.08.2025. Basing himself on the foregoing, the learned AAG opined that the court whose decree was sought to be executed under s. 44-A was covered by SRO 208 and that therefore the petitioner's objection application was rightly dismissed. Learned counsel for the petitioner, on the other hand, submitted that the said notification did not apply, for the reason as set out in the objection application to the execution proceedings. Reliance was placed on *Nadeem Farooq and others v Newze Land Electronic Trading Co. Lee Sharja* PLD 2017 SC 95.

4. The divergent submissions have been carefully considered. In my view, with respect, the stance of the learned AAG cannot be accepted in the facts and circumstances of the present case. For the reasons herein after stated, I am of opinion that the objection to direct execution in terms of s. 44-A ought to be sustained. I may note that in what follows, the text of the constitution of the

United Arab Emirates referred to is the English translation as provided by the learned AAG.

5. The first point to note is that the UAE is a federal entity that was proclaimed on 02.12.1971. It is a union of seven Emirates that already existed (and had long existed) prior to the creation of the federal entity, as is clear from the first clause of the Preamble to the constitution of the United Arab Emirates ("UAE Constitution") read with Article 1 thereof. The latter expressly states that the UAE is "an independent, sovereign, and *federal* State" (emphasis supplied) comprising of the seven Emirates thereafter listed of which Abu Dhabi is the first. Part IV of the UAE Constitution relates to "Federal Authorities" and chapter 5 thereof to the judiciary. Article 95 provides that the UAE is to have a Federal Supreme Court "and federal first instance courts as provided in the following articles". It is to be noted that these are the only two courts specifically referred to (and created by) the UAE Constitution. There is as such no specific mention of a UAE Federal Court of Appeal. Article 99 sets out the powers of the Federal Supreme Court. Article 102 provides that the UAE is to have "one or more Federal Court of First Instance which shall sit in the permanent capital city of the UAE or in certain capital cities of the Emirates". It then sets out the powers of the said courts of which the first one enumerated is as follows: "The civil, commercial and administrative disputes between the UAE and an individual no matter whether the UAE is the plaintiff or the defendant". This constitutionally conferred power is limited to those situations where the UAE (i.e., the federal entity) is itself a party to the dispute. Clearly, it has no application in the present circumstances. The second enumerated power relates to criminal law. The third (and last) power provides as follows: "Personal status claims, civil and commercial claims and other claims between individuals, which arise in the permanent capital city of the UAE". This clause will be considered later. Article 103 provides, inter alia, that all matters relating to the Federal Courts of First Instance, including "the ways of appeal against its judgment" are to be regulated by law, which obviously can only mean federal (i.e., UAE) law. Prima facie this opens the way for a

federal Court of Appeal to be created, to serve as an appellate forum from decisions of the federal courts of first instance; the Article also specifically states that federal law may provide for a right of appeal from the federal courts of first instance to the Federal Supreme Court. Article 104 then provides as follows: "The local authorities in each Emirate have jurisdiction in all judicial matters not assigned to the UAE courts under the Constitution". The position that emerges appears therefore to be as follows. The UAE is a federal entity which came into existence (as presently relevant) under the constitution. The UAE Constitution has created certain federal courts on which certain jurisdiction has been conferred by the constitution itself in various matters. All other judicial jurisdiction vests in the federating Emirates, i.e., in the "local judicial authorities" of each Emirate.

6. The learned AAG drew attention in particular to, and placed strong reliance on, Article 105. This provides as follows:

> "Any or all of the jurisdictions conferred upon a local judicial authority under the preceding Article may be transferred by Federal Law enacted upon the request of the Emirate concerned, to the Federal Courts of First Instance.
>
> A Federal Law shall determine the claims where a judgment by a local judicial authority in a criminal, civil, commercial or any other claims may be appealed before a Federal Courts. A Federal Court's judgment on such appeal shall be final."

Relying on the foregoing provisions, the learned AAG sought to argue that the decree in the instant case was that of a UAE federal court of appeal and hence within the four corners of the SRO 208. With respect, I am unable to agree. I first take up Article 105. Its first paragraph clearly relates back to Article 104. For it to apply two conditions need to be fulfilled. Firstly, there must be a request from the concerned Emirate and secondly, there must be a federal law enacted on such request. Subject to this, "any or all" of the jurisdictions of a "local judicial authority" of the Emirate concerned may be "transferred" to the Federal Courts of First Instance. The second paragraph then states that a federal law "shall" provide for the situations where, inter alia, "a judgment by a local judicial authority in a criminal, civil, commercial or any

other claims" "may" be appealed before a Federal Court. In such a case, the judgment of the Federal Court on appeal is final.

7. A conjoint reading of the two paragraphs indicates prima facie that the first paragraph relates to first instance jurisdiction. It provides that, in terms as set out therein, such jurisdiction may be "transferred" from the courts of the concerned Emirate to the first instance courts of the federal entity, i.e., the UAE. The second paragraph applies to appeals. It prima facie stipulates that where federal law so provides the first instance decision of the court of an Emirate may be appealed against to a federal court and if so, then the decision of the latter is final. But in either case there must be a specific federal law making provision for the same. Article 105 therefore appears to be somewhat in the nature of an exception to the preceding article. All jurisdiction not conferred on federal courts by the UAE Constitution is to vest in "local judicial authorities" of the respective Emirates, as expressly stated in Article 104. However, Article 105 provides that in certain clearly set out and demarcated situations, which must in each case be set out by or in federal (i.e., UAE) law the first instance or appellate jurisdiction of, or from, the local judicial authorities of the respective Emirates may lie with or in the federal court system. The question is whether that has happened such as would apply in relation to the present dispute.

8. The answer to this question is three fold. Firstly, when one considers the local judicial authorities of the Emirate of Abu Dhabi, one finds the following description of their jurisdiction available at the relevant web page of the Abu Dhabi Judicial Department: (https://www.adjd.gov.ae/EN/Pages/NewCourts.aspx)

> "The court system in the Emirate of Abu Dhabi consists of courts of first instance, courts of appeal, and the Court of Cassation. Based on the recommendation of the Judicial Council, specialised courts may be established to consider specific disputes and define their competences. One court may include first instance, appeals, and enforcement circuits.
>
> **Courts of First Instance**

> The first instance courts have a general jurisdiction to consider all types of lawsuits in the capital Abu Dhabi, *with the exception of those that are expressly excluded by a text*, and they are composed of major chambers of three judges and minor ones of a single judge. They are considered one of the largest courts in the country by looking at the number of chambers and the size of cases that they try. These courts are where disputes first arise.
>
> **Courts of Appeal**
>
> In line with the basic principles of modern judicial systems, the Judicial Department adopts the principle of litigation on two levels to ensure justice by providing the opportunity for litigants to appeal the judgment of the Court of First Instance in all types of cases except for the final cases, which are stipulated by law. Court of Appeal consists of several circuits of three judges to adjudicate appeals on judgments issued in the courts of first instance. Its specialties are split between the civil, commercial, labour, administrative, private, and judicial chambers.
>
> **Court of Cassation**
>
> The Court of Cassation is the highest judicial body in the Emirate. It is competent to consider appeals against judgments issued by the Courts of Appeal, and other cases that the law allows for appeals in cassation and in conflicts of jurisdiction between the Emirate's courts. It is also competent to question members of the Executive Council and senior officials of the Emirate appointed by Amiri decrees. Based on the proposal of the Chairman of the Executive Council and the approval of the ruler, In the course of carrying out their official duties." (emphasis supplied)

It is apparent from the foregoing description that, in line with Article 104 of the UAE Constitution, the Emirate of Abu Dhabi has its own well articulated and established hierarchical judicial system of which the two courts whose decrees can be relevant for present purposes, the Abu Dhabi Court of First Instance and the Abu Dhabi Court of Appeal, are constituent elements. Thus, structurally, it appears at first sight that the dispute in question and its resolution by the judicial authorities in the United Arab Emirates fell within the jurisdiction not of the courts of the federal entity, i.e., the UAE, but of the concerned Emirate itself, i.e., Abu Dhabi.

9. However, what has just been said requires, secondly, to be weighed against what is set out in the last clause of Article 102 of the UAE Constitution. That Article relates to the Federal Courts of

First Instance and, as noted above, the last clause confers jurisdiction on the said courts in the following terms: "Personal status claims, *civil and commercial claims* and other claims between individuals, which arise in the permanent capital city of the UAE" (emphasis supplied). Could this be regarded as excluding the jurisdiction of the Abu Dhabi Courts of First Instance which, as made clear from the extract from the webpage reproduced above, "have a general jurisdiction to consider all types of lawsuits in the capital Abu Dhabi" except as may be excluded expressly by a "text"? Now, Article 9 of the UAE Constitution states that Abu Dhabi City is the capital of the UAE. Could therefore, in relation to the instant matter, the last clause of Article 102 (i.e., the constitutional text itself) amount to an exclusion from the jurisdiction of the courts of first instance of the Emirate of Abu Dhabi? If so, then the present matter would seem to lie outside the scope of the jurisdiction of the local judicial authorities of that Emirate and vest instead in the UAE federal courts. I have carefully considered this point. It requires an examination of the two decisions involved in the instant matter, i.e., the Abu Dhabi Court of First Instance and the Abu Dhabi Court of Appeal. Both the judgments are on the record. In my view the internal evidence of the decisions leads to the conclusion that the question ought to be answered in the negative. This is so for three reasons. Firstly, the titles of the courts whose judgments are before this Court both state that they are the courts of Abu Dhabi. As is clear from the discussion above, there are clearly two separate and distinct court systems, one of which operates at the federal (i.e., UAE) level and the other at the Emirate (i.e., Abu Dhabi) level. If the decisions in the instant case were those of the courts operating at the federal level then they would have been titled accordingly. However, they are titled in a manner consistent with their being courts operating at the level of the Emirate. Secondly, the composition of the panels that decided the case at both levels is consistent with the description given in the extract from the webpage of the Abu Dhabi Judicial Department extracted above, i.e., (respectively) chambers and circuits of three-member judges. Finally, and perhaps most importantly, a consideration of the decision of the Abu Dhabi Court of First Instance shows that it

has at several places cited and followed decisions of the Court of Cassation as establishing the legal meaning and effect of the various statutory provisions referred to. The manner in which the decisions are cited shows that the Court of First Instance regarded itself as bound by the law laid down by the Court of Cassation. As the extract from the webpage makes clear, in the Abu Dhabi Emirate it is the Court of Cassation that sits at the apex of the judicial system, being "the highest judicial body in the Emirate". Had the first instance court in the present case not been a court of the Emirate and been instead a court of the UAE, the position would clearly have been different. Therefore, in my view the internal evidence of the decisions that have been brought to Pakistan from the UAE is also strongly indicative that they are the courts of the Emirate of Abu Dhabi and not the courts of the federal entity, i.e., the UAE.

10. Thirdly, SRO 208 came up for consideration in this Court in the case relied upon by learned counsel for the petitioner, *Nadeem Farooq and others v Newze Land Electronic Trading Co. Lee Sharja* PLD 2017 SC 95. The decree there sought to be enforced under s. 44-A was that of a court of first instance and although it is not clear from the decision whether it was a federal court or that of one of the constituent Emirates, the judgment did notice a federal UAE law which set out the federal courts (at pg. 99). That listing provided, at the apex, the Federal Supreme Court (which is only to be expected in terms of the UAE Constitution) to be followed by the "Federal Courts of Appeal" and the "Federal Courts of First Instance". As has been noted, the UAE Constitution itself appears only to create the first and third mentioned courts; the Federal Courts of Appeal appear to have been created by the federal law referred to in the cited decision, consistently with what is set out in Article 103 of the UAE Constitution, as noted above. No federal law has been placed before this Court other than the one noted in the cited decision and there is nothing to show that there is any federal law of the UAE which applies the exceptions created by Article 105, in the manner noted above. Therefore, it must be concluded that the UAE Federal Court of Appeal operates in its own sphere and exercises a jurisdiction that is not applicable to

the facts and circumstances of the present case. (Insofar as the cited decision itself is concerned, since the decree in question was not of any appellate court it did not on any view of the matter fall within the scope of SRO 208 and it was so held, allowing the appeal against the decision of the High Court.)

11. When the various aspects of the matter, as set out above, are kept in mind it is in my view clear that, as presently relevant, there are two separate judicial structures and court systems, one operating under federal (i.e., UAE) law and the other under the law of the concerned Emirate (i.e., Abu Dhabi). Each judicial system has its own courts. For the purposes of SRO 208 it would be an error to conflate the appellate court of the concerned Emirate with that of the UAE or vice versa. The notification applies only to the latter and not the former. Hence, in my view, SRO 208 does not apply to the Abu Dhabi Court of Appeal, the decree of which is sought to be enforced under s. 44-A.

12. Finally, it will not be out of place to remember that in a federal constitutional system it is not at all extraordinary for courts to be (separately) established at the federal and "constituent unit" levels. Pakistan itself is a federal republic and has courts established under federal and provincial laws. Obvious examples are the banking courts established under federal law on the one hand and consumer courts set up in the Provinces under the respective provincial consumer protection laws on the other. It should also be noted that unlike the sub-continent, where the Provinces (or States as they are called in India) did not (apart from the special case of the Princely States) have separate existence outside of the constitutional order, in the case of the UAE the constituent parts (i.e., the Emirates) existed prior to the coming into being of the federal entity. It is those Emirates that came together to establish the United Arab Emirates. The UAE situation is (at least as presently relevant) more akin to that of the United States of America where the Thirteen Colonies (which had already existed) came together to create the United States under a federal constitution. And as is well known the United States has two separate judicial systems. One is the federal system, comprising (briefly put) of the US Supreme Court, the Federal Courts of

Appeals and the District Courts thereunder and the other (even more briefly put) being the State judicial system, peculiar and separate to each State (there being, therefore, fifty odd such systems). The position in the UAE, and the creation and operation of separate and distinct judicial systems at the federal and Emirate levels, appears to be more analogous to this type of constitutional arrangement.

13. In view of the foregoing, I would convert this leave petition into an appeal and allow the same, setting aside and reversing the impugned decisions of the learned High Court and the executing Court.

-Sd/-

Judge

Approved for reporting

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
Mr. Justice Munib Akhtar
Mr. Justice Irfan Saadat Khan

Civil Petition No.148-L of 2023
And
C.M.A.14279-L/2023 IN CPLA. No.148-L/2023
Against the Order dated 25.11.2022 passed by the Lahore High Court, Lahore in E.F.A. No. 2427 of 2022

Engineering Kinetics (Pvt) Limited through its Director ...Petitioner(s)

Versus

Syed Muhammad Irfan Ali & another ...Respondent(s)

For the Petitioner(s)	:	Mr. Mushtaq Ahmad Mohal, ASC
For the Federation:	:	Mr. Rashdeen Nawaz Kasuri, Additional Attorney General for Pakistan (on Court's Notice)
For the Respondent(s)	:	Ex-Parte (none)
Assisted by	:	Ms. Zainab Qazi, Judicial Law Clerk
Dates of Hearing	:	19.11.2025 and 10.02.2026

JUDGMENT

Irfan Saadat Khan, J.- This civil petition for leave to appeal has been filed challenging the orders passed by the Additional District Judge, Lahore, in an execution petition filed under Section 44-A of the Civil Procedure Code, 1908 (hereinafter referred to as the "**CPC**"), dated 13.11.2021, and the order of the Lahore High Court in E.F.A. No. 2427 of 2022, dated 25.11.2022.

2. Briefly stated, the facts of the case are that a suit was filed by the present Respondent No.1 (being the attorney of the company Turned

Around Welding Services Al-Tahool LLC, Abu Dhabi) against the present petitioner, claiming an amount of 466,000 UAE Dirhams, along with compensation for damages incurred, loss of profit, and other expenses like fees and ancillary charges, including attorney fees, before the Court of First Instance (Commercial Court), Abu Dhabi, claiming therein that Respondent No.1 entered into an agreement with the present petitioner, dated 22.09.2011, for the manufacture and installation of pipes. Subsequently, a dispute arose between the parties, and as per the Respondent No.1, the petitioner has failed to pay the amount as claimed in the suit, which prompted the Respondent No.1 to file the said suit against the petitioner. The matter, bearing No. 2 of 2014, entered on 02.01.2014, then proceeded before the learned Judge who, vide the order dated 17.06.2014, found the petitioner to be under an obligation to pay the following amounts, determined in the aforesaid terms:

> *"To oblige the defendant to pay to the plaintiff an amount of 465,933 Dirhams (Four Hundred Sixty-Five Thousand, Nine Hundred Thirty-Three Dirhams) and a delay interest of 5% per annum from the date of legal claim on 02/01/2014 until full payment, in an amount not exceeding the debt principal, and to oblige the defendant to pay to the plaintiff an amount of 50,000 Dirhams (Fifty Thousand Dirhams), and to oblige the defendant to bear the expenses and an amount of 200 Dirhams (Two Hundred Dirhams) for attorney charges."*

3. Being aggrieved by the said judgment, the present petitioner thereafter filed an appeal before the Abu Dhabi Court of Appeals, which affirmed the order of the Court of First Instance of Abu Dhabi, with a slight modification that the amount of attorney's fees was enhanced from two hundred Dirhams to five hundred Dirhams. The Respondent No.1, through the present attorney, then filed an execution application before the concerned District Court, Lahore, under Section 44-A of the CPC for the execution of the decree of the Abu Dhabi Court. In response to the said application, the present petitioner filed an application for rejection of

the said execution proceedings, primarily on the ground that since the Court of First Instance of Abu Dhabi is not a "Superior Court," the requirements as envisaged under Section 44-A of the CPC were not met; therefore, the said execution application filed by Respondent No.1 may be dismissed.

4. As explained above, the matter proceeded before the learned District Judge who, vide the order dated 13.11.2021, dismissed the said objection application filed by the petitioner, which was subsequently upheld by the High Court vide the order dated 25.11.2022, and both of which have now been impugned before this Court.

5. Mr. Mushtaq Ahmad Mohal, learned ASC, appeared on behalf of the petitioner via video link from Lahore, and vehemently contended that both the courts below have erred in granting the execution application filed by Respondent No.1. He stated that, no doubt, the UAE is a reciprocating territory and the decisions given by its Superior Courts are executable in Pakistan; however, the decree alleged to be in favour of Respondent No.1 was passed by a Court of First Instance, which is not a Superior Court. The learned counsel invited our attention to Section 44-A of the CPC, read with Sections 13 and 14 of the CPC, and stated that a perusal of these sections would reveal that only a decree of a "Superior Court" is executable in Pakistan, whereas, according to him, the Court which has purportedly given the decision in favour of Respondent No.1 was not a Superior Court, rather a Court of First Instance, which is not a Superior Court; hence, its decree is not executable in Pakistan. He also stated that the Court of First Instance, Abu Dhabi, is not a Federal Court whose decision could be considered executable in Pakistan, and in support thereof has relied upon Article 45 of the United Arab Emirates

Constitution, 1971, to show that only the Federal Authorities mentioned under the said Article 45 could be considered a Superior Court and not the Court of First Instance, which, though a court of law, is not a Superior Court, as enumerated under Section 44-A of the CPC. The learned counsel, in support of his arguments, has placed reliance on the decision given in the case of *Nadeem Farooq*.[1] He finally stated that since this aspect was neither considered by the District Court nor by the High Court, hence, according to him, both these orders are erroneous and are liable to be set aside.

6. In the instant matter, notice was directed to be issued to the respondent by this Court, but the same remained unserved; thereafter, vide the order dated 13.02.2025, the petitioner was directed to provide a fresh address, if available with him, so that the notice could be repeated at the fresh address. It was further directed that if service could not be effected, substituted service would be carried out in accordance with the law. Thereafter, publication was made; when nobody appeared on behalf of Respondent No.1, it was directed that Respondent No.1 be proceeded ex parte. However, to do substantial justice, vide the order dated 14.12.2024, the office was directed to issue notice to the Attorney General for Pakistan to depute a Law Officer to assist the Court in the matter.

7. The learned Law Officer, who attended the case on 23.05.2025 and 19.09.2025, sought time to obtain instructions and to file certain materials; permission for which was granted vide the order dated 19.09.2025. The matter was also partly heard on 19.11.2025.

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[1] Nadeem Farooq and others versus Newze Land Electronic Trading Co. Lee Sharja (PLD 2017 Supreme Court)

8. Mr. Rashdeen Nawaz Kasuri, learned Additional Attorney General for Pakistan ('AAG'), has appeared on behalf of the Federation and stated that Respondent No.1 was quite justified in filing the execution application before the District Judge, Lahore. He submitted that no doubt the Court of First Instance, Abu Dhabi, decreed the suit in favour of Respondent No.1; however, the said order was assailed by the present petitioner before the Court of Appeals, Abu Dhabi, which upheld the order of the Court of First Instance; hence, according to him, the decision of the Court of First Instance had merged in the order of the Appellate Court. According to the learned counsel, the order of the Appellate Court is an order of a Superior Court; hence, the parameters of Section 44-A of the CPC, with regard to an order of a "Superior Court," were duly and fully met. According to him, for all practical purposes, the executable order is an order of the Superior Court, which is executable in Pakistan, being a decree of the said Superior Court. In addition to Article 45, as referred to by the learned counsel for the petitioner, the learned AAG also placed reliance on Articles 95, 102, 103, 104, and 105 of the Constitution of the United Arab Emirates, 1971, thereby submitting that a Court of Appeal is a Superior Court and, therefore, its order is executable in Pakistan, through an application to the concerned District Court, if filed within the time limit prescribed under the law. The learned counsel also placed reliance on a letter from the Ministry of Law and Justice dated 04.08.2025, wherein it has been mentioned that the UAE is a reciprocating territory and that the Court of Appeals in the UAE is a Superior Court, and the decree passed by a Court of Appeal in the UAE is executable in Pakistan. The learned counsel also drew our attention to the Notification bearing S.R.O. No. 208(I)/2007 dated 06th March 2007, whereby the UAE has been declared to be a reciprocating territory and

the Court of Appeals of the UAE to be a Superior Court. Hence, according to him, all the parameters as mentioned under Section 44-A of the CPC have duly been met in the instant case.

9. Interestingly, the learned AAG has also placed reliance on the decision in *Nadeem Farooq (Supra)* and stated that it has categorically been mentioned in the said judgment that a Court of First Instance can neither be construed as a Court of Appeal nor a Superior Court under Section 44-A of the CPC, whereas in the instant matter, the decree has been passed by the Court of Appeals, which is a Superior Court duly notified by the Ministry of Law and hence its decree is executable in Pakistan. He further stated that the orders of the District Court as well as the High Court are in accordance with the law and do not require any interference. He finally prayed that this petition is bereft of any merit and is liable to be dismissed, and that the concurrent findings recorded by the two Courts below may therefore be affirmed.

10. We have heard the learned counsel for the petitioner and the learned AAG at considerable length, and have perused the record, examined the law, and also weighed the judgment cited by the parties, and have also conducted some research on our own.

11. Before proceeding any further, it would be advantageous to reproduce herein below the relevant laws, Articles, the SRO, and the letter relied upon by the learned counsel for the parties:

> ***"Section 2 (5) "foreign court"*** *means a Court situate beyond the limits of Pakistan which has no authority in Pakistan and is not established or continued by the Federal Government.*

(6) "Foreign judgment" *means the judgment of a Foreign Court.*

13. When foreign judgment, not conclusive*. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties under whom they or any of them claim litigating under the same title except.*

(a) where it has not been pronounced by a Court of competent jurisdiction;
(b) where it has not been given on the merits of the case;

(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of Pakistan in cases in which such law is applicable;

(d) where the proceedings in which the judgment was obtained are opposed to natural justice;

(e) where it has been obtained by fraud;

(f) where it sustains a claim founded on a breach of any law in force in Pakistan.

14. Presumption as to foreign judgments. *The Court shall presume, upon the production of any document purporting to be certified copy of a foreign Judgment, that such Judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the record; but such presumption may be displaced by proving want of jurisdiction.*

44-A. Execution of decrees passed by Courts in the United Kingdom and other reciprocating territory. *(1) Where a certified copy of a decree of any of the Superior Courts of the United Kingdom or any reciprocating territory has been filed in a District Court, the decree may be executed in Pakistan as if it had been passed by the District Court.*

(2) Together with the certified copy of the decree shall be filed a certificate from such Superior Court stating the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.

(3) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the District Court shall refuse execution of any such decrees, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13."

Explanation 1. *"Superior Courts", with reference to the United Kingdom, means the High Court in England, the Court of Session in Scotland, the High Court in Northern Ireland the Court of Chancery of the Country Palatine of Lancaster and the Court of Chancery of the County Palatine of Durham.*

Explanation 2*. "Reciprocating territory" means 3[the United Kingdom and such other country or territory as] the 4[Federal Government] may, from time to time, by notification in the 5[official Gazette], declare6 to be reciprocating territory for the purposes of this section; and "superior Courts", with reference to any such territory, means such Courts as may be specified in the said notification.*

Explanation 3.*_"Decree", with reference to a superior Court, means any decree or judgment of such Court under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, and*

(a) with reference to superior Courts in the United Kingdom, includes Judgments given and decrees made in any Court in appeals against such decrees or Judgments, but
(b) in no case includes an arbitration award, even if such award is enforceable as a decree or Judgment.

PUNJAB AMENDMENT

Section 44-A was amended in the Punjab province in 2018, wherein all references to the superior courts of the United Kingdom were omitted. However, the Punjab province still enforces the judgments issued by the courts of the reciprocating territories. Section 44-A was substituted by the Code of Civil Procedure (Punjab Amendment) Act 2018 (XIV of 2018), published in the Punjab Gazette (Extraordinary), dated: 20 March 2018, which reads as under;

44-A. Execution of decrees passed by Courts in the reciprocating territory.–

(1) Where a certified copy of a decree of any of the Superior Courts of the reciprocating territory has been filed in a District Court, the decree may be executed in Pakistan as if it had been passed by the District Court.

(2) Together with the certified copy of the decree shall be filed a certificate from such superior Court stating

> *the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.*
>
> *(3) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the District Court shall refuse execution of any such decree, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13.*
>
> ***Explanation 1.** "Reciprocating territory" means such country or territory as the Federal Government may, from time to time, by notification in the official Gazette, declare to be reciprocating territory for the purposes of this section; and "superior Courts", with reference to any such territory, means such Courts as may be specified in the said notification.*
>
> ***Explanation 2.** "Decree", with reference to a superior Court, means any decree or judgment of such Court under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, and does not include an arbitration award, even if such award is enforceable as a decree or judgment.*

The relevant portion of the S.R.O. 208(I)/2007 dated March 6, 2007 is reproduced herein below:

> *S.R.O. 208(I)/2007.–In exercise of the powers conferred by Section 44A of the Code of Civil Procedure, 1908 (Act V of 1908), the Federal Government is pleased to declare the United Arab Emirates to be a reciprocating territory and **the Court of Appeal** of the United Arab Emirates to be Superior Courts for the purposes of the said Section.*
>
> *WHEREAS under section 44A of the Code of Civil Procedure, 1908 (Act V of 1908), the Federal Government is empowered to declare, by notification in the Official Gazette, any country to be reciprocating territory for the purposes of said section and also to declare Superior Courts with reference to any such territory;*

*NOW, THEREFORE, in exercise of the powers conferred by section 44A ibid, the Federal Government is pleased to declare the United Arab Emirates to be a reciprocating territory and the Court of Appeal of the United Arab Emirates to be Superior Courts for the purposes of the said Section.***"**

Letter dated 4th August, 2025 of the Ministry of Law and Justice, which reads as follows:

"F.NO.1(201)/2025-SOL.I
GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE
****

Islamabad, the 4th August, 2025.

From: *Abdul Jabbar Brohi,*
Section Officer,

To: *Mr. Rashdeen Nawaz Kasuri,*
Additional Attorney General,
Supreme Court Building.
ISLAMABAD

SUBJECT: *C.P.L.A 148-L OF 2023 ENGNEERING KINETICS (PVT) LTD VS. SYHED MUHAMMAD IRFAN, ETC,*

Dear Sir,

I am directed to refer to your letter F. No. 1(40)/2025-Addl.AG-II dated 18.07.2025 and enclose herewith S.R.O. 208(1)/2007 dated 6th March, 2007 on the subject noted above and to state that Section-44A of Civil Procedure Code, 1908 deals with execution of decree passed by the Foreign Courts such as decree passed by the District Courts (declared to be the Superior Court for the purpose of this section) in United Kingdom is executable in Pakistan. To the extent of United Arab Emirates (U.A.E), the Federal Government in exercise of powers conferred by Section-44A C.P.C. has declared United Arab Emirates to be the reciprocating territory and Court of Appeal at U.A.E. declared to be the Superior Court for the purpose of this section vide SR.O.208(1)/2007 dated 6th March, 2007. Thus, decree passed by the Court of Appeal at U.A.E. is executable in Pakistan.

(Abdul Jabbar Brohi)
Section Officer"

The relevant Articles of the Constitution of the United Arab Emirates, 1971, are reproduced hereinbelow for ready reference:

Article 45.

The federal authorities consist of the following:

1. *The Federal Supreme Council.*
2. *The UAE President and Vice President.*
3. *The Federal Council of Ministers.*
4. *The Federal National Council.*
5. *The Federal Judiciary.*

Article 95
The UAE has a Federal Supreme Court and federal first instance courts as provided in the following articles.

Article 102
The UAE shall have one or more Federal Court of First Instance which shall sit in the permanent capital city of the UAE or in certain capital cities of the Emirates. A Federal Court of First Instance has, within the territory of its jurisdiction, the powers to hear the following cases:

1. *The civil, commercial and administrative disputes between the UAE and an individual no matter whether the UAE is the plaintiff or the defendant.*

2. *The crimes committed within the boundaries of the permanent capital city of the UAE, with the exception of the matters reserved for the Federal Supreme Court under Article 99 of the Constitution.*

3. *Personal status cases, civil and commercial cases and other cases between individuals, which arise in the permanent capital city of the UAE.*

Article 103
The law regulates all matters related to the Federal Courts of First Instance in respect of its class, formation, and chambers; venue jurisdiction; the procedures to be followed before it; the oath to be sworn by its judges and their conditions of service; and the ways of appeal against its judgments.

The law may provide that a judgment of the Federal Court of First Instance may be heard before a chamber of the Federal Supreme Court in such cases and in accordance with such procedures as may be determined by that law.

Article 104
The local judicial authorities in each Emirate have jurisdiction in all judicial matters not assigned to the UAE courts under the Constitution.

Article 105
Any or all of the powers conferred upon a local judicial authority under the preceding Article may be transferred by federal law enacted upon the request of the Emirate concerned, to the Federal Courts of First Instance.

A federal law specifies the cases where a judgment by a local judicial authority in a criminal, civil, commercial or any other lawsuit may be appealed before a federal court. A federal court's judgment on such appeal is final.

12. It is a trite proposition of law that a foreign judgment is conclusive as to any matter directly adjudicated upon between the parties; the other Court cannot sit in appeals over the said judgment unless it offends the rules of that very other country. In the decision given in the case of Muhammad Ramzan (deceased)[2] it was observed as under:

> *"Foreign judgments are conclusive as to any matter thereby adjudicated upon, and Pakistani Courts must recognize and enforce the same, However, before enforcing any foreign judgment, a Pakistani Court will have to ensure that it does not fall within any of the exceptions contained in section 13, CPC.*
>
> *The Courts in Pakistan should respect and give effect to (subject to certain exceptions) the judicial decisions of other countries on the same subject under the principle of "judicial comity."*

13. A judgment of a foreign state, though binding on that very state, is accorded recognition on the principles of the comity of nations (which Pakistan shares with the UAE), subject to the fulfilment of certain basic requirements as provided under Section 13 of the CPC. The expression "matter" in Section 13 of the CPC is not equivalent to the subject matter; it means a right claimed. Reference may be made to the case of *Viswanathan.*[3] Section 44-A of the CPC confers jurisdiction upon a Court to execute a foreign judgment subject to the exceptions as contained in Section 13 of the CPC as held in *Grosvenor Casino Limited.*[4] It is also a settled principle of law that in the presence of a decree obtained on the basis of an actionable claim which is final and conclusive, it will operate as *res judicata* between the parties to that claim as held in the case of *Viswanathan.*[5] A foreign judgment is said to be conclusive if it is directly adjudicated upon between the same parties, or between the parties

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[2] Muhammad Ramzan (Deceased) through LRs and others versus Nasreen Firdous and others (PLD 2016 SC 174)
[3] Viswanathan versus Abdul Wajid (AIR 1963 SC 1)
[4] Grosvenor Casino Limited versus Abdul Malik Badruddin (1997 SCMR 323)
[5] Viswanathan versus Abdul Wajid (AIR 1963 SC 1)

under whom they or any one of them are litigating under the same title, except under the provisions contained in Clauses (a) to (f) of Section 13 of the CPC. (Reference may be made to the case of *Muhammad Ramzan.*[6])

14. In the instant case, it has nowhere been pleaded that the matter before the Abu Dhabi Court was not adjudicated upon between the parties present before us; hence, in our view, for all practical purposes, the decision given by the said Court of Abu Dhabi, being that of a reciprocating territory, has to be considered conclusive between the parties, and the application thus filed by Respondent No.1 before the District Court, Lahore, was very much maintainable, and the decree of the Abu Dhabi Court is executable in Pakistan. Moreover, the learned counsel appearing for the petitioner, apart from raising the issue of the Abu Dhabi Court of First Instance, not being a Superior Court, has neither pleaded that the UAE is not a reciprocating territory, nor that the decree obtained by Respondent No.1 from the Abu Dhabi Court does not fulfill the parameters as mentioned in the exceptions contained under Clauses (a) to (f) of Section 13 of the CPC, rather, the only contention raised by the learned counsel for the petitioner was on the point that the Abu Dhabi Court of First Instance was not a Superior Court and, hence, its decree is not executable in Pakistan.

15. It may further be noted that, in the decision given in the case of *Grosvenor Casino Limited*[7], it was held that the object of the deeming provision under Section 44-A(1) of the CPC is to facilitate the execution of a foreign decree in Pakistan by a fiction of law, as if it had been passed by a District Court in Pakistan. It was held in the said judgment that the

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[6] Muhamad Ramzan (Deceased) through LRs and others versus Nasreen Firdous and others (PLD 2016 SC 174)
[7] Grosvenor Casino Limited versus Abdul Malik Badruddin (1997 SCMR 323)

Courts, while refusing the said application filed under Section 44-A of the CPC, have also to keep in mind the provisions of Sections 13 and 14 of the CPC, which aspect, as enumerated above, has not been objected to by the learned counsel for the petitioner in the instant matter.

16. Now, coming to the main thrust of the arguments of the learned counsel for the petitioner, that the Court of First Instance is not a Superior Court. Before touching upon this aspect, it would be in the fitness of things if the relevant paragraphs of the decision given in the case of Nadeem Farooq[8], relied upon by both the parties, are reproduced below:

> *"8. A combined reading of Section 44-A, CPC, SRO notification No. 208(1)/2007, and Article 9 of the Federal Law No.03 issued on 26.05.1983 (Concerning the Federal Judicial Corps) would reveal that United Arab Emirates is a reciprocating State and that the Federal Court of Appeal established in the hierarchy is a superior Court for the purposes of Section 44-A, CPC. Now what is left to be determined by this Court is as to what is the status of the Court passing the decree sought to be executed? A look at the decree would reveal that it has been passed by the Court of First Instance, which can neither be construed as a Court of Appeal nor a superior Court in terms of Section 44-A, CPC and the notification issued thereunder. When so, it cannot be executed without having recourse to the process of Section 13 of the CPC. The view taken by the High Court thus does not appear to be correct.*
>
> *9. For the reasons discussed above, we allow this appeal, set aside the impugned judgment, and restore that of the Executing Court. The respondent, however, would be at liberty to institute a suit in terms of Section 13, CPC, which shall be disposed of as expeditiously as possible but not later than six months. The C.M. Appeal also stands disposed of."*

17. Perusal of the above decision would reveal that a decree, if passed by a Court of First Instance, can neither be construed as the Court of Appeal nor a Superior Court in terms of Section 44-A of the CPC. However, if the facts of the instant matter are examined, it would reveal that the petitioner has filed an appeal against the Court of First Instance

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[8] Nadeem Farooq and others versus Newze Land Electronic Trading Co. Lee Sharja (PLD 2017 SC 95)

before a Court of Appeals, which has affirmed the order of the Court of First Instance, meaning thereby that the order of the Court of First Instance has merged in the order of the Court of Appeals. The requirement under Section 44-A of the CPC is basically on two points: firstly, that the decree should be that of a Superior Court, and secondly, that it should be of a reciprocating territory. Both these terms have been explained vide Explanation 1 and Explanation 2 of Section 44-A of the CPC reproduced above. There is no cavil to the proposition that the UAE is a reciprocating territory. However, the meaning of a superior court has been explained to mean that the said reciprocating territory, as the Federal Government may from time to time, by Notification in the official gazette, declare to be a reciprocating territory for the purpose of this section, and superior court, with reference to any such territory, means such courts as may be specified in the said notification. Now, if the SRO reproduced above, dated March 6, 2007, is examined, it would be noted that the UAE has been declared to be a reciprocating territory and the Court of Appeal of the UAE to be a superior court for the purpose of the said section. The said SRO has further been explained in detail in a letter dated 4th August, 2025, by the Ministry of Law and Justice, wherein it has been reiterated and declared that the UAE is a reciprocating territory and the Court of Appeal of the UAE to be a superior Court for the purpose of this section (44-A of the CPC), and that the decree passed by a Court of Appeal in the UAE is executable in Pakistan.

18. Again, now reverting back to the facts of this case, it is an undeniable position that the order of the Court of First Instance had merged into the order of the Court of Appeals; hence, for all practical purposes, it is to be construed to be a decree of the Court of Appeals and

not that of the Court of First Instance, as alleged by the learned counsel for the petitioner. We, therefore, in light of what has been discussed above, are of the considered view that the UAE is a reciprocating territory and the decree passed by a Court of Appeals is a decree of a Superior Court and is executable in Pakistan under Section 44-A of the CPC; however, subject to the exceptions as contained under Clauses (a) to (f) of Section 13 of the CPC. Consequently, we do not find any merit in this petition, which is dismissed, and leave to appeal refused.

- Sd/-

JUDGE

Islamabad
Arshed

APPROVED FOR REPORTING

OPINION OF THE REFEREE JUDGE

Muhammad Shafi Siddiqui, J. Civil Petition No.148-L of 2023 came up for hearing before a two-member Bench on 10.02.2026 and the judgment was reserved. On 28.04.2026, the following order was announced:

> "On account of the difference of opinion, let this matter be placed before the Committee pursuant to the second proviso to Order XI of the Supreme Court Rules."

2. Therefore, in view of the said difference/decision, the office has placed the matter before the Committee constituted under section 2 of the Supreme Court (Practice and Procedure) Act, 2023, and the Committee *vide* its order dated 11.06.2026 nominated me by referring the matter for recording my opinion.

3. On 24.09.2026, after notice, I heard the learned counsel in open Court and perused the record as well as the judgments rendered by my learned brothers.

4. In order to appreciate the controversy involved in the present matter, it would be pertinent to briefly reproduce the relevant facts of the case. The dispute arose out of a civil and commercial transaction in the UAE, which culminated in a judgment and decree dated 17.06.2014 passed by the "Abu Dhabi Court of First Instance", comprising a panel of three judges, against the petitioner, Engineering Kinetics (Pvt.) Ltd. The petitioner preferred an appeal against the said judgment before the "Abu Dhabi Court of Appeal", which was dismissed vide judgment dated 20.01.2015, thereby upholding the judgment of the Court of First Instance. Thereafter, respondent No. 1, being the decree-holder, brought the decree to Pakistan and sought its direct execution before the District Court, Lahore, under Section 44-A of the Code of Civil Procedure, 1908 (hereinafter referred to as **"CPC"**), placing reliance upon SRO 208(I)/2007 dated 06.03.2007 (hereinafter referred to as **"SRO"**).

5. The petitioner objected to the execution proceedings on the ground that the Abu Dhabi Court of Appeal was not covered by the aforesaid SRO, which, according to the petitioner, applied to the "Federal Court of Appeal of the UAE" and not to appellate courts functioning within the separate judicial systems of the constituent Emirates. Reliance was also placed upon

the judgment of this Court in *Nadeem Farooq and others v. Newze Land Electronic Trading Co. Lee Sharja* (PLD 2017 Supreme Corut 95). The Executing Court, vide order dated 30.10.2021, dismissed the petitioner's objection to the execution proceedings. The dismissal was subsequently upheld by the Lahore High Court vide impugned order dated 25.11.2022, giving rise to the present petition.

6. Learned counsel for the petitioner contended that the decree passed by the Abu Dhabi Court of First Instance and affirmed by the Abu Dhabi Court of Appeal was not executable in Pakistan under Section 44-A CPC, as the Abu Dhabi Court of Appeal was not a superior court recognised under the SRO. He submitted that the notification referred to the Federal Court of Appeal of the UAE and could not be extended to appellate courts functioning within the separate judicial systems of its constituent Emirates. In support of his contention, he relied upon the constitutional distinction between the federal and local judicial systems of the UAE and the judgment of this Court in *Nadeem Farooq and others v. Newze Land Electronic Trading Co. Lee Sharja* (PLD 2017 Supreme Court 95).

7. Conversely, learned counsel for the respondent supported the impugned orders and contended that the decree was executable under Section 44-A CPC, as the UAE was a reciprocating territory and the judgment of the Abu Dhabi Court of First Instance had been affirmed by the Abu Dhabi Court of Appeal. He submitted that the appellate judgment brought the decree within the ambit of the SRO and that the requirements of Section 44-A CPC had accordingly been fulfilled. He further maintained that the judgment relied upon by the petitioner in *Nadeem Farooq* did not warrant a different conclusion in the circumstances of the present case. Accordingly, he prayed for dismissal of the petition and for maintaining the impugned orders.

8. The controversy requiring determination in the present matter is whether the Abu Dhabi Court of Appeal, whose judgment affirmed the decree passed by the Abu Dhabi Court of First Instance, falls within the expression “Court of Appeal of the United Arab Emirates” specified in SRO, issued for the purposes of Section 44-A CPC. The question, in essence, is whether the said notification extends to appellate courts functioning within the local judicial system of an individual Emirate, or is confined to the Federal Court of Appeal of the UAE, and whether a decree affirmed by the

Abu Dhabi Court of Appeal is, therefore, executable in Pakistan under Section 44-A CPC read with the aforesaid SRO.

9. The first aspect requiring consideration is the constitutional and judicial structure of the United Arab Emirates (UAE). The federation was established on 02.12.1971 through the coming together of seven Emirates, including Abu Dhabi, each of which had an independent existence prior to the formation of the federation. This historical position is reflected in the opening words of the Preamble to the UAE Constitution, expressing their collective resolve to establish a Union between the said Emirates. Article 1 of the Constitution declares the UAE an independent, sovereign, and federal State comprising seven Emirates. Article 3 further recognises the sovereignty of each constituent Emirate over its territories and territorial waters in all matters which do not fall within the jurisdiction of the UAE under the Constitution. The constitutional arrangement thus establishes a federal State while preserving the authority of the constituent Emirates in matters not entrusted to the federal authorities. In this regard, Part IV of the Constitution deals with the Federal Authorities, while Chapter V thereof governs the judiciary in the UAE and the Emirates. The relevant provisions of this Chapter delineate the distribution of judicial authority between the federal courts and the local judicial authorities of the individual Emirates.

10. Article 95 of the UAE Constitution provides for two categories of federal courts, namely, the Federal Supreme Court and the Federal Courts of First Instance. These are the two judicial institutions expressly identified in the Constitution. Article 99 enumerates the jurisdiction of the Federal Supreme Court, whereas Article 102 provides for the establishment and jurisdiction of the Federal Courts of First Instance. Article 103, in turn, provides that matters relating to the Federal Courts of First Instance, including the manner of appeal against their judgments, shall be regulated by law. Its second paragraph further provides that the law may prescribe that a judgment of a Federal Court of First Instance may be heard before a chamber of the Federal Supreme Court in such cases and in accordance with such procedures as may be determined by law. It is, therefore, evident that although the Constitution expressly identifies the Federal Supreme Court and the Federal Courts of First Instance, it leaves the regulation of appellate remedies against judgments of the latter to federal legislation. Significantly, it does not expressly establish a separate Federal Court of

Appeal. This constitutional framework is relevant to determining the status and jurisdiction of the appellate court contemplated by the SRO.

11. Article 102 assumes particular significance in the present matter. It provides for one or more Federal Courts of First Instance to sit in the permanent capital of the UAE or in the capital cities of certain Emirates, and enumerates the matters falling within their jurisdiction. These include civil, commercial and administrative disputes between the UAE and an individual, irrespective of whether the UAE is the plaintiff or defendant; criminal matters; and personal status claims, civil and commercial claims and other claims between individuals arising in the permanent capital city of the UAE. In terms of Article 9 of the Constitution, Abu Dhabi is the capital of the UAE. Consequently, the jurisdiction conferred by the last-mentioned category under Article 102 extends to the specified claims arising in Abu Dhabi, even where the dispute is between private individuals. The present dispute, being civil and commercial in nature and arising between private parties, therefore brings into consideration the scope of this constitutional provision. At the same time, the existence of such federal jurisdiction in the capital must be understood within the broader constitutional arrangement, which also recognises the judicial authority of the individual Emirates. The mere location of a dispute in Abu Dhabi, therefore, does not, without examination of the judicial forum which actually adjudicated it, establish that the proceedings were conducted by a federal court.

12. The allocation of judicial authority between the federation and its constituent Emirates is further clarified by Articles 104 and 105 of the UAE Constitution. Article 104 provides that the local authorities in each Emirate shall exercise jurisdiction in all judicial matters which have not been assigned to the courts of the UAE under the Constitution. The provision thus establishes the jurisdiction of the local judicial authorities as the residual judicial authority within each Emirate, in respect of matters not constitutionally entrusted to the federal courts. Article 105 provides two distinct mechanisms by which matters otherwise falling within local judicial jurisdiction may come within the federal judicial system. Under its first paragraph, any or all of the jurisdiction vested in a local judicial authority under Article 104 may be transferred to the Federal Courts of First Instance by a Federal Law enacted upon the request of the concerned Emirate. The

second paragraph separately contemplates that a Federal Law may specify the categories of judgments rendered by local judicial authorities, including in civil and commercial matters, against which an appeal may be preferred before a Federal Court, whose decision in such appeal shall be final. Thus, the transfer of original jurisdiction to the Federal Courts of First Instance and the provision of an appellate remedy before a Federal Court are distinct constitutional arrangements, each requiring the intervention of federal legislation.

13. A conjoint reading of Articles 104 and 105 makes it clear that judicial jurisdiction not assigned to the federal courts under the Constitution remains vested in the local judicial authorities of the respective Emirates. Article 105 operates as a specific exception to that general allocation and does not, by its own force, convert local judicial authorities into federal courts or automatically subject their decisions to appellate jurisdiction within the federal judicial system. In the case of a transfer of first-instance jurisdiction, the request of the concerned Emirate and a Federal Law giving effect to that request are required. Likewise, an appeal from a judgment of a local judicial authority may lie before a Federal Court only where a Federal Law makes specific provision for such an appellate arrangement. The federal and local judicial systems thus retain their distinct constitutional identities, save to the extent that jurisdiction is transferred or appellate intervention is provided for in the manner contemplated by Article 105. The status of a particular court must, therefore, be considered in the context of the judicial system to which it belongs, rather than inferred merely from the nature of the jurisdiction it exercises or the designation it bears.

14. The aforesaid judicial structure may now be considered in the context of the judgments forming the basis of the execution proceedings before the courts in Pakistan. The judgment dated 17.06.2014 was rendered by the Abu Dhabi Court of First Instance and was subsequently affirmed by the Abu Dhabi Court of Appeal vide judgment dated 20.01.2015. A perusal of these judgments reveals that the courts have been identified as judicial forums of the Emirate of Abu Dhabi. Their designation, the constitution of the respective judicial panels and the judicial authorities referred to in the course of adjudication are relevant features which, when examined in the light of the constitutional and institutional framework discussed above, indicate the judicial system under which the proceedings were conducted.

15. The composition of the judicial panels further supports this conclusion. The courts which adjudicated the dispute were constituted in a manner consistent with the judicial structure of the Emirate of Abu Dhabi described above. Of particular significance is the fact that, while examining the applicable legal provisions, the Abu Dhabi Court of First Instance referred to and relied upon decisions of the Abu Dhabi Court of Cassation as authoritative judicial pronouncements. The Court of Cassation thus appears in the judgment as the superior judicial forum within the hierarchy governing the proceedings. This feature, considered alongside the designation of the courts and the composition of their respective panels, reinforces the conclusion that the dispute was adjudicated within the local judicial system of Abu Dhabi.

16. Article 102 of the UAE Constitution provides for the jurisdiction of Federal Courts of First Instance in civil, commercial and administrative matters, including specified claims arising in the permanent capital of the Union. Article 9 designates Abu Dhabi as the permanent capital of the UAE. However, the conferment of federal jurisdiction over specified matters arising in the capital does not convert the local judicial authorities of Abu Dhabi into federal courts, nor does it establish that every civil or commercial dispute arising within the Emirate falls within the federal judicial system. Article 104 expressly preserves the jurisdiction of the local judicial authorities in matters which have not been assigned to the Union courts. Thus, the constitutional framework recognises the coexistence of federal and local judicial jurisdictions within Abu Dhabi. In the present case, the designation of the courts in the judgments, their institutional structure and the judicial authorities relied upon in the course of adjudication establish that the proceedings were conducted within the local judicial system of the Emirate of Abu Dhabi.

17. The decision of this Court in *Nadeem Farooq and others v. Newze Land Electronic Trading Co. Lee Sharja* (PLD 2017 Supreme Court 95) does not detract from the foregoing conclusion. In that case, the decree sought to be executed in Pakistan had been passed by a Court of First Instance in the UAE. This Court examined Section 44-A of the Code of Civil Procedure, 1908, the notification dated 06.03.2007 and the federal judicial hierarchy provided under Federal Law No. 3 of 1983, as amended by Federal Law No. 2 of 1991. It held that the Federal Court of Appeal was a superior court for

the purposes of Section 44-A, whereas a Court of First Instance did not fall within the description of a superior court under the said notification. The decree in question was, therefore, held not to be directly executable under Section 44-A.

18. The controversy in *Nadeem Farooq* did not examine the constitutional distinction between the federal judicial authorities and the local judicial authorities of the constituent Emirates, nor did it determine whether a Court of Appeal forming part of the local judicial hierarchy of an Emirate could be treated as the Federal Court of Appeal for the purposes of the notification. The said judgment cannot, therefore, be read as extending the notification to every appellate court operating within the territorial limits of the UAE. Its recognition of the Federal Court of Appeal as a superior court must be understood in the context of the federal judicial hierarchy considered therein.

19. Section 44-A of the Code of Civil Procedure, 1908, does not extend to every decree passed by a court in a reciprocating territory. Under Explanation II, the expression "superior Courts", in relation to a reciprocating territory, means such courts as are specified in the notification issued by the Federal Government. The notification dated 06.03.2007 declares the "UAE to be a reciprocating territory" and identifies the "Court of Appeal of the United Arab Emirates" as a superior court for the purposes of the said provision. Read in the constitutional and institutional context of the UAE, this expression refers to the Federal Court of Appeal within the federal judicial hierarchy. It does not encompass the Court of Appeal of an individual Emirate merely because that court exercises appellate jurisdiction within the UAE.

20. The Abu Dhabi Court of Appeal, whose judgment dated 20.01.2015 is relied upon in the present execution proceedings, is part of the local judicial hierarchy of the Emirate of Abu Dhabi. Its appellate jurisdiction derives from that local judicial structure, and its position within that hierarchy does not confer upon it the institutional character of a Federal Court of Appeal. The fact that it affirmed the judgment of the Abu Dhabi Court of First Instance does not alter the source or character of its jurisdiction. Consequently, the judgment of the Abu Dhabi Court of Appeal does not fall within the class of judgments of superior courts specified in the notification dated 06.03.2007 and cannot be executed in Pakistan

through the mechanism provided under Section 44-A of the Code of Civil Procedure, 1908.

21. For the foregoing reasons, the decree affirmed by the Abu Dhabi Court of Appeal does not satisfy the requirement of Section 44-A of the Code of Civil Procedure, 1908, read with the notification dated 06.03.2007. The executing court, therefore, lacked jurisdiction to enforce the said decree as a decree of a superior court of a reciprocating territory under that provision. The conclusion reached by the Additional District Judge and maintained by the Lahore High Court, insofar as it treats the judgment of the Abu Dhabi Court of Appeal as falling within the notification, cannot be sustained.

22. I concur with the view expressed by Justice Munib Akhtar wherein he explained the judicial hierarchy of UAE and its constitutionality respectively. Accordingly, the petition is liable to be converted into an appeal and allowed. The impugned order dated 25.11.2022 passed by the Lahore High Court, Lahore, as well as the order dated 30.10.2021 passed by the learned Additional District Judge, Lahore, are set aside.

-Sd/-

Judge

Islamabad:
16.11.2026