

FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Original/Appellate/Advisory/Review Jurisdiction)

Present:

JUSTICE AMIN-UD-DIN KHAN, CHIEF JUSTICE
JUSTICE ALI BAQAR NAJAFI
JUSTICE SYED ARSHAD HUSSAIN SHAH

C.A.192-P/2010

[against the judgment dated 22.11.2006 passed by the Peshawar High Court, Peshawar in W.P. No. 164/2004]

Fazale Haq College, Mardan **Vs.** Sanobar Khan & others

C.A.193-P/2010

[against the judgment dated 22.11.2006 passed by the Peshawar High Court, Peshawar in W.P. No. 722/2006]

Fazale Haq College, Mardan **Vs.** Malik Fazale Subhan, etc.

C.A.124-P/2013

[against the order dated 29.09.2009 passed by the Peshawar High Court, Peshawar in C.M. No. 616/2009]

Fazale Haq College, Mardan through its Principal **Vs.** Abdul Qayyum & others

C.A.409/2014

[against the order dated 10.12.2013 passed by the Lahore High Court, Rawalpindi Bench in W.P. No. 1436/2012]

Military Estate Officer, Rawalpindi Circle, Rawalpindi **Vs.** Dukhter Bibi & others

C.A.499/2014

[against the order dated 10.12.2013 passed by the Lahore High Court, Rawalpindi Bench in W.P. No. 1436/2012]

Project Management Organization, Joint Staff HQ, Chaklala through its Executive Officer **Vs.** Dukhter Bibi & others

C.P.L.A.1565/2019

[against the judgment dated 16.04.2018 passed by the Lahore High Court, Rawalpindi Bench in W.P. No. 3604/2017]

Pakistan through Secretary, Ministry of Defence, Islamabad & others **Vs.** Malik Saleem Akhtar (deceased) through his LRs & others

C.A.1296/2016

[against the judgment dated 20.05.2015 passed by the Peshawar High Court, Peshawar in W.P. No. 2860-P/2013]

Chief Engineer (EHV) WAPDA, Lahore & another **Vs.** Mst. Akbaro & others

C.R.P.95/2010 in

C.A.268/2009

[for review of the judgment dated 22.03.2010 passed by the Supreme Court of Pakistan in C.A. No. 268/2009]

Chairman National Highway Authority, Islamabad & others **Vs.** Amir Khan Afridi & others

C.R.P.96/2010 in

C.A.942/2009

[for review of the judgment dated 22.03.2010 passed by the Supreme Court of Pakistan in C.A. No. 942/2009]

Collector Land Acquisition & another **Vs.** Mst. Shamshad Begum & others

C.P.L.A.261-P/2014

[against the judgment dated 11.03.2014 passed by the Peshawar High Court, Abbottabad Bench in W.P. No. 406-A/2011]

Military Estate Officer, Hazara Circle
Vs. Mst. Jamila Khatoon & others

C.P.L.A.2316/2016

[against the judgment dated 16.05.2016 passed by the Peshawar High Court, Abbottabad Bench in W.P. No. 117-A/2013]

MEO, Hazara Circle, Abbottabad & another **Vs. Muhammad Naheem & others**

C.P.L.A.2317/2016

[against the judgment dated 16.05.2016 passed by the Peshawar High Court, Abbottabad Bench in W.P. No. 851-A/2015]

MEO, Hazara Circle, Abbottabad & another **Vs. Muhammad Saheed Janjua & others**

C.P.L.A.2318/2016

[against the judgment dated 16.05.2016 passed by the Peshawar High Court, Abbottabad Bench in W.P. No. 891-A/2015]

MEO, Hazara Circle, Abbottabad & another **Vs. Abdul Wahid & others**

C.P.L.A.1541/2018

[against the order dated 16.01.2018 passed by the Lahore High Court, Rawalpindi Bench in W.P. No. 2252/2013]

Military Estate Officer, Rawalpindi & another **Vs. Manzoor Ellahi & others**

For the Petitioners/
Appellants

: Mr. Amjad Ali, ASC
[in C.As.192-P & 193-P/2010, &124-P/2013]
Raja Shafqat Abbasi, D.A.G
Barrister Saad Hashmi, ASC
Nauman Bashir, MEO, Abbottabad
[in C.A.409/2014, C.P.L.As.1565/2019, 2316 to 2318/2016; C.P.L.A.1541/2018 & 261-P/2014]
Mr. Ahmer Bilal Soofi, ASC
[Assisted by Mr. Masood Ahmed, Adv]
Athar Abbas, Manager Legal, PMO
[in C.A.499/2014 and also for respondent no.3 in C.A.409/2014]
Mr. Muhammad Shahzad Shaukat, ASC Assisted by Barrister Maaz Abdul Rehman, Adv
[in C.R.Ps.95 & 96/2010]
Nemo.
[in C.A.1296/2016]

For Respondents/ Land
owners

: Mr. Muhammad Munir Paracha, ASC
Mr. Zulfiqar Ahmed Bhutta, ASC
[in C.A.192-P/2010 & 1296/2016]
Mr. Muhammad Farooq Malik, ASC
[in C.A.124-P/2013]

Research Assistance by

: Dr. Muhammad Mumtaz,
Research Officer

Date of Hearing

: 29.07.2026

JUDGMENT

AMIN-UD-DIN KHAN, CJ.- The cases in hand emanate from civil petitions originally instituted before the Supreme Court of Pakistan under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973 (“the Constitution”), prior to the advent of the Constitution (Twenty-seventh Amendment) Act, 2025 (“the 27th Amendment”), seeking leave to appeal against the judgments rendered by learned Peshawar and Lahore High Court in different petitions. Through the impugned judgments, the learned High Courts, while exercising constitutional jurisdiction, allowed the petitions preferred by the respondents. Subsequent to the constitutional reconfiguration brought about through the promulgation of the 27th Amendment, and in view of the transitional framework envisaged therein, the instant matter, notice whereof had already been issued to the contesting respondents by the Supreme Court, stood transmitted to this Court and now falls for consideration and adjudication in accordance with law.

2. These connected matters arise out of acquisitions of land under the Land Acquisition Act, 1894 (“the Act”), for various public purposes, including the construction of educational institutions, motorways, defense projects and a grid station. In all these cases, while certain landowners challenged the Collector's Award by filing references under Section 18 of the Act and ultimately succeeded in obtaining enhanced compensation up to Supreme Court, the respondents either accepted the Award without protest or failed to invoke the statutory remedy within the prescribed period. Subsequently, relying upon the enhancement granted to similarly placed landowners, they sought the same benefit through applications before the Land Acquisition Collector, writ petitions or execution proceedings. The respective High Courts, through the impugned judgments, either extended the benefit of the enhanced compensation to such respondents, remanded the matters to the Reference Courts for determination of ownership and classification of the acquired land, or treated the respondents as decree-holders entitled to execute the enhanced awards. The common question

arising in these matters is whether a landowner who neither sought a reference under Section 18 of the Act nor challenged the Collector's Award within the prescribed period can subsequently claim the benefit of enhanced compensation awarded to other landowners through constitutional jurisdiction, execution proceedings or any other collateral proceedings.

3. The connected review petitions arise in a slightly different factual setting. In those cases, the respondents had accepted the Collector's Award without protest and had not sought a reference under Section 18 of the Act within the prescribed limitation. Nevertheless, the Peshawar High Court either directed the Land Acquisition Collector to entertain their claim for enhancement or extended to them the benefit of the enhanced compensation awarded to other landowners. The acquiring authorities challenged the said judgments before Supreme Court through Civil Appeal Nos. 942 of 2009 and 268 of 2009¹; however, both appeals were dismissed by a majority judgment dated 04.05.2010. The present review petitions have, therefore, been filed seeking review of the said majority judgment on the grounds urged therein.

4. Through the impugned judgments, the respective High Courts allowed the respondents' writ petitions, set aside the orders passed by the Land Acquisition Collectors and other revenue authorities, and either directed that the respondents be extended the benefit of the enhanced compensation awarded to other landowners or remanded the matters to the Reference Courts for determination of issues relating to ownership and classification of the acquired land after recording evidence. In some cases, the respondents were also treated as decree-holders and permitted to pursue execution proceedings for recovery of the enhanced compensation, notwithstanding that they had accepted the Collector's Award without protest or had failed to seek a reference under Section 18 of the Act within the prescribed period.

5. Being aggrieved by, and dissatisfied with, the impugned judgments, the petitioners have invoked the jurisdiction of this Court through the instant Petitions for Leave to Appeal.

¹ Saddaqt Ali Khan, etc. v Collector Land Acquisition & others PLD 2010 SC 878

6. We have heard the learned counsel for the parties at length and have carefully examined the record of the case.

7. Land acquisition is the legal process by which the State compulsorily takes private land for a public purpose in exchange for compensation. In Pakistan's legal lexicon it is the statutory expression of the doctrine of Eminent Domain — the sovereign prerogative of the State to appropriate private property for the greater public good, subject to conditions imposed by law. The law relating to land acquisition in Pakistan is primarily governed by the Act. This statute, enacted during the British colonial era on 2nd February 1894, continues to be the operating law in Pakistan subject to provincial amendments.

8. The principal question requiring determination in these cases is whether a landowner who either (i) accepted the Award and failed to seek a reference under Section 18 of the Land Acquisition Act, 1894, or (ii) did not challenge the decision of the Referee Court or the judgment of the High Court, can subsequently claim the benefit of enhanced compensation awarded by the Referee Court or the appellate courts to other similarly situated landowners. The controversy in these connected appeals and review petitions centers on the interplay between the statutory remedy provided under the Act and the equitable jurisdiction exercised by the High Courts under Article 199 of the Constitution.

9. The Act constitutes a complete code governing the acquisition of land and determination of compensation. The Act prescribes a self-contained mechanism whereby a person dissatisfied with the Collector's Award may seek a reference to the Civil Court under Section 18, subject to the conditions and limitation prescribed therein. For ready reference the section 18 is reproduced as under;

“18. Reference to Court.—

(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken: Provided that every such application shall be made,—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

(3) Notwithstanding anything to the contrary contained in section 21, the Provincial Government may, if it has not accepted the award, refer the matter to the Court within a period of six months from the date of announcement of the award; provided that the Court shall not entertain the reference unless in its opinion there is a *prima facie* case for inquiry into and determination of the objection against the award.”

The right to seek enhancement of compensation is purely statutory and must, therefore, be exercised strictly in the manner provided by the statute. Once the period prescribed under Section 18 expires, or where the landowner voluntarily accepts the Award without protest, the Award ordinarily attains finality and becomes binding upon the parties. The Act not only prescribes the procedure for acquisition but also delineates the rights, obligations, remedies and limitations applicable to all stakeholders. Where a statute creates a right and simultaneously prescribes the manner in which that right may be enforced, the prescribed procedure must be followed strictly and exclusively. The Act, therefore, leaves little room for importing equitable considerations that are inconsistent with its express provisions.

10. Under the scheme of the Act, Section 18 constitutes the sole statutory mechanism through which a person interested may seek judicial determination of the adequacy of compensation awarded by the Land Acquisition Collector. The jurisdiction of the Reference Court is not inherent but is wholly dependent upon a valid reference made under Section 18. In the absence of such reference, no judicial forum acquires jurisdiction to re-determine the compensation payable. The maxim *Expressio unius est exclusio alterius* (the express mention of one thing excludes all others) aptly applies, as the legislature deliberately provided only one method for challenging the quantum of compensation.

11. Section 12 of the Land Acquisition Act expressly declares that the Award of the Collector shall be final and conclusive between the Collector and the persons interested, except to the extent that it is challenged through a reference under Section 18.

The section 12 is as under;

“Award of Collector when to be final. – (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.”

The legislative intent is to attach certainty and finality to acquisition proceedings so that public projects are not indefinitely delayed by recurring claims. Once the statutory period for seeking a reference expires without any challenge, the Award attains finality and binds both the acquiring authority and the landowner.

12. The doctrine of finality is a fundamental principle underlying every legal system. Public policy requires that litigation must ultimately come to an end, failing which no judicial determination would ever attain certainty. This principle is encapsulated in the maxim *Interest reipublicae ut sit finis litium*—it is in the interest of the State that there should be an end to litigation. A person who has accepted an Award or has allowed the statutory remedies to lapse cannot ordinarily be permitted to reopen concluded proceedings merely because another litigant has subsequently secured a more favourable decision.

13. Where a landowner consciously accepts the Award without protest or intentionally refrains from invoking the remedy provided under Section 18, he is deemed to have waived his statutory right to question the compensation. Likewise, where a party elects not to file an appeal against the decision of the Reference Court or the High Court, he acquiesces in the determination made therein. The doctrines of waiver and acquiescence preclude such a person from

subsequently asserting rights which he voluntarily abandoned. The maxim *Volenti non fit injuria*, literally meaning "to a willing person, no injury is done," embodies the principle that a person who knowingly and voluntarily accepts a particular legal position or elects not to exercise a right available to him cannot subsequently complain of the legal consequences of his own decision. Although the maxim originated in the law of torts, its underlying rationale has found application in several branches of law, including civil procedure, contract law and statutory adjudication, where a party's voluntary conduct amounts to a conscious acceptance of a legal consequence or a waiver of a statutory right.

14. In the context of the Act, the doctrine assumes particular significance because the Act creates a comprehensive statutory framework for determining compensation and provides a specific remedy to an aggrieved landowner under Section 18. The legislature has conferred upon every person interested the right to seek a judicial determination of the adequacy of compensation by requiring the Collector to make a reference to the competent Court. This statutory right is, however, neither automatic nor perpetual. It must be exercised within the prescribed period and in the manner contemplated by the Act. A landowner who consciously chooses not to invoke Section 18, despite having knowledge of the Award and the remedy available, voluntarily accepts the legal consequences attached to such omission.

15. The legal significance of such conduct lies in the principle of election. The law frequently requires a party to choose between two mutually exclusive courses of action. In acquisition proceedings, a landowner is presented with a clear election: either accept the Award as determined by the Collector or challenge its adequacy through a reference under Section 18. Once the landowner elects to accept the Award or permits the statutory limitation to expire without seeking a reference, the election becomes irrevocable. The doctrine of election prevents a party from subsequently abandoning the position voluntarily adopted merely because another person has secured a more advantageous outcome

through litigation. The doctrine is also closely connected with the principle of waiver. Waiver signifies the intentional relinquishment of a known legal right. Where the law confers a right upon an individual exclusively for his benefit, he may choose either to exercise that right or to waive it. The right conferred by Section 18 is a personal statutory right. If the landowner deliberately refrains from exercising that right, whether by accepting the Award without protest or by remaining silent until the expiry of limitation, he effectively waives his entitlement to seek judicial enhancement of compensation. Having voluntarily relinquished the statutory remedy, he cannot subsequently revive it indirectly by claiming the benefit of a judgment obtained by another landowner. The salient features of the law of limitation have been examined in the *Khushi Muhammad Case*² wherein it has been held as under:

- "(i) The law of limitation is a statute of repose, designed to quieten title and to bar stale and water-logged disputes and is to be strictly complied with. Statutes of limitation by their very nature are strict and inflexible. The Act does not confer a right; it only regulated the rights of the parties. Such a regulatory enactment cannot be allowed to extinguish vested rights or curtail remedies, unless all the conditions for extinguishment of rights and curtailment of remedies are fully complied with in letter and spirit. There is no scope in limitation law for any equitable or ethical construction to get over them. Justice, equity and good conscience do not override the law of limitation. Their object is to prevent stale demands and so they ought to be construed strictly.
- (vi) The intention of the Law of Limitation is not to give a right where there is not one, but to interpose a bar after a certain period to a suit to enforce an existing right"

The ratio of the above judgment makes it abundantly clear that the law of limitation, which regulates the period within which one party may pursue a legal remedy against another, is not to be interfered with lightly. Limitation statutes serve the vital purpose of ensuring certainty and finality in legal relations, both of which are indispensable for the smooth functioning of trade and commerce. The rationale applies with even greater force in fiscal matters, where certainty regarding tax liabilities and assessments is fundamental to the effective administration of the tax regime.

² *Khushi Muhammad v. Fazal Bibi* (PLD 2016 SC 872)

16. Similarly relevant is the doctrine of acquiescence, which bars a person from asserting a right after knowingly permitting another legal position to attain finality. Acquiescence is founded upon the equitable notion that a person who remains inactive despite possessing the opportunity to assert his rights should not later be allowed to disturb settled legal relations. A landowner who neither files a reference under Section 18 nor challenges the decision of the Reference Court or the High Court acquiesces in the determination of compensation. Such acquiescence gives rise to legitimate expectations in favour of the acquiring authority that the acquisition proceedings, so far as that landowner is concerned, have attained finality.

17. The application of the maxim is further reinforced by the statutory scheme of the Land Acquisition Act itself. Section 12 declares the Award of the Collector to be final and conclusive except insofar as it is challenged through the procedure prescribed by Section 18. The legislature has thus consciously attached legal consequences to a landowner's decision not to invoke the statutory remedy. If, notwithstanding such finality, a landowner is permitted to claim enhanced compensation merely because another person successfully litigated the matter, the statutory distinction between those who challenged the Award and those who accepted it would become meaningless. Such an interpretation would render Section 18 substantially redundant and undermine the legislative purpose behind prescribing limitation periods and procedural safeguards.

18. The principle embodied in *Volenti non fit injuria* also accords with the broader doctrine that the law assists the vigilant and not those who sleep over their rights (*Vigilantibus non dormientibus jura subveniunt*). The reference can be given of Syed Ali Nawaz Gardazi case³ where court held that;

“On the principle of *volenti non fit injuria*, a person cannot complain of any act, he passively assents to.”

Litigation under the Land Acquisition Act is not collective in nature; rather, each landowner must independently assert his statutory entitlement. Those who diligently invoke the remedies

³ Syed Ali Nawaz Gardezi v. Lt. Col. Muhmmad Yousaf 1963 PLD 51 SC

provided by law cannot be placed on the same footing as those who consciously refrain from doing so. To hold otherwise would discourage timely invocation of statutory remedies and create uncertainty in acquisition proceedings. Furthermore, permitting a non-litigating landowner to receive the same benefit as a successful litigant would effectively nullify the legal consequences of his own voluntary conduct. The law ordinarily does not permit a party to approbate and reprobate simultaneously. A person cannot, on the one hand, accept the Award and allow it to attain finality and, on the other, seek to reopen that finality after observing the success of another litigant. Such an approach is inconsistent with the equitable principle that one cannot both affirm and disaffirm the same transaction according to convenience.

19. The majority judgment in *Saddaqt Ali Khan case (supra)* extended enhanced compensation to non-litigating landowners primarily on considerations of complete justice under Article 187 of the Constitution. However, from the perspective of the doctrine embodied in *Volenti non fit injuria*, such an approach may be viewed as overlooking the legal consequences flowing from the voluntary choices made by those landowners. The landowners had an equal statutory opportunity to challenge the Award under Section 18 but consciously chose not to avail themselves of that remedy. Their subsequent claim to enhanced compensation does not arise from any denial of legal rights by the acquiring authority but from their own election not to invoke the statutory mechanism provided by law. The dissenting opinion of Justice Rehmat Hussain Jaffery more closely reflects this principle. His Lordship emphasized that where the legislature has prescribed a specific remedy and a party elect not to pursue it, the Court cannot subsequently create a substantive entitlement through equitable jurisdiction. Such an approach preserves the integrity of the statutory framework, respects the doctrine of finality, and ensures that judicial discretion remains confined within the limits prescribed by law. Accordingly, in the present controversy, the maxim *Volenti non fit injuria* is not invoked in its traditional tortious sense but as a broader jurisprudential principle signifying that a landowner who, with full knowledge of his statutory rights,

voluntarily accepted the Award or failed to pursue the remedies provided under the Land Acquisition Act, 1894, cannot subsequently complain of the legal consequences of that election by claiming the benefit of enhanced compensation awarded to those who diligently pursued their statutory remedies. Such a claim would not only undermine the doctrines of waiver, election, acquiescence and finality but would also defeat the legislative scheme governing compulsory acquisition of land.

20. The legal system protects those who diligently assert their rights within the framework prescribed by law. The equitable maxim *Vigilantibus non dormientibus jura subveniunt*—the law assists the vigilant and not those who sleep over their rights—has particular relevance in acquisition matters where limitation periods are expressly prescribed. While it is a settled principle that the law favours adjudication of disputes on their merits, equal importance must be accorded to the equally well-established principle that the law aids the vigilant, not those who sleep over their rights. In this context, the Latin maxims *Leges vigilantibus non dormientibus subserviunt* and *Vigilantibus non dormientibus jura subveniunt* aptly embody the principle that legal protection is extended to those who are diligent in asserting their rights, and not to those who, through indifference or inaction, allow them to become stale. A litigant who fails to invoke the remedies provided by law within the prescribed time cannot, as a matter of course, seek indulgence from the Court to revive rights extinguished by his own neglect. The doctrine of equality before the law further mandates that the law of limitation be applied uniformly to all litigants, including the State. No party is entitled to preferential treatment merely by virtue of its status. The law of limitation does not create substantive rights; rather, it extinguishes the remedy by rendering stale claims unenforceable after the expiry of the prescribed period, thereby ensuring certainty, finality, and repose in legal affairs. It is for this reason that the question of limitation goes to the very maintainability of the proceedings, and it is the duty of the Court to examine it *suo motu*, irrespective of whether it has been raised by the parties. Mere negligence, administrative inefficiency, intentional inaction, obvious lethargy, or absence of bona fide

cannot constitute sufficient cause for condoning delay, as to hold otherwise would defeat the very object of limitation statutes and undermine the certainty and finality which they are intended to secure. A landowner who elects not to pursue the statutory remedy cannot ordinarily claim the benefit of litigation successfully prosecuted by others.

21. Article 23 of the Constitution guarantees to every citizen the fundamental right to acquire, hold and dispose of property, subject to the Constitution and any reasonable restrictions imposed by law in the public interest. The Article 23 is reproduced as under;

“Every citizen shall have the right to acquire, hold and dispose of property in any part of Pakistan, subject to the Constitution and any reasonable restrictions imposed by law in the public interest.”

22. Complementing this guarantee, Article 24 provides that no person shall be compulsorily deprived of his property save in accordance with law, and that where property is acquired for a public purpose, compensation must likewise be determined and paid in accordance with law. Similarly, Article 24 is reproduced as under;

(1) No person shall be deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefor and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given.

(3) Nothing in this Article shall affect the validity of—

(a) any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health;

(b) any law permitting the taking over of any property which has been acquired by, or come into the possession of, any person by any unfair means, or in any manner, contrary to law;

(c) any law relating to the acquisition, administration or disposal of any property which is or is deemed to be enemy property or evacuee property under any law;

(d) any law providing for the taking over of the management of any property by the State for a limited period, either in the public interest or in order to secure the proper management of the property, or for the benefit of its owner;

(e) any law providing for the acquisition of any class of property for the purpose of—

- (i) providing education and medical aid;
- (ii) providing housing and public facilities and services such as roads, water supply, sewerage, gas and electric power; or
- (iii) providing maintenance to persons unable to maintain themselves due to unemployment, sickness, infirmity or old age;

(f) any existing law or any law made in pursuance of Article 253.

(4) The adequacy or otherwise of any compensation provided for by such law, or determined in pursuance thereof, shall not be called in question in any court.”

These provisions recognize both the sanctity of private property and the sovereign power of eminent domain, while simultaneously ensuring that the exercise of such power remains subject to the rule of law and the statutory safeguards enacted by the legislature.

23. The Act constitutes the statutory framework contemplated by Article 24 for regulating compulsory acquisition of property and determination of compensation. The Act is a complete code governing every stage of acquisition, from the issuance of preliminary notification to the passing of the Award, determination of compensation, and the remedies available to an aggrieved landowner. Consequently, the constitutional requirement that deprivation of property and payment of compensation be "in accordance with law" necessarily means in accordance with the procedure prescribed by the Land Acquisition Act, 1894. Neither the acquiring authority nor the Courts can ignore or substitute the legislative mechanism devised by Parliament. Within this statutory scheme, Section 18 of the Land Acquisition Act occupies a central position. It confers upon a person interested, who has not accepted the Award, the statutory right to seek a reference to the Court where he objects to the measurement of land, the amount of compensation, the persons to whom compensation is payable, or the apportionment thereof. The right of reference is neither automatic nor inherent; rather, it is a conditional statutory remedy. It becomes available only where the landowner expresses dissatisfaction with the Award and invokes the jurisdiction of the Reference Court within the period of limitation prescribed by the

Act. Conversely, a landowner who accepts the Award without protest, or who fails to seek a reference within the prescribed time, is deemed to have accepted the determination of compensation and cannot subsequently reopen the matter except in the manner expressly permitted by law. The legislative intent underlying Section 18 is to strike a balance between the rights of the landowner and the need for certainty and finality in acquisition proceedings. The provision ensures that disputes regarding compensation are adjudicated by the Reference Court through a structured judicial process, while at the same time preventing concluded Awards from being reopened indefinitely. Finality of litigation is itself an important facet of the administration of justice and a necessary incident of the rule of law. Any interpretation permitting persons who consciously abstained from invoking Section 18 to claim the benefit of enhanced compensation obtained by others through independent litigation would render the statutory limitations under Section 18 otiose and defeat the legislative scheme. It is, therefore, evident that Article 24 protects not merely the right to receive compensation but also the statutory process through which such compensation is determined. The constitutional guarantee cannot be divorced from the procedure established by the Land Acquisition Act. A Court, while exercising constitutional jurisdiction, cannot dispense with the mandatory requirements of Section 18 or create an alternative mechanism for claiming enhanced compensation where the statute itself prescribes the exclusive remedy. To hold otherwise would amount to rewriting the legislation under the guise of constitutional interpretation.

24. Similarly indefensible is the invocation of Article 25 of the Constitution to claim parity with those landowners who diligently pursued the statutory remedy under Section 18 and obtained enhanced compensation through judicial determination. The guarantee of equality before law applies only amongst persons who are similarly situated in law and in fact. A landowner who invoked the jurisdiction of the Reference Court within time, participated in the adjudicatory process and obtained enhancement after judicial scrutiny cannot be equated with another who voluntarily accepted

the Award or failed to avail the statutory remedy. The distinction flows directly from the Act itself and is founded upon an intelligible differentia having a rational nexus with the object of the legislation, namely, orderly adjudication and finality of compensation disputes. It is a well-settled constitutional principle that Article 25 does not sanction equality in disregard of law. The equality clause cannot be invoked to nullify express statutory provisions, extend limitation periods prescribed by the legislature, or confer benefits upon persons who failed to satisfy the statutory conditions. Constitutional equality reinforces the rule of law; it does not authorize Courts to ignore legislative mandates or to place persons who exercised their statutory rights on the same footing as those who consciously allowed those rights to lapse.

25. Thus, Articles 23, 24 and 25, when read harmoniously with Section 18 of the Land Acquisition Act, lead to the inescapable conclusion that while every landowner possesses a constitutional right to receive lawful compensation for compulsory acquisition, the enforcement of that right must be through the procedure prescribed by the statute. The constitutional guarantees protect the legality and fairness of the acquisition process; they do not dispense with the statutory requirements governing objections to an Award, nor do they entitle a landowner who accepted the Award or failed to seek a reference under Section 18 to claim enhanced compensation solely because another landowner successfully pursued the remedy provided by law.

26. Article 187 empowers the Court to pass such decree or make such order as may be necessary for doing complete justice in any matter pending before it. Nevertheless, the jurisdiction conferred by Article 187 is supplementary and procedural in nature; it does not authorize the Court to create substantive rights or disregard mandatory statutory provisions. The power to do complete justice must operate within the framework of the Constitution and the law, and cannot be exercised in a manner that defeats legislative intent or nullifies statutory requirements.

27. Order XLI Rule 33 of the Code of Civil Procedure confers wide discretionary powers upon an appellate court to pass such

decree as ought to have been passed in respect of parties properly before it. However, the Rule is essentially procedural and cannot be construed as creating substantive rights in favour of persons who neither invoked the statutory jurisdiction under Section 18 nor challenged adverse judicial determinations. The provision is intended to enable the appellate court to mould relief among existing parties to the proceedings and not to reopen matters that have already attained statutory finality.

28. Equity undoubtedly forms an integral part of the judicial process; however, equitable principles cannot override clear statutory commands. The maxim *Equity follows the law* embodies the principle that where the legislature has expressly regulated a matter, judicial discretion must yield to the statutory mandate. Similarly, the maxim *Dura lex sed lex*—the law may be harsh, but it is the law—recognizes that perceived hardship cannot justify departure from legislative provisions enacted by Parliament.

29. The Constitution envisages a clear separation between the legislative and judicial functions of the State. While courts are entrusted with the interpretation and application of law, they are not authorized to legislate under the guise of interpretation. The maxim *Judicis est jus dicere, non-dare* signifies that it is the function of the judge to declare the law and not to make it. Likewise, *A verbis legis non est recedendum* mandates that courts should not depart from the plain language employed by the legislature. Judicial interpretation must therefore remain faithful to the statutory text rather than substitute judicial notions of fairness for legislative policy.

30. Judicial decisions must ultimately rest upon constitutional and statutory authority rather than considerations of sympathy or perceived hardship. Compassion, however commendable, cannot furnish an independent source of legal power. Courts are constitutionally bound to administer justice according to law and not according to personal notions of fairness. The celebrated observation that "hard cases make bad law" serves as a reminder that equitable considerations must remain subordinate to the rule of law. Consequently, while the plight of landowners may evoke

sympathy, such sympathy cannot justify the creation of substantive rights that the legislature itself has not recognized.

31. Viewed against the statutory framework of the Land Acquisition Act, the constitutional guarantee under Article 24, and the settled doctrines of finality, waiver, acquiescence and *res judicata*, the majority decision in *Saddaqt Ali Khan case* may be criticized for extending the benefit of enhanced compensation to persons who had neither invoked the statutory remedy under Section 18 nor pursued the appellate remedies available under the Act. By principally relying upon Article 187 of the Constitution and Order XLI Rule 33 CPC, the majority appears to have elevated equitable considerations over the express legislative scheme. The dissenting opinion of Justice Rehmat Hussain Jaffery, on the other hand, adhered to the statutory framework and emphasized that judicial discretion, however broad, cannot be exercised in a manner that creates substantive rights contrary to the provisions of the Land Acquisition Act, 1894. From that perspective, the dissent reinforces the supremacy of the rule of law over judicial sympathy and accords greater fidelity to the constitutional requirement that compensation for compulsory acquisition must be determined strictly "in accordance with law."

32. The controversy in the present cases essentially turns upon the true construction of the scheme embodied in the Act. The Act is a self-contained code regulating compulsory acquisition of private property, determination of compensation, and the remedies available to a person dissatisfied with the Award. It not only prescribes the substantive right to compensation but also lays down the exclusive procedure through which that right may be enforced. Once Parliament has prescribed a complete statutory mechanism, neither the executive nor the Courts can ignore or supplement that mechanism on equitable considerations. The rights of the parties must, therefore, be examined within the four corners of the Act.

33. The legislative scheme reflects two equally important objectives. The first is to secure just compensation to a person whose property is compulsorily acquired. The second is to ensure

certainty and finality in acquisition proceedings undertaken for a public purpose. These objectives are carefully balanced by providing an effective judicial remedy to an aggrieved landowner, while simultaneously prescribing definite conditions and limitation for availing such remedy. The Act thus recognizes that while compensation must be fair, disputes relating thereto cannot remain open indefinitely. Section 12(1) of the Act declares that the Award of the Collector shall be "final and conclusive evidence" as between the Collector and the persons interested regarding the true area, value of the land and apportionment of compensation. Although the expression "final" occurring in Section 12 is not absolute, its finality is displaced only in the manner expressly provided by the Act itself. In other words, the Award remains binding unless the statutory remedy contemplated under Section 18 is duly invoked. The Act, therefore, does not permit collateral or indirect challenges to an Award outside the procedure prescribed therein. The legislative safeguard against an erroneous Award is provided by Section 18. The provision confers a valuable but conditional statutory right upon a person interested who has not accepted the Award to require the Collector to make a reference to the Court. The jurisdiction of the Reference Court is thus not original but derivative. It springs into existence only upon a valid reference made in accordance with Section 18. Unless the conditions prescribed by the statute are fulfilled, the Court lacks jurisdiction to adjudicate upon the adequacy of compensation.

34. Equally significant is the requirement contained in Section 18(2) that every application seeking a reference *"shall state the grounds on which objection to the award is taken."* The requirement is mandatory and not merely procedural. It ensures that the acquiring authority is informed of the precise nature of the dispute and that the Reference Court adjudicates only those objections which were specifically raised by the landowner. The reference may be given to the Ghulam Muhammad case⁴ where it was held that:

"Reading this proviso along with section 18 it will appear that a person, who has taken payment

⁴ Ghulam Muhammad v. Government of Pakistan; PLD 1967 SC 191 at 198;

without protest, must be deemed to have waived his objections to the award, if any, and cannot thereafter claim a reference under section 18. The opening words of section 18, subsection (1), also seem to indicate that only a "person interested who has not accepted the award" may require that the matter may be referred by the Collector. This intention of the Legislature, it is said, is further confirmed by the provisions of clause (b) of section 20, which deal with notice by the Court to which the reference has been made, for, under this clause notice is not required to be served on persons who have consented, without protest, to receive payment of the compensation awarded...

The second proviso to section 31 (2) is, therefore, fully applicable and would appear to constitute a bar to the appellant's right to now claim a reference under section 18, for, he can no longer be treated to be a person interested who has not accepted the award..."

The provision in question excludes vague or indefinite challenges and reinforces the legislative objective of orderly adjudication. The proviso to Section 18(2) prescribes strict limitation for invoking the jurisdiction of the Reference Court. Clause (b) thereof fixes an outer limit of six months from the date of the Award.

35. Similarly important is Section 21 of the Act, which confines the jurisdiction of the Reference Court by providing that the scope of its inquiry "shall be restricted to a consideration of the interests of the persons affected by the objection." The jurisdiction of the Court is thus person-specific and objection-specific. A Reference under Section 18 is not representative litigation nor does it operate for the benefit of all landowners whose land may have been acquired under the same notification. The adjudication is confined to those persons who invoked the statutory remedy and to the objections raised by them. The legislative intent becomes even more apparent from Section 26(2), which provides that an Award of the Reference Court shall be deemed to be a decree and the reasons recorded therein shall constitute a judgment within the meaning of the Code of Civil Procedure, 1908. Consequently, such an Award binds only the parties before the Court and is appealable in accordance with the ordinary hierarchy of civil proceedings. Like every civil decree, its operation is ordinarily confined to the litigating parties and cannot automatically endure to the benefit of

strangers who neither invoked the jurisdiction of the Court nor participated in the proceedings.

36. The provisions relating to payment of compensation contained in Section 31 furnish further evidence of the legislative scheme. Clause (a) of sub-section (1) contemplates payment to a landowner who accepts the Award. At the same time, the Act recognizes that a landowner may receive compensation under protest while simultaneously preserving his statutory right to seek enhancement through a reference under Section 18. Acceptance of compensation under protest, therefore, safeguards the right to judicial review of the Award, whereas unconditional acceptance signifies satisfaction with the determination made by the Collector. The second proviso to Section 31(2) constitutes one of the most significant provisions of the Act. It unequivocally declares:

"Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18."

The language employed by the legislature is plain, mandatory and admits of no exception. Once compensation has been received without protest, the statutory right to seek a reference stands extinguished. The consequence flows directly from the statute itself and is not dependent upon any discretionary determination by the Court.

37. When Sections 12, 18, 21, 26 and 31 are read together, a coherent legislative scheme unmistakably emerges. The Award is initially final; a dissatisfied landowner may displace that finality only by invoking Section 18 within the prescribed limitation and in the manner required by law; the inquiry remains confined to the objections of the objecting landowner; the decision of the Reference Court operates as a decree between the litigating parties; and a person who accepted compensation without protest is permanently precluded from reopening the Award. Each provision complements the other and none can be interpreted in isolation. Such a person consciously elects not to invoke the statutory remedy provided by Parliament. The doctrine of election and the principle of finality preclude reopening a concluded matter merely because another

landowner, who diligently pursued the statutory remedy, ultimately succeeded in obtaining enhancement of compensation. To hold otherwise would render the elaborate provisions governing references, limitation, objections and protest wholly redundant. If every landowner, irrespective of whether he invoked Section 18, were permitted to claim the benefit of enhancement secured by another litigant, the conditions prescribed by Sections 18 and 31 would become entirely meaningless. Courts must adopt an interpretation that gives effect to every provision of the statute and avoid one which renders any part of the legislation nugatory or otiose. The settled rule of statutory interpretation is that redundancy cannot be attributed to the legislature.

38. The distinction between a landowner who challenged the Award and another who accepted it is neither artificial nor arbitrary. It is one expressly created by Parliament itself. The former invoked the judicial process, subjected the Award to adjudication and obtained a judicial determination. The latter accepted the Collector's determination as final by his own conduct. The law, therefore, treats the two categories differently because they are differently situated in the eye of law. This distinction also accords with settled principles governing civil adjudication. A judgment or decree ordinarily binds only those who are parties to the proceedings or claim through them. A person who neither challenged the Award nor became a party to the reference proceedings cannot, after the litigation has attained finality, seek to appropriate the fruits of another's successful litigation while avoiding the burdens and risks inherent in prosecuting the claim. Such an approach would undermine the doctrines of finality, waiver, acquiescence and election that permeate the administration of justice.

39. The dissenting opinion in *Saddaqa Ali Khan case (supra)* correctly emphasized that extending the benefit of enhanced compensation to landowners who neither filed a reference under Section 18 nor received compensation under protest would substantially dilute, if not render redundant, the statutory safeguards incorporated in Sections 18 and 31 of the Act. Although

the majority adopted a different view on the facts before it, the interpretative concern expressed in the dissent highlights an important principle of statutory construction, namely, that no interpretation should render an express provision of the statute superfluous. Indeed, the jurisprudence of this Court has consistently recognized that the second proviso to Section 31(2) embodies the legislative policy that unconditional acceptance of compensation brings the acquisition proceedings, so far as that landowner is concerned, to a legal end. The statutory bar against seeking a reference thereafter is absolute. Finality, once attached in terms of the statute, cannot ordinarily be displaced by invoking general equitable principles or constitutional notions of equality.

40. The Court must, therefore, guard against an interpretation which, under the guise of achieving parity, effectively rewrites the legislative framework enacted by Parliament. Constitutional guarantees of equality cannot be employed to nullify statutory conditions expressly attached to the exercise of a legal right. The right to seek enhanced compensation is not an inherent or continuing right; it is a statutory right regulated by the conditions prescribed in Sections 18 and 31 of the Land Acquisition Act. Once those conditions cease to exist, the right itself stands exhausted. The cumulative effect of the foregoing provisions leaves little room for doubt that the Act envisages only two categories of landowners: first, those who challenge the Award in accordance with Section 18 after receiving compensation under protest or without accepting the Award; and secondly, those who accept the Award without protest, in respect of whom the matter attains irrevocable finality. The statute does not contemplate a third category comprising persons who accepted the Award but subsequently seek enhanced compensation solely because another landowner successfully pursued the statutory remedy. Recognition of such a category would amount to judicial legislation and would defeat the carefully balanced scheme enacted by Parliament.

41. The controversy may also be examined from another equally significant dimension, namely, the legal character of an award rendered by the Reference Court under Section 26 of the Land

Acquisition Act, 1894. The majority opinion in *Saddaqt Ali Khan case (supra)* while extending the benefit of enhanced compensation to non-objecting landowners, appears to have proceeded on the premise that a determination made by the Reference Court, once affirmed in appeal, acquires a character analogous to a judgment in rem. We are strongly convinced that such an approach requires reconsideration in light of the express statutory provisions governing references under the Act and the settled principles regulating civil adjudication.

42. Section 26(2) of the Act expressly declares that every award of the Reference Court shall be deemed to be a decree and that the statement of the grounds thereof shall constitute a judgment within the meaning of Sections 2(2) and 2(9) of the Code of Civil Procedure, 1908. The legislature, therefore, consciously assimilated the adjudication of the Reference Court to an ordinary civil decree. Such legislative declaration is neither accidental nor without legal consequence. Once the statute attributes to the award the character of a decree, the incidents, limitations and legal consequences attached to a civil decree necessarily follow unless expressly excluded by the Act. A decree, as defined by Section 2(2) of the Code of Civil Procedure, is the formal expression of an adjudication conclusively determining the rights of the parties with regard to the matters in controversy. The emphasis throughout the definition is upon the determination of the rights of the parties before the Court. Correspondingly, Section 2(3) of the Code recognizes only the person in whose favour the decree has been passed as a "decree-holder". It follows that the decree neither creates nor enlarges the rights of persons who were strangers to the proceedings. The legal incidents of a decree are equally instructive. Under Order XXI Rule 10 of the Code, the right to seek execution belongs exclusively to the decree-holder. A stranger to the litigation cannot execute the decree merely because he may be similarly situated or because he claims a comparable interest. The law of execution proceeds on the fundamental principle that a decree binds only the parties before the Court and those claiming through them. Were it otherwise, every decree determining private rights would become enforceable by an indeterminate class of

persons having no participation in the litigation, thereby unsettling the very foundation of civil adjudication.

43. The proceedings under Section 18 of the Act reinforce this conclusion. The jurisdiction of the Reference Court is invoked only upon an application by a dissatisfied landowner; its inquiry is confined by Section 21 to the objections raised by that objector; and the determination under Sections 23 and 24 depends upon evidence regarding the market value, location, potentiality, nature and advantages of the particular land. The adjudication is, therefore, essentially fact-specific and person-specific. It is not an abstract declaration of law divorced from individual rights but an adjudication upon the entitlement of the objecting landowner based upon the evidence produced before the Court. Indeed, the Reference Court does not legislate upon the market value applicable to every parcel of land acquired under a notification. It determines, on judicial appreciation of evidence, the compensation payable to the parties before it. The factors enumerated in Section 23 and the exclusions contained in Section 24 require appreciation of factual circumstances peculiar to the land and the claimant. Such adjudication, by its very nature, cannot assume the character of a judgment operating against the whole world.

44. The distinction between a judgment in personam and a judgment in rem is fundamental to the law of judgments. A judgment in rem determines the legal status of a person or property and binds the whole world. Typical illustrations include judgments relating to probate, matrimonial status, insolvency or admiralty. Conversely, a judgment in personam determines the civil rights and obligations of the parties before the Court and binds only those parties and persons claiming through them. An award rendered under Section 26 of the Act unmistakably belongs to the latter category. It neither declares the legal status of property nor determines rights erga omnes. It merely adjudicates the amount of compensation payable to the objecting landowner after evaluating evidence adduced before the Court. The adjudication thus remains confined to the litigating parties and cannot automatically extend to persons who neither challenged the

Award nor participated in the proceedings. This distinction has consistently been recognized in our jurisprudence. In *Pir Bakhsh Case*⁵ this Court lucidly explained that while a judgment conclusively determines questions of fact and law between the parties, what binds future Courts is only the ratio decidendi, namely, the principle of law enunciated therein. The judgment itself does not operate in rem merely because it contains a legal principle capable of application in subsequent cases. The distinction between the operative part of a decree and the precedential value of its reasoning is thus firmly embedded in our constitutional jurisprudence.

45. Articles 189 and 201 of the Constitution reinforce this distinction. These provisions render judgments of the Supreme Court and High Courts binding only to the extent that they decide a question of law or enunciate a principle of law. The Constitution does not declare that the operative relief granted in an individual case automatically accrues to every person similarly situated. What attains precedential force is the legal principle; what remains confined to the litigants is the adjudication of their civil rights. Consequently, even where a judgment enhances compensation under the Act, the enhancement itself is not transformed into a declaration in rem. The ratio regarding the interpretation of statutory provisions may undoubtedly bind subsequent Courts under Article 189, but the decree awarding enhanced compensation continues to regulate only the rights of those who invoked the jurisdiction of the Court. To conflate the precedential authority of a judgment with the enforceability of its operative decree would obliterate the well-established distinction between precedent and adjudication.

46. The doctrine of past and closed transactions is an indispensable attribute of the rule of law. Rights which have attained finality under an existing legal regime cannot ordinarily be reopened except under express statutory authority. This Court has repeatedly held that even legislative intervention cannot ordinarily disturb vested rights retrospectively unless the language employed

⁵ *Pir Bakhsh v. Chairman, Allotment Committee* (PLD 1987 SC 145)

unmistakably compels such a construction. The observations made in *Al-Samrez Enterprises v. Federation of Pakistan* (1986 SCMR 1917) underscore the constitutional importance attached to preserving concluded transactions and vested rights. If a landowner consciously elected not to challenge the Award, accepted compensation without protest, or allowed limitation to expire, his legal relationship with the acquiring authority stood finally concluded. Such finality cannot subsequently be displaced merely because another landowner successfully prosecuted independent litigation. Otherwise, limitation would cease to perform its essential function of securing certainty in legal relations. Reliance upon Order XLI Rule 33 of the Code to extend relief to persons who were never parties to the proceedings also warrants careful scrutiny. The Rule undoubtedly confers wide discretionary powers upon an appellate Court to mould relief in order to do complete justice between the parties before it. However, the width of the power cannot be divorced from the context in which it is conferred. The language of Rule 33 itself confines its operation to the parties to the lis. It authorizes the appellate Court to grant relief even to a respondent who has neither preferred an appeal nor filed objections, but such respondent nevertheless remains a party to the proceedings. The Rule nowhere authorizes extension of relief to complete strangers who neither invoked the jurisdiction of the Court nor were represented before it. To read such authority into Rule 33 would amount to enlarging the provision beyond its plain language. Order XLI Rule 33 is, therefore, a procedural provision enabling effective adjudication of disputes already before the Court; it is not a substantive source of jurisdiction for conferring rights upon non-parties. Any interpretation to the contrary would not only be inconsistent with the scheme of the Code but would also undermine the elementary principles of natural justice, for no adjudication affecting civil rights can ordinarily be rendered in favour of or against persons who are not before the Court. Similar considerations arise in relation to Article 187 of the Constitution. The jurisdiction conferred by Article 187 is undoubtedly extraordinary, enabling this Court to pass such decree or order as may be necessary for

doing complete justice in a matter properly before it. However, the power is ancillary and supplemental; it cannot enlarge the substantive jurisdiction otherwise conferred by the Constitution. These principles assume particular significance in land acquisition matters. A Court may undoubtedly mould relief between the parties properly before it, but it cannot, in the exercise of Article 187, create substantive rights in favour of persons who deliberately abstained from invoking the statutory remedy prescribed by Parliament. Such exercise would effectively nullify Sections 18 and 31 of the Act and substitute judicial discretion for legislative policy.

47. The doctrine of *per incuriam* constitutes another important safeguard within the doctrine of precedent. A judgment rendered in ignorance of a statutory provision, or contrary to an earlier binding precedent, does not acquire binding force merely by virtue of its pronouncement. The doctrine preserves coherence in the legal system by ensuring that precedential authority remains anchored in fidelity to statute and binding constitutional jurisprudence. It is well settled that where a previous judgment overlooks an express statutory command, fails to notice a binding constitutional or statutory provision, or adopts a course plainly inconsistent with the legislative scheme, a subsequent Bench is not precluded from examining whether such judgment was rendered *per incuriam*. The doctrine is not an exception to stare decisis but an integral component of it, intended to preserve the supremacy of law over inadvertence. The issue before this Court, therefore, is not whether a previous judgment deserves respect—it unquestionably does—but whether the statutory framework enacted by Parliament permits extension of enhanced compensation to persons who neither challenged the Award nor remained parties to the proceedings. The answer to that question must ultimately be found not in considerations of sympathy or parity but in the language of the statute itself. Where the legislative command is clear, judicial interpretation must give effect to that command rather than dilute it by resort to equitable considerations.

48. We have no reluctance to hold that the reasoning adopted in *Saddaqt Ali Khan* appears to rest substantially upon

considerations of constitutional morality and the perceived obligation of the State to act with fairness by extending enhanced compensation to all similarly placed landowners. While fairness is undoubtedly an important constitutional value, it cannot operate independently of, or in derogation from, the express provisions of the Constitution and the governing statute. Constitutional adjudication must remain anchored in the text of the Constitution and the legislative framework enacted by Parliament. Courts cannot substitute equitable notions of fairness for statutory commands or constitutional limitations. Article 24 of the Constitution does not merely recognize the right to compensation for compulsory acquisition of property; it expressly mandates that such compensation shall be determined "in accordance with law." The constitutional guarantee, therefore, is inseparable from the statutory mechanism prescribed by the legislature. The expression "law" occurring in Article 24 is neither abstract nor indeterminate. In matters of compulsory acquisition, it unmistakably refers to the Land Acquisition Act, 1894, which prescribes not only the principles for determining compensation but also the procedure, forum, limitation, and conditions for questioning an Award. Thus, the constitutional protection afforded by Article 24 is realized through, and remains subject to, the statutory framework established by the Act.

49. At the cost of repetition, we reiterate that the Act is a complete and self-contained code governing every facet of compulsory acquisition of property. It comprehensively regulates the entire acquisition process, including the determination of compensation, the rights and obligations of the acquiring authority and the landowners, the forum and procedure for challenging an Award, the period of limitation, and the finality attached to concluded proceedings. Where a statute constitutes a complete code, the rights and liabilities of the parties must be determined strictly within its four corners. Neither equitable considerations nor perceived notions of fairness can be invoked to create substantive rights or remedies which the legislature has consciously omitted. Any interpretation enlarging the statutory scheme by conferring benefits upon persons who have not fulfilled

the conditions prescribed by the Act would not amount to interpretation but to judicial legislation, a course impermissible under our constitutional framework. It governs the rights and obligations of the acquiring authority and the landowner, prescribes the manner in which compensation is to be assessed under Sections 23 and 24, provides the exclusive remedy of reference under Section 18 to an aggrieved person who has not accepted the Award, and accords finality to an Award accepted without protest. The legislative scheme consciously balances the constitutional right of a landowner to receive just compensation with the equally important public interest in certainty and finality of acquisition proceedings. Once the legislature has occupied the field by enacting a complete code, it is not open to the Court to supplement that code by creating substantive rights which the statute itself does not recognize. It is a settled principle of constitutional interpretation that where the Constitution expressly requires an act to be performed "in accordance with law", the Court must ascertain and apply the law enacted by the competent legislature. The constitutional guarantee cannot be divorced from the statutory procedure through which it is intended to operate. See, PLD 2013 SC 829 and relevant portion is as follows:

“If any law which has been invalidly pronounced and declared by this Court, which ignorance of any provision of the Constitution, and / or is founded on gross and grave misinterpretation thereof; the provisions of the relevant law have been ignored, misread and misapplied; the law already enunciated and settled by this Court on a specific subject, has not been taken into account, all this, inter alia, shall constitute a given judgment(s) as per incuriam”

50. Consequently, the phrase "in accordance with law" in Article 24 necessarily incorporates the entirety of the statutory mechanism contained in the Land Acquisition Act, including the provisions relating to finality of the Award, limitation, reference under Section 18, and the consequences flowing from acceptance of compensation without protest. To enforce the constitutional guarantee while disregarding the statutory conditions attached thereto would amount to enforcing only part of the law and ignoring the remainder. The proposition that every landowner, irrespective of whether he invoked the statutory remedy, is

constitutionally entitled to the benefit of enhanced compensation secured by another litigant finds no support in the text of Article 24. The Constitution guarantees lawful compensation; it does not guarantee compensation determined through a procedure unknown to law. Equally, it does not authorize the Court to disregard the conditions and limitations prescribed by Parliament for the enforcement of that right. The distinction drawn by the Act between a landowner who challenges the Award in accordance with Section 18 and one who accepts it without protest is a distinction expressly created by statute and, therefore, cannot be obliterated in the name of constitutional fairness. Similarly, the principle of parity cannot be invoked independently of the statutory framework. The enhanced compensation awarded in a reference is the result of adjudication inter partes and does not automatically amend or reopen the Collector's Award in respect of non-objecting landowners. To hold otherwise would permit indirect enlargement of statutory rights beyond what the legislature expressly contemplated.

51. The impugned judgments reveal that the High Courts, in several cases, extended the benefit of enhanced compensation on equitable considerations or directed reconsideration of the respondents' claims despite their failure to avail the remedy under Section 18. In some matters, respondents were even treated as decree-holders or permitted to pursue execution proceedings notwithstanding the absence of any decree in their favour. Such directions require examination in the light of the statutory scheme of the Land Acquisition Act, the doctrine of finality, and the settled principle that constitutional jurisdiction cannot ordinarily be exercised to defeat statutory limitations.

52. Another aspect of considerable constitutional significance relates to the maintainability of proceedings under Article 199 of the Constitution in matters where the Act itself provides a complete mechanism for redress. It is a settled principle of constitutional jurisprudence that the extraordinary jurisdiction of the High Court under Article 199 is discretionary in nature and is ordinarily not exercised where the legislature has provided an

adequate, efficacious and complete statutory remedy. This self-imposed constitutional restraint is founded upon institutional comity, respect for legislative intent and the orderly administration of justice. Constitutional jurisdiction is intended to consider legality of executive action; it is not designed to supplant statutory adjudicatory mechanisms specifically created by Parliament. The Land Acquisition Act establishes a carefully structured hierarchy for the determination of compensation. The Collector, acting under Sections 11 and 12, initially determines compensation by way of an administrative award. A person dissatisfied with such determination is not left remediless; rather, Parliament has conferred upon him a specific statutory right to seek judicial determination by invoking Section 18 of the Act. The adjudication thereafter culminates in an award of the Reference Court under Section 26, which is expressly deemed to be a judgment and decree for all legal purposes. The statutory remedy is, therefore, neither illusory nor inadequate; on the contrary, it provides a complete judicial forum for determination of every dispute relating to compensation.

53. The constitutional jurisdiction cannot be employed to bypass this legislative arrangement. To permit a landowner who consciously abstained from invoking Section 18 to subsequently seek identical relief through a constitutional petition would effectively substitute Article 199 for the statutory reference contemplated by Parliament. Such an approach would render the statutory conditions governing limitation, protest, pleadings and adjudication entirely otiose. Constitutional jurisdiction cannot be converted into an appellate forum over matters which the legislature has entrusted to a specialized statutory tribunal exercising original civil jurisdiction. It is equally important to bear in mind that proceedings under Section 18 are not merely procedural; they constitute the exclusive jurisdictional gateway through which a claim for enhanced compensation may be judicially examined. The right to judicial reassessment of compensation is not independent of Section 18 but flows exclusively from it. Where the statute itself creates the right and simultaneously prescribes the forum, conditions and limitation for

its enforcement, the remedy provided by the statute is ordinarily exclusive. A person cannot disregard the statutory route and invoke constitutional jurisdiction to secure the very relief which the statute permits only upon fulfilment of prescribed conditions. Land acquisition disputes seldom involve pure questions of law. Determination of compensation invariably depends upon numerous disputed factual considerations requiring appreciation of oral and documentary evidence. The Reference Court is required to ascertain the prevailing market value, potentiality of the land, comparable sales, nature of cultivation, existing user, future prospects, location, accessibility and numerous other factual determinants specifically recognized under Section 23 of the Act. These are matters incapable of summary adjudication within the limited scope of constitutional proceedings.

54. Likewise complex are questions relating to title and entitlement. The acquiring authority is frequently confronted with rival claims based upon ownership, co-ownership, inheritance, tenancy, mortgages, leases, easements and other proprietary interests. Resolution of such controversies necessarily involves examination of revenue records, title documents, mutation entries and, where required, recording of oral evidence. The constitutional jurisdiction is not intended to function as a trial forum for adjudicating disputed civil rights requiring detailed evidentiary inquiry.

55. Similar considerations apply to classification of land. The distinction between *chahi*, *barani*, *banjar*, *gair mumkin*, *mumkin*, residential, commercial or industrial land directly affects valuation and compensation. Likewise, the location of the acquired land, its proximity to developed areas, road access, commercial potential and surrounding development are factual issues requiring proof through cogent evidence. Such matters often necessitate production of site plans, revenue maps, sale instances, expert testimony and, where appropriate, local inspection. These are functions traditionally assigned to the Reference Court and are wholly inconsistent with the summary nature of proceedings under Article 199.

56. The same principle governs questions of apportionment. Determination of the respective shares of competing claimants is not merely an ancillary issue but constitutes an integral part of the statutory adjudicatory process. Such determination affects valuable civil rights and cannot be undertaken without affording every interested person an opportunity of producing evidence and contesting rival claims. Constitutional proceedings, which ordinarily proceed on undisputed or admitted facts, are ill-suited for adjudication of controversies of this nature.

57. The legislative design underlying the Act demonstrates a conscious allocation of functions between administrative authorities, civil courts exercising reference jurisdiction and constitutional courts. The Collector performs administrative functions; the Reference Court adjudicates disputed questions of fact and compensation; appellate courts examine the legality and correctness of those determinations; while constitutional courts exercise supervisory jurisdiction to ensure that statutory authorities act within the bounds of law. Collapsing these distinct jurisdictions into one another would disturb the institutional balance deliberately created by Parliament. Acceptance of the contrary proposition would have far-reaching consequences. Every landowner who omitted to file a reference within limitation would be enabled to seek enhancement through constitutional proceedings by relying upon the determination rendered in another person's case. Such a course would effectively abolish the statutory distinction between objecting and non-objecting landowners and convert constitutional jurisdiction into an alternative mechanism for seeking enhancement of compensation. The consequence would not merely dilute the statutory scheme but virtually replace it.

58. The importance of finality assumes even greater significance where acquisitions are undertaken for projects involving public infrastructure, national development or strategic importance. Acquisition proceedings often involve thousands of landowners, substantial public expenditure and implementation of projects within prescribed timelines. The legislative insistence upon limitation and finality is intended to ensure certainty both for the

State and for those whose lands are acquired. Endless reopening of concluded awards would expose public projects to perpetual financial uncertainty and frustrate the very object of compulsory acquisition legislation.

59. Judicial recognition of an unrestricted right to invoke constitutional jurisdiction notwithstanding failure to pursue the statutory remedy would inevitably unsettle transactions which have attained finality decades earlier. The doctrine of finality is not merely procedural; it serves an important public purpose by preserving certainty in legal relations and protecting vested rights arising from concluded proceedings. Courts must remain vigilant that equitable considerations in individual cases do not undermine systemic certainty intended by Parliament.

60. Our attention was invited to the dissenting opinion in *Saddaqt Ali Khan case*. While a dissent does not constitute binding precedent, the persuasive force of judicial reasoning must be assessed on the strength of its legal analysis. The dissent correctly emphasizes that Order XLI Rule 33 of the Code is designed to enable an appellate court to mould relief between parties already before it. The Rule neither enlarges the jurisdiction of the appellate court nor authorizes conferment of substantive rights upon persons who were complete strangers to the proceedings. The interpretation advanced in the dissent accords more closely with the architecture of the Code of Civil Procedure and the Land Acquisition Act. Since the award of the Reference Court is treated as a decree under Section 26, the appellate proceedings remain a continuation of the same lis between the same parties. Relief granted in appeal necessarily endures to those litigants whose rights formed the subject matter of adjudication. Extension of that relief to persons who neither sought a reference nor became parties to the proceedings would fundamentally alter the character of the litigation and transcend the limits of appellate jurisdiction.

61. There is yet another aspect which cannot escape judicial notice. A claim for enhanced compensation cannot be adjudicated in the abstract. It necessarily requires complete particulars

regarding the acquisition proceedings, including the notification, the Award, the khasra numbers, nature and classification of land, area acquired, market value asserted, comparable transactions and the statutory grounds on which enhancement is claimed. Such particulars constitute the factual foundation upon which judicial determination rests. Likewise, the duty to record reasons is an indispensable component of the judicial process. Reasoned decisions serve multiple constitutional purposes: they demonstrate that the controversy has received due consideration; facilitate appellate review; ensure transparency in judicial decision-making; and strengthen public confidence in the administration of justice. A determination affecting valuable proprietary rights without adequate pleadings or cogent reasoning falls short of the standards expected of judicial adjudication.

62. In matters involving compulsory acquisition of property, where public funds are expended and proprietary rights are finally determined, strict adherence to procedural fairness and reasoned adjudication assumes even greater importance. Courts exercising constitutional jurisdiction must be slow to grant substantive relief where the pleadings themselves do not disclose the factual foundation necessary for judicial determination or where the controversy is incapable of resolution without detailed evidence. Such restraint is not a denial of justice but a recognition that justice must be administered through the procedure established by law.

63. Viewed cumulatively, the constitutional remedy under Article 199 cannot be permitted to displace the comprehensive statutory machinery enacted under the Land Acquisition Act, 1894. The Act provides the right, the forum, the procedure, the limitation, the evidentiary framework and the appellate hierarchy for determination of compensation. To permit those very questions to be reopened through constitutional proceedings, at the instance of persons who never invoked the statutory remedy, would not only defeat the legislative design but also erode the distinction between constitutional review and ordinary civil adjudication upon which our legal system is founded.

64. We are persuaded to hold that it is a settled principle of constitutional adjudication that a Court is under a constitutional obligation to interpret the law as enacted by the legislature and not to re-enact or supplement it under the guise of judicial interpretation. The judicial function is confined to ascertaining and giving effect to the intention of the legislature as expressed in the statutory text. Courts cannot add words to a statute, omit words deliberately employed by the legislature, or create rights and remedies which the legislature itself has consciously chosen not to provide. Any such exercise would amount to judicial legislation, which lies beyond the constitutional domain of the judiciary. This principle is firmly rooted in the constitutional doctrine of separation of powers. Article 175 of the Constitution envisages an independent judiciary exercising judicial authority within the limits prescribed by the Constitution and the law. The legitimacy and strength of judicial power emanate not from its ability to mould legislation according to perceived notions of equity but from its fidelity to the statutory text. Once a Court departs from the language employed by the legislature and engrafts into a statute a remedy which the legislature has not provided, it ceases to interpret the law and instead assumes the legislative function, thereby disturbing the constitutional equilibrium among the organs of the State.

65. The doctrine of *casus omissus* embodies this limitation upon judicial power. The doctrine postulates that where the legislature has consciously omitted to provide for a particular situation, the omission cannot ordinarily be supplied by judicial interpretation. Unless the omission is clearly inadvertent and the statutory scheme unmistakably compels such supplementation, the Court cannot fill perceived gaps in legislation merely because it considers such addition desirable or equitable. To do otherwise would amount to substituting judicial wisdom for legislative intent.

66. While examining the limits of judicial interpretation in the context of legislative omissions, the Court emphatically observed in *Messrs Chittagong*⁶ that:

“it is not for the Court to legislate or to fill up an omission on the part of the Legislature. A piece of legislation has to be construed by the Court with reference to the language used in it,”

The Court observed that extending the application of a statute beyond its expressed terms would be ultra vires the judicial function, contrary to the constitutional distribution of powers, and inconsistent with the trichotomy of powers upon which the constitutional framework rests. Where the statutory language is plain and unambiguous, there exists no lawful basis to enlarge its scope by importing rights or remedies which the legislature has consciously refrained from conferring. Beneficial interpretation, therefore, operates only within the framework of the statutory language and cannot become a vehicle for judicial legislation.

67. The same principle was reiterated in *Zahid Iqbal*⁷ case;

“It is neither the duty nor the function of the Court to read into or delete any word and or provisions in an enactment, unless specifically adopted or imported by reference. Courts do not legislate but interpret statute according to their ordinary and plain meaning and do not import and or supply word or provisions from "any other law", no matter how laudable and desirable it may appear to be.”

The Court observed that however desirable or equitable a particular result may appear, Courts do not legislate but merely interpret statutes according to their ordinary and plain meaning. The judicial process cannot be employed to import provisions or remedies from external sources or from notions of fairness where the legislature has chosen not to incorporate them into the statutory framework.

68. Applying these well-settled principles to the controversy before us, it becomes evident that the scheme of the Land Acquisition Act, 1894, provides a complete and self-contained

⁶ (*Messars ChitaGong Jute Manufacturing Company v. Province of East Pakistan and others* P L D 1966 Dacca 117);

⁷ *Zahid Iqbal v. Hafiz Muhammad Adnan* (2016 SCMR 430);

statutory mechanism for determination and enhancement of compensation. The Act expressly confers upon a landowner dissatisfied with the Award the right to seek a reference under section 18 within the prescribed period. The legislature has thus made the invocation of the reference jurisdiction contingent upon compliance with specific statutory conditions. The statutory scheme nowhere provides that enhancement of compensation obtained by one landowner through a reference shall automatically undergo to the benefit of those landowners who accepted the Award without protest, failed to seek a reference, or otherwise allowed the Award to attain finality.

69. The omission is neither accidental nor ambiguous. On the contrary, it reflects a conscious legislative design that distinguishes between those who challenge the Award through the statutory mechanism and those who elect not to do so. Had the legislature intended that every subsequent enhancement granted in favour of one claimant should automatically extend to all other landowners irrespective of their conduct under the Act, it could have expressly enacted such a provision. The conspicuous absence of such language cannot be supplied by judicial interpretation. Acceptance of the contrary proposition would, in effect, amount to reading into the Land Acquisition Act a substantive right which the legislature has deliberately withheld. It would render the carefully structured procedure contained in section 18 substantially redundant, for a landowner could simply abstain from pursuing the statutory remedy and yet claim the fruits of litigation initiated by others. Such an interpretation would not merely supplement the statute; it would fundamentally alter the legislative scheme by obliterating the distinction between those who invoked the statutory remedy and those who consciously or negligently refrained from doing so. The argument founded upon equity or parity cannot override the plain language of the statute. Equity follows the law; it does not supplant it. While the Court remains mindful of considerations of fairness, equitable considerations cannot justify the creation of substantive rights contrary to the express legislative framework. Judicial sympathy cannot be permitted to override statutory command, particularly where doing

so would amount to introducing into the statute a remedy which Parliament has consciously omitted. We are convinced that the enhanced compensation awarded in proceedings under section 18 should not automatically extend to persons who neither sought a reference nor remained parties to the proceedings cannot be sustained within the framework of the Land Acquisition Act, 1894. To recognize such a right would necessarily require the Court to supply a *casus omissus*, enlarge the statutory remedy beyond the legislative text, and assume a legislative function expressly prohibited by the constitutional doctrine of separation of powers. Such an approach would be inconsistent with the judicial principles and cannot, therefore, be accepted.

70. The cardinal rule of statutory interpretation requires that a statute be construed as an integrated and harmonious whole. Every provision, phrase, and expression enacted by the legislature is presumed to have been inserted for a purpose and must, so far as possible, be given independent meaning and effect. Courts are therefore under a constitutional duty to adopt an interpretation that gives efficacy to every provision of the statute and to avoid any construction that renders any part of the legislative scheme redundant, otiose, or devoid of practical operation. The impugned judgment departs from this settled principle. The Act establishes a carefully structured adjudicatory framework under which the Collector's Award attains finality unless an aggrieved person invokes the statutory remedy provided under Section 18. The right to seek judicial determination is therefore not automatic but conditional upon the filing of a timely objection and a reference by the Collector. This procedural requirement is not a mere technicality; it is the very jurisdictional foundation upon which the Reference Court derives authority to adjudicate the dispute. An interpretation permitting a landowner who neither sought a reference nor challenged the Award to claim the benefit of compensation determined in another person's reference effectively nullifies the legislative significance of Section 18 and obliterates the distinction consciously drawn by Parliament between those who invoked the statutory remedy and those who allowed the Award to attain finality. The same construction undermines the

statutory architecture governing reference proceedings. Sections 20 and 21 collectively define both the parties to the lis and the permissible ambit of judicial inquiry. The statutory notices contemplated by Section 20 are intended to secure the participation of persons whose proprietary interests are directly under adjudication in the particular reference. Likewise, Section 21 expressly confines the Court's inquiry to the objections raised by the persons affected by that reference. These provisions demonstrate the legislative intent that a reference under Section 18 is an inter partes proceeding, confined to identified parties and specified objections, rather than a representative or class action capable of determining the rights of all landowners irrespective of their participation. Section 26 reinforces this legislative design by providing that the Court shall pronounce an award in the reference before it, recording both the amount awarded and the reasons supporting such determination. The statutory award is thus a judicial determination confined to the dispute submitted for adjudication and cannot be transformed into a general revision of the Collector's Award applicable to every landowner whose land formed part of the same acquisition. To attribute such universal operation to a Reference Court's award is to confer upon it a legislative or administrative effect which the Act nowhere contemplates. Significantly, the Act contains no provision authorizing the automatic extension of enhanced compensation to persons who neither challenged the Collector's Award nor became parties to reference proceedings. Where the legislature intended to confer substantive rights or prescribe mechanisms for redetermination, it did so in express terms. The absence of any comparable provision in the Land Acquisition Act is therefore a conscious legislative omission, not an inadvertent gap capable of being supplied through judicial interpretation. To recognize such an entitlement would not amount to interpreting the statute but to engrafting upon it a remedy that the legislature deliberately chose not to enact. Such an exercise would transgress the constitutional limits of judicial interpretation and impermissibly enter the legislative domain.

71. The controversy before this Court transcends the confines of an individual dispute between private parties. It raises a question of considerable public importance with far-reaching fiscal and institutional implications. The determination of the issue is likely to affect a substantial number of land acquisition proceedings undertaken by the Federation, the Provinces, and the Islamabad Capital Territory over several decades. The interpretation adopted by the impugned judgments has the potential to unsettle the statutory finality attached to innumerable acquisition proceedings. If a landowner who neither sought a reference under Section 18, nor pursued any appellate remedy, nor questioned the Collector's Award within the time prescribed by law, is nevertheless permitted to claim enhanced compensation solely because another landowner succeeded in independent litigation, the consequences would be systemic rather than individual. Awards that have long attained finality would become susceptible to collateral reopening, exposing acquiring authorities to claims that the statute never contemplated. Such an interpretation would have significant implications for the administration of public projects and public finances. Land acquisition invariably involves the expenditure of public funds and forms the foundation of infrastructure, development, and welfare projects undertaken in the public interest. The reopening of concluded awards after the lapse of years, or even decades, would generate substantial and unforeseen financial liabilities for the State, disrupt budgetary planning, and undermine the certainty upon which public administration necessarily depends. It would also create serious practical difficulties in the preservation of records, verification of claims, and adjudication of disputes relating to acquisitions long since completed.

72. For the reasons discussed above, we answer the questions formulated in these connected appeals, petitions and review petitions in the negative and hold that a landowner who accepted the Collector's Award without protest, failed to seek a reference under Section 18 of the Act within the prescribed period, or did not pursue the remedies provided by law against the determination of the Reference Court or the High Court, is not entitled, as a matter

of law, to claim the benefit of enhanced compensation subsequently awarded to another landowner in independent proceedings. Such a claim finds no support in the scheme of the Land Acquisition Act, 1894, is inconsistent with the doctrines of finality, waiver, acquiescence and election, and cannot be sustained either on considerations of equity, parity, Article 25 and Article 187 of the Constitution or Order XLI Rule 33, C.P.C.

73. We further hold that the Act constitutes a complete and self-contained code governing the determination and enhancement of compensation. The right to seek enhancement is exclusively regulated by the statutory mechanism provided under the Act. In the absence of express legislative authorization, the Courts cannot create a substantive right enabling non-objecting or non-litigating landowners to claim the benefit of enhanced compensation awarded in proceedings to which they were not parties. Any such extension would amount to judicial legislation and would defeat the legislative scheme consciously enacted by Parliament.

74. We are, therefore, persuaded to hold that the majority judgment rendered in *Saddaqt Ali Khan and others v. Collector Land Acquisition and others* (PLD 2010 SC 878), to the extent it extends the benefit of enhanced compensation to landowners who neither invoked the remedy under Section 18 of the Act nor remained parties to the reference proceedings, does not lay down the correct law. The review petitions filed against the said judgment consequently merit acceptance and are hereby allowed. The majority judgment is accordingly reviewed to the above extent, and the dissenting view, being more consistent with the constitutional and statutory scheme governing compulsory acquisition of land, is approved.

75. Consequently, all the connected Civil Appeals are allowed and civil petitions for leave to appeal are converted into appeals and are allowed. The impugned judgments passed by the respective High Courts, whereby enhanced compensation was extended to persons who had accepted the Collector's Award without protest, failed to seek a reference under Section 18 of the Act, or otherwise permitted such persons to claim enhanced

compensation through constitutional, execution or other collateral proceedings, are set aside, being unsustainable in law. The orders passed by the Land Acquisition Collectors and other competent authorities, in accordance with the statutory scheme of the Land Acquisition Act, 1894, are restored. All pending miscellaneous applications shall also stand disposed of.

76. Before parting with the case, we deem it appropriate to observe that while compulsory acquisition of property must always be accompanied by payment of just and lawful compensation, the determination and enforcement of that right must remain within the framework prescribed by the legislature. If a broader statutory remedy extending enhanced compensation to all similarly situated landowners is considered desirable as a matter of public policy, it is for Parliament to provide such a mechanism. Until then, the Courts are bound to administer the law as enacted and not as it may be considered desirable.

CHIEF JUSTICE

I agree with the Hon'ble Chief Justice.

JUDGE

I have appended my additional note.

JUDGE

Announced in Open Court at Islamabad on 20/08/2026.

RajaAhsan/-

Approved for reporting

Additional Note:

Syed Arshad Hussain Shah, J. — While respectfully concurring with the sound, well-reasoned and valuable findings of my learned Lord, the Chief Justice, and appreciating the law laid down to the effect that courts shall remain within four corners of law, I may, with utmost respect, add the following limited observation, which is intended only to address the consequential aspect arising from the judgment and not to detract from, qualify or otherwise affect the reasoning or conclusions recorded therein.

2. The judgment of my learned Lord, in setting aside the impugned judgment to the extent it extends the benefit of enhanced compensation to those landowners who neither invoked the remedy under Section 18 of the Act nor remained parties to the reference proceedings, and in holding that, henceforth, landowners who have neither objected to the acquisition proceedings nor pursued any legal remedy/litigation shall not be entitled to claim enhanced compensation, is, with respect, a considered and principled exposition of the law.

3. However, it is added that the landowners who have already received enhanced compensation pursuant to the judgment rendered in the case of Sadaqat Ali Khan (supra) shall not be called upon to refund or reimburse the amount so received. This observation is confined to the question of recovery of amounts already paid and received in good faith under a judicial determination then holding the field. In this regard, reference may appropriately be made to the judgment reported as PLD 2013 SC 829 (Judges Pension Case), wherein it was, inter alia, held that *‘it is nobody’s case that they have practiced and played any fraud or committed some foul in gaining and procuring the pension, so as to disentitle them to retain such*

gain, on the known principle, that no one should be allowed to hold the premium of his wrong/fraud and/or retain ill gotten gains. Rather to the contrary they have received the monies under the judicial dispensation by the apex Court, which was considered as valid enunciation of law, till the present decision and the pension was paid and received by them in bona fide belief of the entitlement' and that 'enforcing the refund of the amount upon them may cause innumerable predicament for them and may lead to a very pathetic and a ludicrous situation for them.'

4. Needless to mention that the landowners who were not party to, or did not agitate the acquisition proceedings, shall be entitled to avail the benefit of Section 148 CPC, in case they now come forward to join the proceedings in pending cases at any stage.

5. This limited observation, be taken in the context of fairness, bona fide reliance upon a subsisting judicial pronouncement, and avoidance of undue hardship, without in any manner detracting from the ratio, reasoning or conclusions of the main judgment.

Syed Arshad Hussain Shah
Judge

Approved for reporting.