In the Federal Constitutional Court of Pakistan
(Appellate Jurisdiction)

Present:
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

C.P.L.A. No.1807-L of 2018
(On appeal from judgment of the Lahore High Court, Lahore dated 10.05.2018 passed in Writ Petition No.5751 of 2008)

The Co-Operative Model Town Society Ltd.

Petitioner

Versus

Chairman Evacuee Trust Property Board and others

Respondents

For the petitioner:	Mr. Iftikhar Ahmad Mian, ASC
Respondents:	N.R.
Date of hearing:	02.11.2026

Judgment

Syed Arshad Hussain Shah, J – This petition is directed against the judgment dated 10.05.2018, passed by the Lahore High Court, Lahore, in Writ Petition No. 5751 of 2008, whereby the writ petition, instituted to challenge the orders dated 26.03.2005 and 02.04.2008, passed by the Chairman, Evacuee Trust Property Board (hereinafter referred to as the "ETPB"), and the Secretary, Ministry of Minorities Affairs, Government of Pakistan, respectively, was dismissed.

2. Learned counsel for the petitioner vehemently contended that the impugned judgment suffers from patent misreading and non-reading of the material available on record. He submitted that the observations made in paragraph No.5 of the impugned judgment to the effect that, vide order dated 03.06.1981, the Chairman, ETPB, had declared the subject property to be an evacuee trust property and that the said order had neither been assailed before any competent forum nor set aside by any court or authority, and had, therefore, attained finality, are based on an erroneous appreciation of the factual background and misreading of the relevant revenue record. Learned counsel further argued that the High Court failed to take into consideration the material fact that the

Jamabandi for the year 1942-43 records Khasra No.1789 as Ghair Mumkin Gurdwara, in the possession of Gurdwara Parbhandak, whereas the name of the petitioner, namely, Model Town Society, is duly reflected in the ownership column of the same Jamabandi. He maintained that this material entry in the revenue record had a direct bearing upon the controversy but was overlooked by the High Court while rendering the impugned judgment. On the basis of the foregoing submissions, learned counsel contended that the impugned judgment is not sustainable in law and is, therefore, liable to be set aside.

3. Heard learned counsel for the petitioner and, with his able assistance, perused the available record. The factual background of the case dates back to the pre-Partition era. The Co-Operative Model Town Society Ltd. (hereinafter referred to as 'the Society) was registered under the Cooperative Societies Act, 1912. The Society entered into an agreement with the Government of the Punjab on 02.12.1926 for the purchase of 1,632.38 acres of land for a total consideration of Rs.807,452/-, calculated at the rate of Rs.400/- per acre. Pursuant to the said agreement, a sale deed was duly executed and registered on 18.04.1941. The Society provided all requisite municipal services and civic amenities to its members, including the provision of designated areas in each block for the establishment of places of worship for different religious communities residing within the Society. In furtherance of this arrangement, land measuring 35 kanals and 11 marlas, and 178 square feet, bearing Khasra No.1789, was earmarked in Block 'B' for religious purposes, upon which a Gurdwara was established to facilitate the religious worship and practices of the Sikh community. This piece of land is the bone of contention between ETPB and the Society and the subject matter of present proceedings. At the time of Partition, the Society had a total membership of 1,366 persons, out of whom 277 were Muslims, while the remaining members belonged to non-Muslim communities. Following the Partition, all non-Muslim members migrated to India, whereas the Muslim members

continued to reside in Pakistan. Notwithstanding the migration of its non-Muslim members, the Society's affairs and administrative functions continued to be managed by its duly constituted Management Committee, which remained engaged in conducting the day-to-day business and managing the affairs of the Society in accordance with its rules and regulations.

4. In the year 1953, the Society filed a suit for recovery of Rs.401,192/- against the Punjab National Bank. Consequent upon an objection raised by the bank to the effect that the Society was an evacuee concern, the Civil Court referred the matter to the Deputy Custodian Evacuee Property to examine the status of the Society, who declared the Society as evacuee concern vide its order dated 14.3.1960. A revision petition filed against this order under Section 43 of the Act of 1953 was subsequently dismissed by the Custodian of Evacuee Property vide order dated 6.9.1960. However, while dismissing the petition, the Custodian passed the following order:-

> "The effect of the dismissal of this revision petition would be that the Co-operative Model Town Society Limited will be treated as an evacuee and the shares of evacuee members of this society would continue to vest in the Custodian. The assets of the society being evacuee property would also vest in the Custodian. The matter, in my opinion, should not be allowed to rest here and some steps should be taken for carrying on the business of the Society and preventing it from dying un natural death. If nothing is done all the assets of the society would be treated like other property and disposed of as such. This state of affairs is, in my opinion, most undesirable. The society has been doing very useful work and if its assets are disposed of like other state of things should be avoided at all costs and, therefore, my suggestion is that the society should be allowed to function as a legal entity and re-constituted on the same lines and the old society namely, that its members should be allowed to manage its affairs. The shares held by the evacuee shareholders can be transferred to those who want to become its new members and who fulfill the conditions of the old bye-laws, namely, ownership of, at least, one building plot in Model Town. Those new members can replaced [replace] old members and the society, as reconstituted, can continue to function, under the direction of the Custodian. Pending the decision of these matters. I appointed the existing members of the Managing Committee as Managers for carrying on the business of the society under my supervision. They are directed to carry on the normal functions of the society and to rendered to the Custodian monthly accounts of the income and expenditure. I. however, prohibit them from disposing of the plots of land belonging to the society, without the express permission in writing of the Chief Settlement Commissioner."

5. The controversy went up to the Supreme Court, where the Civil Appeal No.7 of 1963 was disposed of as withdrawn vide order dated

1.5.1967 on the basis of settlement between the parties, as, in the meantime, a new Society was registered in the name and style "Cooperative Model Town Society (1962) Ltd. The Registrar Cooperative Societies, West Pakistan vide order dated 22.4.1967 ordered that the assets and liabilities of the Society declared by the Custodian as an evacuee concern alongwith its staff should be transferred to the petitioner.

6. The present round of litigation has arisen on publication of advertisement in Daily Mashriq on 19.8.1982 for auction of some plots from khasra No.1789 comprising 35 kanals 11 marlas and 178 square feet in Block 'B', allocated for Gurdawara. Petitioner filed a reference under section 8 of the Act of 1975 before the Chairman, ETPB, which was rejected vide order dated 17.11.1982. Both the orders dated 3.6.1981 and 17.11.1982, passed by the Chairman, ETPB, were assailed in revision petition under section 17 of the Act of 1975 before the Joint Secretary, Ministry of Religious & Minority Affairs, Government of Pakistan, which was dismissed vide order dated 23.9.1984. This order was challenged before the Lahore High Court in writ petition No.522 of 1985, which was accepted in the following terms vide order dated 31.1.2001:-

> "In view of what has been discussed above, this writ petition accepted with no order as to costs. Respondent No.2 is directed to decide the application of the petitioner on merits with reasons after providing personal hearing to the petitioner in accordance with law as expeditiously as possible without being influenced by the said observations. Parties are directed to appear before respondent No.2 in his office on 8.2.2001."

7. Upon remand, the Chairman, ETPB, once again declared the disputed property to be evacuee trust property vide order dated 26.03.2005. Feeling aggrieved, the petitioner challenged the said order by way of a revision petition before the Secretary, Ministry of Minorities Affairs, Government of Pakistan; however, the revision petition was also dismissed vide order dated 02.04.2008, thereby maintaining the order passed by the Chairman, ETPB. The petitioner, thereafter, assailed both the aforementioned orders before the Lahore High Court through Writ Petition No.5751 of 2008, which was dismissed vide judgment dated

10.05.2018, against which leave to appeal has been sought through the titled petition.

8. The gist of the arguments of learned counsel for the petitioner is that in the Jamabandi for the year 1942-43, name of the Society is reflected in the ownership column, whereas Khasra No.1789 is recorded as Ghair Mumkin Gurdwara in the possession of Gurdwara Parbandhak. And, that the observations of the High Court in paragraph No.5 is erroneous. It is observed that the entry might constitute a relevant piece of historical evidence; however, its evidentiary significance has to be assessed in the context of the entire record and the subsequent proceedings undertaken by the competent authorities. The mere existence of an entry in the ownership column, without examining its legal effect in the light of the subsequent proceedings, cannot, by itself, establish that the impugned orders suffer from misreading or non-reading of evidence. Equally, the description of the land as Ghair Mumkin Gurdwara and its possession by Gurdwara Parbandhak are circumstances which cannot be ignored while examining the controversy. The two entries, therefore, have to be read together and not in isolation. So far as contention of the learned counsel for the petitioner regarding observations of the High Court in paragraph No.5 of the impugned judgment is concerned, suffice it to observe that the said observations are factually correct as the order dated 3.6.1981 was not challenged independently. Rather, in the prayer made in revision petition filed against order dated 17.11.1982, it was mentioned

that "the order dated 3.6.1981 referred to in the order dated 17.11.1982 be also revised suo motu as it is to condemn the petitioner society unheard and affect its property without providing any opportunity to it.".

9. It is a well-settled principle of law that concurrent findings of fact recorded by the courts and forums below ordinarily do not warrant interference by the superior courts. Such findings are entitled to due deference and cannot be disturbed merely on the ground that another view is also possible. In the absence of any such exceptional circumstances, the concurrent findings of fact deserve to be maintained and allowed to attain finality. This principle has also been reiterated by this Court in its recent judgment dated 19.10.2026 rendered in C.P.L.A. Nos.97-L and 938-L of 2018, which reads as under:-

> "It is a well-settled principle of law that concurrent findings of fact recorded by the forums below are not ordinarily to be interfered with by the superior courts merely because another view of the matter may also be possible. Such findings carry due weight and should not be disturbed unless they are shown to be perverse, arbitrary, based on misreading or non-reading of material evidence, or suffer from patent illegality, material procedural irregularity or jurisdictional defect."

10. In view of the foregoing discussion, facts and circumstances of the case, we are of the considered opinion that the petitioner has failed to make out any case warranting interference by this Court. The impugned judgment does not suffer from any illegality, infirmity or jurisdictional defect calling for interference in the exercise of this Court's appellate jurisdiction. Consequently, the instant petition, being devoid of merit, is dismissed and leave to appeal is declined.

Judge

Judge

Islamabad
2nd November, 2026
Approved for reporting
Riaz