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

PRESENT:
Justice Ali Baqar Najafi
Justice Rozi Khan Barrech
Justice Syed Arshad Hussain Shah

CPLA No. 1077-L of 2018
[against the impugned judgment dated 07.03.2018 passed by Lahore High Court, Lahore passed in W.P.Nos.53/R & 40/R of 2010]

Hameed Naseem & another .... Petitioner (s)

Versus

Chief Settlement Commissioner, Lahore etc. .... Respondent (s)

For the Petitioner (s) : Mr. Arshad Jahangir Jhoja, ASC

For the Respondent(s) : N.R.

Date of Hearing : 04.11.2026

JUDGMENT

Ali Baqar Najafi, J.- Through this Civil Petition for Leave to Appeal **[CPLA]** under Article 185(3) now 175-F(1)(c) of the Constitution of the Islamic Republic of Pakistan, 1973, leave to appeal is sought against the impugned judgment dated 07.03.2018 passed by the High Court whereby two writ petitions arising out of an order dated 31.12.2009 passed by the Member (Judicial-V) Board of Revenue/Chief Settlement Commissioner/Notified Officer, Punjab **[CSC, L],** were dismissed.

2. **Brief facts** giving rise to the filing of this petition are that the land measuring 706-Kanalas 16 marlas was allotted to one Wajid Ali Khan under RL-II No.385. However, consequent to *Mukhbari* application filed on 29.03.1974 under Sections 10 & 11 of the Displaced Persons (Land Settlement) Act, 1958 **[the Act, 1958]** the said allotment was cancelled on 12.09.1978 and the land was transferred to the said *Mukhbar* by **CSC,L.** However, the petitioners/purchasers of the land from said Wajid Ali Khan filed

W.P.Nos.590-R of 1979 and 559-R of 1979 which were accepted on 30.01.1985 and the matter was remanded to the **CSC-L** who vide order dated 21.05.1991 again declared the allotment in favour of Wajid Ali Khan as bogus by also mentioning that the learned counsel representing Wajid Ali Khan had admitted the bogus status of said allotment. The petitioners/vendees yet challenged the order of the **CSC** in W.P.No.108-R of 1995 which was accepted on 05.08.1998 and the matter was again remanded but the **CSC-L** dismissed the proceedings for non-prosecution on 27.05.2000 and the restoration application was also dismissed on 29.06.2000 which orders were assailed in W.P.No.150-R of 2000 and the same was accepted and the matter was remanded for the third time. Once again the **CSC,L** declared the allotment as bogus vide order dated 23.07.2003 but the order assailed in W.P.No.123-R of 2003 was set aside on 27.02.2004 and the matter was again remanded for the fourth time. The Chief Settlement Commissioner, however, again held not only the allotment of Wajid Ali as bogus but also the application of the Mukhbar was declared as fraudulent, therefore, had ordered for resumption of land in favour of the state, which order was assailed before the High Court in the writ petition which was dismissed, hence this CPLA.

3. After hearing the learned counsel for the petitioner, it is straightaway observed that in the impugned order, the High Court had held that the petitioner was not entitled to the benefit of section of section 41 of Transfer of Property Act, 1882 as their allotment has already been cancelled on the basis of fraud. It was also held that since the entitlement of the petitioner was based upon the entitlement of Wajid Ali Khan, therefore, they all have to sail or swim together on the basis of their legal status.[1] Even otherwise a claim arising from a fraudulent transaction is sufficient to vitiate most solemn proceedings.[2]

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[1] Muhammad Ashraf Butt and others Versus Muhammad Asif Bhatti and others [PLD 2011 Supreme Court 905]
[2] "Khair Din Vs. Mst. Salman and others" (PLD 2002 SC 677)

4. The benefit under Section 41 of the Transfer of Property Act, 1882 is not available to the petitioner, as he is not innocent/*bona fide* purchaser for a value/consideration from the allottee without notice. The transferor was not the ostensible owner and the transfer was not made in good faith by taking reasonable care by the petitioner being the transferee to ascertain the power of the transferor to transfer his title. The entitlement of Wajid Ali Khan was declared bogus much before the transaction in favour of the petitioner. The petitioners/vendees ought to have an adequate notice of the nature and status of the unverified and fraudulent entitlement of the vendor. Therefore, any laxity on his part cannot be construed as innocent omission.

5. For what has been discussed above, we have no doubt in our mind that the view given by the High Court is not exceptional and therefore, needs no interference. This petition is found meritless and is therefore **dismissed** and leave is refused.

JUDGE

JUDGE

Islamabad
04.11.2026
NOT APPROVED FOR REPORTING
A.Qadoos*

JUDGE