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

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

C.P.L.A. No.1356-L of 2018
[against the impugned order dated 05.03.2018 passed by the Lahore High Court, Lahore in Writ Petition No.38433 of 2017]

Lahore Development Authority through its Director General .... Petitioner (s)

Versus

Farooq Minhas & others .... Respondent

For the Petitioner(s) : Ch. Waseem Arif, ASC

For the Respondent(s) : Mr. Javed Iqbal Bhatti, ASC
[for respondent No.3.]

Date of Hearing : 05.11.2026

JUDGMENT

ALI BAQAR NAJAFI, J. Through this Civil Petition for Leave to Appeal **[CPLA]** under Article 185(3) now 175-F(1)(c) of Constitution of the Islamic Republic of Pakistan, 1973 [**the Constitution, 1973**] leave to appeal is sought against the impugned order dated 05.03.2018 passed by the Lahore High Court, Lahore [**High Court**] whereby the Writ Petition filed by the petitioner was concurrently dismissed while upholding the order of the executing court dated 04.06.2015 as well as the order of the revisional court dated 22.07.2016.

2. **Brief facts** giving rise to the filing of instant **CPLA** are that a consent decree was passed in favour of the respondent No.1 on 07.05.2005 whereafter an execution petition was filed in which the petitioner had taken an objection that 14-Marlas plot falling in Khasra Nos.1317, 1318, 1319, 1320 & 1323, plot No.45-A-I,

Gulberg-III was an evacuee property and was acquired by Lahore Development Authority **[LDA]** for development of Gulberg-III Scheme; the predecessor-in-interest namely Lahore Improvement Trust **[LIT]** and now the petitioner/LDA had paid the award amount to the custodian of evacuee property and its physical possession was also taken over on 24.12.1955; that the subject property falls within the boundaries specified in the notification dated 06.08.1953; that the award announced by the Land Acquisition Collector on 30.10.1962 had been finalized; that no exemption/ adjustment has been granted to the predecessor of the respondent No.1, namely, Nawab Mirza and Mst. Maqsooda Begum; that said Mst. Maqsooda Begum acquired property through sale deed dated 07.03.1976 from Nawab Mirza son of Agha Muhammad Hussain, who claimed property on the basis of P.T.D. No.213 dated 08.06.1966 issued by Deputy Settlement Commissioner **[DSC]** four years after the award dated 30.10.1962, hence was against the policy. However, this stance was continuously rejected at all *fora* i.e. executing court, revisional court as well as High Court, hence this petition.

3. **Arguments heard. File perused.**

4. **After hearing** learned counsel for the parties, it is straightaway observed that this petition is directed against the concurrent findings recorded by the High Court, revisional court as well as executing court, whereby, various objections raised by the petitioner in the execution of the decree dated 07.05.2005, were rejected. It is also clear that the said judgment and decree had attained finality, since, it was a consent decree passed on the basis of "*No Objection*" by the LDA. As per record, a declaration was also granted in favour of respondent No.4, legal heirs of Mst. Maqsooda Begum wife of Abdul Majeed Minhas. We have noticed that frivolous objections were raised under Order XXI CPC which were also beyond the scope of an executing court and have already been dealt with by the High Court while deciding Writ Petition

No.540-R of 1981 vide order dated 15.04.1998, and it has been held that plea of sale of evacuee portion of the land to the **LIT** by the Central Government vide notification dated 16.05.1951 in terms of Section 12 of the Pakistan (Administration of the Evacuee Property) Ordinance, 1949 was not found correct because there was no proof to support this fact and that no amount/price was paid to the **LIT** or to the custodian and that decision taken by the Vigilance Commission dated 17.08.1980 to the extent that if the transfer orders have been duly verified it shall be honoured by the LDA and only development charges will be recovered by the LDA from the transferees, had been admitted by and acted upon when the **D.G, LDA** had already issued necessary directions. It was further concluded in the said judgment that LDA shall estopped from claiming ownership of the disputed land which had already been formed part of Gulberg-III, Lahore Scheme. However, despite a misconceived petition the court had restrained from imposing the costs to the **LDA**. Paragraph No.11 of order dated 15.04.1998 passed in Writ Petition No.540-R of 1981 is reproduced as under:-

> "11. Coming to the plea about sale of the evacuee portion of "disputed land" to the petitioner by the Central Government vide notification dated 16.5.1951 in terms of Section 12 of the Ordinance No.XV of 1949, the same also lacks force for number of reasons; there is no proof on record, and it was even not convinced before me during the course of arguments, that any amount was paid as price of the said property by L.I.T. to the Central Government or Custodian; (ii) the fact that no such sale took place was affirmed by LDA by its conduct in accepting the decisions, taken in the meeting of vigilance commission held on 17.8.1980, to the effect that transfer orders issued by the Settlement Department, if duly verified would be honoured by L.D.A. and only development charges would be recoverable (by the

> petitioner) from the transferees. See Annexure R/4 of written statement of respondent No.4. This decision was acted upon by the then D.G L.D.A who proceed to issue necessary directions in this behalf (vide Annex. R/5).
>
> The petitioner is thus completely estopped from turning around at this late stage of the day and claim ownership of the disputed land."

It is pertinent to mention here that father of respondent No.1 namely, Abdul Majeed was party in the said Writ Petition as respondent No.4.

5. The file also reflects that the judgment dated 15.04.1998 was assailed by LDA before the Supreme Court of Pakistan in Civil Petitions No.1057-L and 1097-L of 1998 which was dismissed by a Two Member Bench of the said Court on 17.07.2001 by holding that petitioner/LDA was not vested with any ownership of land since it had already been transferred by the Settlement Department to the occupants and that the findings recorded by the Single Judge of the High Court were unexceptionable and did not require any interference.

6. The file further reveals that the respondent No.1 is the real brother of Shaheed Rashid Minhas [Nishan-e-Haider] whose family is facing the agony perpetuates by the **LDA** who dragged them in the Courts in frivolous litigation. This is the reason why the learned Single Judge in the impugned order as well as the High Court in Writ Petition No.540-R of 1981 in order dated 15.04.1998 had exercised maximum restrain from imposing the costs while assessing the conduct of **LDA** which is obviously not appreciated by us. We therefore, deem it appropriate that instead of imposing costs, we direct the Director General, Lahore Development Authority **[DG, LDA]** to make it sure that **LDA** must not deplete its resources as well as public money in frivolous, vexatious and obnoxious litigation against the individuals.

7. In view of the foregoing reasons, this petition is found meritless and is **dismissed** and leave is **refused**. Copy of this order

shall be transmitted to the Director General, Lahore Development Authority **[DG, LDA]** for its compliance and information.

JUDGE

JUDGE

JUDGE

Islamabad
05.11.2026
'Not Approved for Reporting'
Adeel