

THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

Present

Justice Syed Hasan Azhar Rizvi
Justice Aamer Farooq
Justice Syed Arshad Hussain Shah

F.C.P.L.A. No. 423/2025

(Against the judgment dated 13.10.2025, passed by the Lahore High Court, Lahore in W.P. No. 215416/2018)

Muhammad Ashraf Rana & othersPetitioner(s)

Versus

Rehmat Ali & othersRespondent(s)

For the Petitioner(s) : Malik Amjad Pervaiz, Sr. ASC

For the Respondent(s) : Mr. Asif Mahmood Cheema, ASC
Mr. Khalid Masood Ghani, Asst. AGP

Date of Hearing : 17.07.2026

J U D G M E N T

Syed Hasan Azhar Rizvi, J.- Through this petition under Article 175F(1)(c) of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners seek leave to appeal against the judgment dated 13.10.2025 ('**impugned judgment**') passed by the Lahore High Court, Lahore ('**High Court**'), in a writ petition filed by Rehmat Ali, the respondent No. 1 ('**private respondent**'). By the impugned judgment, the High Court set aside the order dated 15.03.2018 passed by the Member (Judicial-VII), Board of Revenue, Punjab, and restored the orders dated 11.08.2015 and 08.02.2016 passed by the District Collector, Sialkot, and the Additional Commissioner (Revenue), Gujranwala Division, respectively.

2. The present controversy concerns land measuring 15 *marlas*, formerly comprised in *Khewat* No. 126, *Khatooni* No. 230

and *Khasra* No. 342, situated in Mauza Lappaywali, Tehsil Pasrur, District Sialkot ('**disputed land**'). In the *Missal Haqiat* for 1954-55, the disputed land formed part of *Shamlat Deh Hasb-e-Hisas Paimana Malkiat* and was described as *Ghair Mumkin Garha Khad*. The *Jamabandi* for 1958-59 carried a similar description. During the settlement operations of 1971-72, the old *Khasra* No. 342 was renumbered as *Khasra* No. 369, and the nature of the land was recorded as *Ghair Mumkin Kulli*. This entry continued in successive revenue records, including the record for 2007-08. On 19.03.2015, the private respondent applied to the District Collector for restoration of the pre-settlement description. After obtaining reports from the subordinate revenue staff, the District Collector, by order dated 11.08.2015, directed that *Ghair Mumkin Kulli* be replaced with *Ghair Mumkin Garha Khad*. The petitioners, whose predecessors were shown in the cultivation column and who claimed possession of the disputed land, were neither impleaded nor heard before the passing of that order.

3. Being aggrieved, the petitioners challenged that order before the Additional Commissioner (Revenue), Gujranwala Division, who dismissed their appeal on 08.02.2016. He treated the original entry as relating to land reserved for common village use and held that it could be restored despite the passage of time. The petitioners then invoked the revisional jurisdiction of the Board of Revenue under section 164 of the Punjab Land Revenue Act, 1967 ('**Act of 1967**'). By order dated 15.03.2018, the Member, Board of Revenue, allowed their revision. He found that the disputed entry originated in the settlement operations of 1971-72 and had remained undisturbed for approximately forty-four years. In his view, the District Collector could not substitute the pre-settlement description through summary proceedings without determining the legal effect of the settlement record. He also found that the original as well as the appellate orders suffered from non-application of mind and consequently set aside both orders. Being dissatisfied, the

private respondent assailed the revisional order before the High Court by filing a writ petition under Article 199 of the Constitution. The High Court allowed the writ petition and set aside the revisional order passed by the Member Board of Revenue and restored the two earlier orders of the District Collector and that of the Additional Commissioner. Hence, this petition.

4. The learned counsel for the petitioners contended that the High Court exceeded the permissible scope of constitutional review by substituting its own view for that of the final revenue authority. The settlement entry could not have been reversed after more than four decades through a miscellaneous application and on the basis of summary reports of the filed staff. The petitioners have been in possession of the disputed land since the time of their forefathers; however, the private respondent filed an application for correction of the revenue record without impleading them as parties. The disputed land, being constructed property within the *lal-lakeer*, fell outside the jurisdiction of the revenue authorities. Previously, some of the co-owners had instituted civil suits and other proceedings raising the same grievance, which were dismissed while recognizing the petitioners' lawful possession. Further, long-standing revenue entries could not be altered by the revenue authorities in such a manner, as the determination of disputed questions of title and possession falls within the domain of the Civil Court. He finally prayed that the impugned judgment of the High Court be set aside.

5. Conversely, the learned counsel for the private respondent supported the impugned judgment and contended that the original revenue record conclusively established that the disputed land had been reserved as a village pit, recorded as *Ghair Mumkin Garha Khad*, for common use of the village community. According to him, during the subsequent settlement, the nature and description of the land were unlawfully changed from *Ghair Mumkin*

Garha Khad to Ghair Mumkin Kulli, without any order or authorization of the competent authority. He maintained that an entry made without lawful authority neither creates nor confers any right upon its beneficiary, nor can such an illegality acquire legitimacy merely by the passage of time. As regards the previous civil litigation relied upon by the petitioners, the learned counsel submitted that those proceedings were collusively instituted at the behest of, or in connivance with, the petitioners in an attempt to lend legitimacy to their unlawful possession. In any event, none of those proceedings culminated in an adjudication on merits, as they were ultimately withdrawn. Therefore, no right, much less any vested right, could be claimed by the petitioners on the basis thereof, nor could such proceedings operate as a bar to the correction of an unlawful revenue entry.

6. The learned Additional Advocate General, Punjab, filed written submissions on behalf of respondents Nos. 2–4 through C.M.A. No. 2008/2026 with the assertions that the High Court had committed a patent error of law in reversing the well-reasoned order passed by the Member, Board of Revenue. Further asserted that, under the applicable revenue laws, the revenue hierarchy had no jurisdiction to correct or vary long-standing entries in the revenue record, particularly where such correction involved disputed questions of title and possession. The remedy available to a person aggrieved by an entry in a periodical record or *Jamabandi* was to institute a suit for declaration under Section 53 of the Act of 1967 before the competent Civil Court. Finally, therefore, prayed that the impugned judgment of the High Court be set aside and the order passed by the Member, Board of Revenue, be restored.

7. We have heard the learned counsel for the parties and, with their able assistance, examined the record. The record reveals that the entry sought to be displaced by the private respondent was not casually introduced into an annual record as a result of a copying error. Rather, it originated during the settlement operations

conducted in 1971–72, when the old *Khasra* number was also changed, and was thereafter consistently carried forward for approximately forty-four years. Whether the alteration from *Ghair Mumkin Garha Khad* to *Ghair Mumkin Kulli* was unauthorised, whether it reflected the physical condition or permissible use of the disputed land at the time of settlement, and what legal consequences flowed from the subsequent consistent entries and possession were matters requiring a proper inquiry. This important aspect of the matter leads us to *first* clarify that the controversy before us is not whether land reserved for common use deserves protection against unlawful occupation or encroachment. Undoubtedly, it does. The real question is whether, in the peculiar facts and circumstances of the present case, the District Collector was legally competent to treat a settlement entry that had remained undisturbed for a long time as a mere clerical or arithmetical mistake, or an error arising from an accidental slip or omission, and to reverse it through summary correction proceedings purportedly under Section 166 of the Act of 1967, even though the said provision was not expressly invoked in the order.

8. The above Section 166 confers a narrowly circumscribed power to correct clerical or arithmetical mistakes in a decree or order, or errors arising therein from an accidental slip or omission. The provision is corrective, not adjudicatory in character. It does not authorise the reopening of concluded settlement proceedings or the determination of disputed proprietary or possessory rights under the guise of correcting the record. The distinction between a clerical correction and a substantive adjudication depends not upon the label assigned to the exercise, but upon the nature of the alleged error, the effect of its correction and the inquiry required to establish it. An alteration, therefore, does not assume a clerical character merely because it is described as a 'correction'. Viewed in this perspective, the mere fact that an earlier revenue record contained a different description of the

disputed land did not, *by itself*, establish that the subsequent settlement entry resulted from a clerical or arithmetical mistake or an accidental slip or omission. To displace such an entry, it was first necessary to determine how and in what circumstances the alteration had occurred, whether it formed part of a conscious settlement exercise or resulted from an inadvertent error, and what effect its reversal would have upon the rights and possession of the persons concerned. These questions could not be answered by a mere comparison of the earlier and subsequent revenue entries and necessarily required an inquiry extending beyond the limited corrective jurisdiction contemplated by Section 166 of the Act of 1967. Reference in this regard may be made to Faiz Ullah Khan and others v. Member, Board of Revenue, Punjab, Lahore and others (**PLD 2026 FCC 97**), wherein this Court already explained that the power under Section 166 *supra* is not unbridled and cannot be exercised to resolve factual controversies or adversely affect vested rights without due adjudication. The District Collector thus exceeded that limited power.

9. It is further added that the revenue entries do not, by themselves, confer title, though they carry a rebuttable presumption of correctness. The long-standing entries, particularly those forming part of the record-of-rights, cannot be displaced merely on the basis of oral assertions; rather, the presumption attached to such entries must be rebutted by sufficient and convincing evidence, as rightly observed by the Supreme Court of Pakistan in Inayat Khan and others v. Allah Ditta (**2007 SCMR 655**), Mazloom Hussain v. Abid Hussain and others (**PLD 2008 SC 571**) and Mehr Khan and others v. Mst. Basaee and others (**PLD 2008 SC 612**). Thus, where a challenge to an entry involves competing proprietary or possessory claims, such claims require adjudication by a competent Civil Court. As regards the argument that Section 172(2)(vi) of the Act of 1967 expressly bars the jurisdiction of the Civil Court in matters concerning the correction of an entry in the above record, the said

provision must be understood in the light of the distinction between correction of the revenue record and adjudication of substantive rights. The statutory bar contained in the above provision applies to corrections falling within the exclusive competence of the revenue authorities; it cannot be extended to the adjudication of disputed rights merely because such adjudication may entail a consequential alteration in the revenue record. This view finds support in Dildar Ahmad and others v. Member (Judicial-III), Board of Revenue, Punjab, Lahore and another (**2013 SCMR 906**), wherein the Supreme Court of Pakistan, while considering the legal effect of Section 172(2)(vi) of the Act of 1967, observed that the exclusive authority of the revenue authorities to correct entries extends only to those entries which are not controversial in nature.

10. Quite apart from the above jurisdictional limitation, the denial of an opportunity of hearing to the petitioners constituted an independent infirmity in the proceedings. Their recorded possession and existing constructions were directly exposed to adverse consequences, yet they were neither impleaded nor afforded an opportunity to contest the proposed alteration. An entry carrying such consequences could not lawfully be altered behind their backs. The order of the District Collector, therefore, was not a mere correction of the revenue record; rather, in substance, it amounted to a determination of contested rights without lawful authority or due process. The subsequent filing of an appeal by the present petitioners did not cure this defect. The appellate authority neither undertook a fresh factual inquiry nor afforded them an effective opportunity to contest the reports relied upon or to adduce evidence concerning the settlement proceedings. Instead, it merely endorsed the conclusion reached by the District Collector. An appellate affirmance that leaves the underlying denial of a fair hearing unaddressed cannot cure the original procedural defect. The Additional Commissioner, therefore, erred in sustaining the order

without addressing either this procedural deficiency or the limits of the District Collector's jurisdiction.

11. The High Court, despite initially acknowledging the aforesaid legal position concerning long-standing revenue entries, proceeded on the premise that, since the disputed land was described as *Shamlat Deh* and had previously been recorded as *Ghair Mumkin Garha Khad*, it constituted public property and that the revenue authorities were, therefore, bound to rectify the wrong as soon as it came to their notice. With respect, this reasoning, however, proceeded on an assumption that itself required determination. The description of the proprietary body as *Shamlat Deh Hasb-e-Hisas Paimana Malkiat* did not, *by itself*, establish either that the disputed land vested absolutely in the State or another public authority, or that every person found in possession thereof was necessarily an encroacher. Rights in *Shamlat Deh* fall to be determined with reference to the *Wajib-ul-Arz*, the relevant revenue record, the nature and purpose for which the land was reserved, the shares of the village proprietors and the applicable law. More importantly, the character of the land as *Shamlat Deh* and the legality of the entry made during the settlement operations were distinct questions. Even if the land retained its communal character, it did not necessarily follow that the alteration of its description from *Ghair Mumkin Garha Khad* to *Ghair Mumkin Kulli* during the settlement of 1971–72 was a clerical mistake capable of summary correction after approximately forty-four years. Nor did such character, without further adjudication, establish that the possession of the petitioners or the constructions raised thereon were unlawful.

12. These matters involved disputed questions regarding the nature and effect of the settlement entry, the rights of the proprietary body, the character of the petitioners' possession and their entitlement, *if any*, in the disputed land, all of which required determination on the basis of relevant evidence by a forum

competent to adjudicate them. The High Court, therefore, travelled beyond the real controversy before it, namely, whether a long-standing settlement entry could lawfully be displaced through summary correction proceedings in the circumstances of the case. In treating the land as public property and the petitioners, in effect, as encroachers, it converted an inquiry into the legality and jurisdictional basis of the correction proceedings into a determination of substantive rights that had never been adjudicated by a competent forum. The obligation of the State and its functionaries to protect communal property from unlawful occupation is unquestionable; however, that obligation cannot dispense with the requirements of lawful authority, relevant evidence and due process necessary to first determine whether the occupation complained of is, in fact, unlawful.

13. The earlier civil proceedings referred to by the parties do not alter this conclusion. The material on record indicates that some of those proceedings were withdrawn, while others did not culminate in a final adjudication on the merits. The resulting orders neither established the private respondent's claim nor vested the District Collector with jurisdiction otherwise unavailable to him. Rather, the recourse to civil proceedings further established that the controversy involved competing claims requiring adjudication and could not be reduced to the correction of an obvious clerical error or mistake. The Member, Board of Revenue, exercising revisional jurisdiction under Section 164 of the Act of 1967, was competent to examine the legality and propriety of the orders passed by the subordinate revenue authorities. For the reasons discussed above, he rightly set them aside. His order disclosed neither a jurisdictional defect nor perversity warranting interference under Article 199 of the Constitution. The High Court, however, reassessed the merits as though exercising appellate jurisdiction and substituted its own conclusions concerning the character of the land and the legality of the petitioners' possession. It identified no legally sustainable

ground for disturbing the revisional order. Its interference consequently cannot be sustained.

14. We clarify that neither the revisional order nor this judgment confers title upon the petitioners, legitimises any encroachment or prevents a competent authority or an aggrieved person from pursuing an appropriate remedy in accordance with law. Questions regarding title, possession, the petitioners' shares or rights in the *Shamlat Deh* and the permissibility of the constructions, if raised before a competent forum, shall be determined independently on the pleadings and evidence, after affording all affected parties an opportunity of hearing. Our decision is confined to the legality of the summary correction made in these proceedings.

15. For these reasons, by our short order dated 17.07.2026, we converted the petition into an appeal and allowed it. Resultantly, the judgment dated 13.10.2025 passed by the Lahore High Court, Lahore, in Writ Petition No. 215416 of 2018 is set aside, and the order dated 15.03.2018 passed by the Member (Judicial-VII), Board of Revenue, Punjab, is restored. The parties are left to bear their own costs.

Judge

Judge

Judge

Islamabad, the

17th July, 2026

APPROVED FOR REPORTING

*M Farhan/**