

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Yahya Afridi, CJ
Mr. Justice Jamal Khan Mandokhail

Civil Petition No. 624 of 2023

(Against the order dated 15.12.2022 of the Lahore High Court, Multan Bench, Multan passed in Civil Revision No. 140/2019)

Muhammad Iftikhar Shoukat

...Petitioner(s)

Versus

Haji Muhammad Hayat (deceased) through LRs and others

...Respondent(s)

For the Petitioner(s): Mr. Kausar Iqbal Bhatti, AOR

For the Respondent(s): Not represented

Date of Hearing: 10.08.2026

ORDER

YAHYA AFRIDI, CJ.- The petitioner assails the order dated 15.12.2022 passed by the learned Lahore High Court (the “**High Court**”), whereby his revision petition challenging the judgment dated 16.01.2019 passed by the learned Appellate Court, remanding the suit to the learned Trial Court, was dismissed. The learned Appellate Court had set aside the judgment of the learned Trial Court, which had dismissed the respondent’s suit for non-production of evidence, and remanded the matter with a direction to provide the respondent one fair opportunity to produce his evidence. In doing so, the learned Appellate Court noted that the suit had been dismissed within approximately two months and ten days of its institution, despite the intervening summer vacations, and observed that matters ought, as far as possible, to be decided on their merits. The High Court, upon examining the matter, found that the

discretion exercised by the learned Appellate Court did not suffer from any jurisdictional defect or material irregularity and, accordingly, declined to interfere in the exercise of its revisional jurisdiction.

2. The jurisdiction of the High Court under section 115 of the Code of Civil Procedure, 1908, is supervisory and limited. It is not intended to substitute the High Court's own view for that of the subordinate Court merely because another view may be possible. Interference is warranted only where the subordinate Court has exercised a jurisdiction not vested in it by law, failed to exercise a jurisdiction so vested, or, in the exercise of its jurisdiction, acted illegally or with material irregularity. In the present case, the learned Appellate Court exercised its appellate jurisdiction upon consideration of the circumstances in which the suit had been dismissed and, in the interest of deciding the matter on merits, afforded the respondent one fair opportunity to produce his evidence. The learned High Court, therefore, rightly found no jurisdictional defect or material irregularity warranting interference in its revisional jurisdiction.

3. The jurisdiction of this Court under Article 185(3) of the Constitution is, likewise, not an ordinary appellate jurisdiction. In a petition for leave to appeal, interference is warranted only where the impugned judgment or order suffers from a patent error of law or jurisdiction, is based on a misreading or non-reading of material evidence, proceeds upon an erroneous legal principle, or otherwise occasions a substantial miscarriage of justice. The present case discloses no such infirmity. The order of remand merely restores to the respondent one fair opportunity to produce his evidence and

enables the suit to be adjudicated on its merits; nor has the petitioner demonstrated any jurisdictional defect, material irregularity or failure of justice in the exercise of such discretion by the learned Appellate Court. The learned High Court duly examined the matter within the scope of its revisional jurisdiction and rightly declined to interfere. No valid ground or circumstance warranting interference by this Court has been shown. The petition is, therefore, found to be devoid of merit.

4. It is pertinent to note that, as the proceedings pursuant to the remand have remained pending for several years, we called for a report regarding their present status. The report submitted by the learned Duty Civil Judge, 1st Class, Lodhran, states that the suit is presently pending before the learned Senior Civil Judge (Civil Division), Lodhran, and is fixed for arguments on the applications for framing of additional issues in terms of the amended plaint and for framing of issues in respect of preliminary objections taken in the written statement, with last opportunity for 16.09.2026. It is thus evident that, despite the remand order was passed approximately eight years ago and was upheld by the High Court almost four years ago, yet the suit has not reached final adjudication. There is no material before us indicating that the learned Trial Court has been restrained by any order of a competent Court from proceeding with the matter.

5. Inordinate delay in the conclusion of proceedings is, in itself, a matter of serious concern. However, it assumes particular significance where no stay order has been granted by a competent Court. A stay order constitutes a judicial restraint upon the progress of proceedings and can operate only by virtue of an order passed by

a Court competent to grant such relief. The mere pendency of proceedings before a higher Court concerning the matter does not, in the absence of an express stay order, justify withholding or delaying proceedings before the Trial Court seized of the matter.¹ Where proceedings nevertheless remain pending for years without any such judicial restraint, the resultant delay may, in practical terms, have the effect of keeping the proceedings in abeyance, without there having been any judicial determination by the higher Court that they should be so kept.

6. The present case illustrates this concern. The remand was ordered approximately eight years ago, and there is nothing on record to show that the proceedings were ever stayed or otherwise restrained by any competent Court. Yet, despite the proceedings having remained pending before the learned Trial Court throughout this period, the dispute has not been finally adjudicated. The prolonged delay has thus, in practical terms, had an effect akin to keeping the proceedings in abeyance, without any judicial order directing that they be so kept. Such prolonged pendency, extending over approximately eight years without any apparent judicial restraint accounting for it, is plainly excessive. Proceedings cannot be permitted to remain pending for such an extended period without reaching a conclusion.

7. In light of the foregoing, we emphasise that, where a matter is remanded, the Court to which the matter is remanded should not treat the proceedings as a fresh case, but should proceed with them in accordance with the terms and scope of the remand order and

¹ *Chief Land Commissioner, Punjab vs. Administrator Auqaf Department, Bahawalpur* (2025 SCMR 2078)

conclude them within the time prescribed by the higher Court remanding the matter or, where no such time is prescribed, within a reasonable time, without granting unnecessary adjournments. It is essential that remanded cases are concluded expeditiously so that remand orders do not become a source of unnecessary prolongation or further pendency of litigation.

8. As regards the present matter, the learned Trial Court is directed to conclude the remanded proceedings within two months of the date of receipt of this order, excluding the period of summer vacation, strictly in accordance with law and without granting unnecessary adjournments. It is further clarified that nothing contained in this order shall be construed as prejudicing the rights of either party, which shall remain open to be adjudicated upon by the learned Trial Court in accordance with law.

9. Accordingly, this petition is dismissed with the above direction to the learned Trial Court.

10. A copy of this order shall be sent to the Registrars of all the High Courts for placing it before the Hon'ble Chief Justices of the respective High Courts, for issuance of appropriate directions to the Courts below for expeditious disposal of remanded cases.

Chief Justice

Judge

Islamabad, the
10th of August, 2026
Approved for reporting.
Waqas Naseer