

FCC: Special Courts Gain Case-Specific Jurisdiction Over Transferred Civil Suits

The Federal Constitutional Court held that Section 12A lets a Special Court decide a validly transferred civil suit with the transferor court's powers, without changing its institutional identity.

Federal Constitutional Court of Pakistan judgment analysis
Published 19 September 2026 | Shahbaz Shah, Advocate High Court

Case: F.C.P.L.A. No. 810 of 2026

Court and date: Federal Constitutional Court of Pakistan | 21 August 2026

Bench: Justice Syed Hasan Azhar Rizvi and Justice Muhammad Karim Khan Agha

Result: Leave refused; transfer upheld; High Court reasoning clarified

The ruling in one sentence

The Federal Constitutional Court of Pakistan has held that a Special Court or Tribunal receiving a civil case through a valid transfer under Section 12A of the West Pakistan Civil Courts Ordinance, 1962 acquires all powers and jurisdiction of the transferor court for that particular case, even where the dispute falls outside its ordinary parent statute, but the transfer does not convert the special forum into an ordinary civil court or enlarge its general jurisdiction.

In *Dr. Azhar Khan Jadoon v Registrar, Peshawar High Court and others*, F.C.P.L.A. No. 810 of 2026, the Court refused leave and upheld the transfer of an ordinary civil suit from an Additional District Judge to the Consumer Court, Abbottabad. It nevertheless corrected important parts of the Peshawar High Court's reasoning concerning legal fiction, the institutional identity of a Special Court and the rank of its presiding officer.

How the dispute reached the Federal Constitutional Court

Dr. Azhar Khan Jadoon is President of the Professional Education and Promotion Society, which runs the Women Medical and Dental Colleges at Murree Road, Abbottabad. Three pro forma respondents instituted a suit for declaration, permanent and mandatory injunction and rendition of accounts. The dispute primarily concerned their alleged exclusion from the Society's executive and general bodies.

The suit was pending before the Additional District Judge-II, Abbottabad. Dr. Jadoon had filed his written statement, and evidence of several plaintiffs' witnesses had already been recorded.

During those proceedings, the Peshawar High Court issued Notification No. 324-J dated 8 September 2025 under Section 12A of the Ordinance of 1962. The notification transferred certain cases pending before District Judges and Additional District Judges to Special Courts, including the suit against Dr. Jadoon, which went to the Consumer Court, Abbottabad.

Dr. Jadoon asked the Consumer Court to return the suit to the ordinary civil court. On 18 December 2025, the Consumer Court rejected the application, reasoning that it could not reverse a transfer ordered by the High Court. His constitutional petition against the notification and order was dismissed by the Peshawar High Court on 21 February 2026. He then sought leave before the Federal Constitutional Court under Article 175F(1)(c) of the Constitution.

The petitioner's jurisdictional objection

The petitioner relied on a settled general principle: a Special Court is a creature of statute and ordinarily cannot exercise powers beyond those conferred by its parent enactment. Because the underlying dispute concerned the internal management of a society rather than a consumer transaction, he argued that the Consumer Court established under the Khyber Pakhtunkhwa Consumers Protection Act, 1997 lacked subject-matter jurisdiction.

He further argued that Section 12A supplied only a procedural mechanism for moving cases. On that interpretation, it did not substantively enlarge the receiving court's jurisdiction. An ordinary civil suit could therefore be physically transferred to a Consumer Court, but that court would remain legally incapable of deciding it.

The Federal Constitutional Court accepted the general proposition about the limited jurisdiction of special forums but held that it did not answer the actual question. The decisive issue was whether a competent legislature could confer additional jurisdiction on an existing Special Court through a separate enactment. The Court held that it could, and that Section 12A did exactly that.

What Section 12A authorizes

Section 12A was inserted into the West Pakistan Civil Courts Ordinance, 1962 by the West Pakistan Civil Courts (Amendment) Act, 2025. Subsection (1) begins with a non obstante clause and permits the High Court, under intimation to the Government and where considered expedient in the interest of justice, to transfer any case from a District Judge or Additional District Judge to a Special Court or Tribunal, or from one special forum to another.

Subsection (2) transfers connected cases as well. Subsection (3) states that the receiving Special Court or Tribunal shall be deemed to be the court in which the matter was originally instituted and shall possess all powers and jurisdiction of that court. Subsection (4) requires continuation from the stage reached before transfer and permits reliance on evidence already recorded without recalling every witness.

Reading these provisions together, the Court held that Section 12A is not merely administrative machinery. The express grant of “all the powers and jurisdiction” of the transferor court gives the receiving forum the legal competence required to adjudicate the transferred dispute.

The non obstante clause overrides inconsistent limits

The opening words of Section 12A apply notwithstanding anything contained in any other law for the time being in force. Referring to *Major (Retd.) Barkat Ali v Qaim Din* (2006 SCMR 562), the Court explained that this language gives the provision primacy over inconsistent law concerning the same subject.

The phrase “any case,” combined with the overriding clause and subsection (3), showed that the transfer power was not limited to disputes already within the ordinary jurisdiction of the receiving special forum. If the Consumer Court remained confined to consumer disputes after a valid transfer, the statutory power to move an ordinary civil case to it would become practically meaningless.

The Consumer Court's ordinary jurisdiction continues to arise from the 1997 Act. Its jurisdiction over this particular civil suit arises independently from Section 12A. The provisions operate in separate fields and do not conflict.

Additional jurisdiction remains case-specific

The judgment places a strict boundary around this result. A Special Court cannot assume jurisdiction on its own, by agreement of the parties, by acquiescence or through a purely administrative arrangement. Additional jurisdiction must come from law.

Section 12A creates that statutory authority only for a case validly transferred under its terms. The Consumer Court remains a Consumer Court. It receives the powers required to decide the transferred suit, but it does not acquire general civil jurisdiction over every similar dispute.

This distinction prevents the decision from becoming a licence for indiscriminate expansion of special forums. The source, scope and duration of the additional jurisdiction remain tied to the transfer statute and the identified case.

The FCC rejects the “hybridization” theory

Although the Federal Constitutional Court agreed with the Peshawar High Court's final conclusion, it declined to approve parts of its reasoning. The High Court had treated the receiving Special Court as being elevated or deputized as the Principal Court of Civil Jurisdiction and described the arrangement as a “hybridization” of general and special jurisdiction.

The FCC held that those descriptions went beyond the language and purpose of Section 12A. The deeming clause creates a legal fiction, but a legal fiction cannot be extended beyond its statutory purpose. Relying on *Multiline Associates v Ardeshir Cowasjee* (1995 SCMR 362), the Court explained that the fiction attaches to the transferred case and the jurisdiction necessary to decide it. It does not transform the constitutional or statutory identity of the receiving forum.

The Consumer Court is therefore deemed to be the original court only for the transferred proceedings. It is not converted into the Principal Court of Civil Jurisdiction.

The presiding judge's rank does not create jurisdiction

The FCC also rejected the suggestion that the Consumer Court became competent because it was presided over by a District Judge or Additional District Judge. Jurisdiction comes from law, not from the personal capacity, designation or substantive rank of the judicial officer.

A District Judge sitting as a judge of a Special Court normally exercises only the jurisdiction legally conferred on that Special Court. The judge cannot import the ordinary District Court's powers merely because of personal office. Conversely, where legislation gives the Special Court additional jurisdiction, that jurisdiction does not depend on the rank of its presiding officer.

Here, Section 12A(3), rather than the presiding judge's designation, was the source of authority over the transferred suit.

Section 9 CPC did not defeat the transfer

The petitioner also relied on Section 9 of the Code of Civil Procedure, 1908, which recognizes the civil courts' jurisdiction over suits of a civil nature unless cognizance is expressly or impliedly barred.

The FCC held that the principle was correct but irrelevant to the decisive question. This was not a case in which a special forum claimed civil jurisdiction by implication. Section 12A(3) expressly conferred the transferor court's jurisdiction for the particular suit.

The Court distinguished an unlawful assumption of jurisdiction without statutory authority from an exercise of jurisdiction directly granted by legislation. Only the first is prohibited.

The notification effects transfer but does not create jurisdiction

The judgment carefully separates the High Court's notification from the statutory source of authority. The notification identifies and transfers cases through the power granted by Section 12A(1). It does not itself create the Consumer Court's jurisdiction.

The legal consequences follow automatically under subsections (3) and (4). This distinction matters because an administrative instrument cannot independently enlarge a court's statutory powers. Here, the legislature had already prescribed both the transfer power and its jurisdictional effect.

The transfer power is also not unlimited. It belongs exclusively to the High Court, requires intimation to the Government and may be exercised only when considered expedient in the interest of justice.

The Court avoids a broad ruling on Article 199 review

The Peshawar High Court had stated that its notification was an administrative act of the High Court and therefore not amenable to constitutional review under Article 199. It relied on *Gul Taiz Khan Marwat v Registrar*, Peshawar High Court (PLD 2021 SC 391).

The FCC deliberately declined to endorse the broader proposition that every administrative act or notification of a High Court is automatically immune from judicial scrutiny merely because of its source. Constitutional questions of that scale should not be decided more widely than necessary.

In this case, the notification rested on express statutory authority, the Consumer Court's competence followed from Section 12A(3), and the petitioner established no independent breach of the conditions governing transfer. The case could therefore be decided on the narrower statutory ground without declaring absolute immunity for High Court administrative action.

No jurisdictional prejudice was shown

The petitioner did not establish any legal prejudice resulting from the change of forum. Section 12A(4) preserved the steps already taken before the Additional District Judge and allowed the Consumer Court to continue from the same stage. Evidence already recorded did not have to be repeated.

The transfer neither extinguished a substantive right nor deprived the parties of adjudication by a legally competent judicial forum. The Court held that a mere change of forum, expressly authorized by legislation and effected by the competent authority, does not by itself create a legal grievance requiring interference.

The FCC expressly avoided the merits of the Society dispute. The Consumer Court must decide the civil suit independently on the pleadings and evidence, without being influenced by observations touching the underlying

controversy.

Final outcome

The Federal Constitutional Court refused leave and dismissed F.C.P.L.A. No. 810 of 2026. It maintained the Peshawar High Court's judgment and the validity of the transfer, but modified and clarified the reasoning.

The Consumer Court, Abbottabad, remains competent to proceed with the transferred suit. The High Court's observations about transformation into a Principal Court of Civil Jurisdiction, hybridization of jurisdictions and competence arising from the presiding judge's rank are not to be treated as the correct law.

The judgment was authored by Justice Syed Hasan Azhar Rizvi on a bench with Justice Muhammad Karim Khan Agha. It was heard and decided on 21 August 2026 and is approved for reporting. The supplied judgment does not state a reported citation.

Practical effect for lawyers and courts

When challenging or defending a transfer under Section 12A, counsel should separate three questions: whether the High Court validly exercised the statutory transfer power; what jurisdiction subsection (3) gives the receiving forum for that case; and whether subsection (4) preserves the earlier proceedings.

An objection based only on the ordinary limits of the Special Court's parent statute will not succeed where the case was validly transferred under Section 12A. A viable challenge must instead identify failure to satisfy the transfer provision itself, lack of competent authority, absence of the interest-of-justice condition, or another independent legal defect.

Special Courts should record the distinct statutory source of their authority in transferred matters. They must not treat one transfer as a permanent expansion of their subject-matter jurisdiction.

What the judgment does not decide

The ruling does not give Special Courts general power over matters outside their parent statutes. It applies only to cases validly transferred under Section 12A.

It does not hold that administrative notifications of a High Court are always immune from constitutional review. The FCC expressly left that wider question open.

It does not decide the merits of the dispute concerning the Professional Education and Promotion Society. That suit remains for independent adjudication.

It also does not validate every transfer automatically. The High Court's statutory power must still be exercised within the conditions and purpose of Section 12A.

Conclusion

Dr. Azhar Khan Jadoon v Registrar, Peshawar High Court clarifies both the strength and the limit of Section 12A. A valid transfer carries the powers and jurisdiction necessary to decide the identified case, even when the receiving Special Court could not ordinarily entertain that subject matter.

At the same time, the receiving forum keeps its institutional identity, obtains no general civil jurisdiction and draws no authority from the personal rank of its judge. The statute, and only the statute, supplies the additional case-specific jurisdiction.

This commentary is independent legal analysis for research and general information. The complete judgment, current statutory text and record of any particular case should be checked before reliance in proceedings.