

Form No:HCJD/C-121

ORDER SHEET

IN THE LAHORE HIGH COURT

MULTAN BENCH MULTAN

JUDICIAL DEPARTMENT

C.R.No.811-D of 2025

Ghulam Mustafa Vs. Province of the Punjab etc.

S.No. of order/ proceeding	Date of order/ Proceeding.	Order with signature of Judge, and that of parties or counsel, where necessary.
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06.10.2025 Mr.Atif Mushtaq Bhutta, Advocate for the petitioner.

Through this Civil Revision, the petitioner has challenged the orders and decree dated 22.07.2024 and 23.07.2024 as well as judgment and decree dated 21.05.2025 passed by learned Courts below.

2. The brief facts of the case are that petitioner filed suit for declaration along with permanent injunction accompanied by an application under order XXXIX rules 1 and 2 CPC for grant of temporary injunction against respondents before the learned Trial Court. The suit as well as application for temporary injunction was contested by respondent No.7 by filing contesting written statement and raising preliminary objection regarding maintainability of suit and the learned Trial Court after hearing learned counsel for the parties dismissed the stay application through order dated 22.07.2024 and thereafter rejected the plaint of the suit vide order dated 23.07.2024, which were assailed by the petitioner by preferring Civil Appeal which met the same fate through judgment dated 21.05.2025. Hence this Civil Revision.

3. Learned counsel for the petitioner contends that impugned orders and decree as well as judgment and decree passed by learned Courts below are against law

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and facts of the case. Adds further that the material available on suit file was not duly appreciated by the learned Courts below while rendering their decisions and dealt the matter in haste as well as slipshod manner and that bar of jurisdiction has wrongly been exercised by the learned Courts below while rejecting the plaint of the suit filed by the petitioner and they have failed to apply the law settled by the *apex* Court in such like cases, therefore, their verdicts are liable to be set aside.

4. Arguments heard and record perused.

5. The core issue requiring determination by this Court is whether the jurisdiction of the Civil Court is barred in matters arising out of the West Pakistan Consolidation of Holdings Ordinance, 1960.

6. It is well-settled that Civil Court possesses plenary jurisdiction, enabling it to determine whether an authority or Tribunal has exceeded its jurisdiction or acted ultra vires. It can also intervene in cases involving allegations of fraud and misrepresentation. However, the question arises whether Civil Court can assume jurisdiction in specialized subjects where specific forums have been established and the Civil Courts lack expertise. Moreover, when its jurisdiction is expressly ousted by Special Law.

7. In the instant matter both the Courts below non-suited the petitioner while holding that the suit filed by the petitioner is not maintainable in view of the bar contained in section 26 of the West Pakistan Consolidation of Holdings Ordinance, 1960. It is advantageous to reproduce Section 26 of the Ordinance:-

"No Civil Court shall entertain any suit or application to obtain a decision or order in respect

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of any matter which Government or the Board of Revenue or any officer is, by this Ordinance, empowered to determine, decide or dispose of."

The plain language of Section 26 unequivocally bars Civil Courts' jurisdiction. The Supreme Court of Pakistan has authoritatively construed this provision, affirming its clear intent to oust jurisdiction of Civil Court. In the judgment reported as Muhammad Yaseen vs. Province of the Punjab and others (2009 SCMR 753), wherein it was held as under:-

"4 The petitioner has challenged different orders passed by the Consolidation Officers including, Board of Revenue. The adjustment of lands and share distribution in consolidation operations fell within the exclusive jurisdiction of the Consolidation Authority and Civil Court could not sit in appeal on them. By the very nature of the task, the judgments of the consolidation officers were to be respected subject to remedies for their correction in the mode and manner provided in the consolidation law of Holdings"

In another judgment reported as Nawab vs. Ghulab and 4 others (2004 SCMR 1833) it was held as under:-

"5. We having considered the matter in detail, find that no exception can be taken to the judgment of the High Court wherein it has been held that due to the bar of jurisdiction contained in section 26 of Consolidation of Holdings Ordinance, 1960, the civil suit was not maintainable. The judgment of the High Court being not suffering from any illegality, would not call for interference of this Court This petition having no substance is accordingly, dismissed. Leave is refused."

Further reliance in this respect is placed upon the judgments reported as Atta Muhammad and another vs. Additional District Judge, Taunsa Sharif and others (2014 YLR 2185), Ali Sher and 11 others vs. Abdul Haq and 39 others (2012 MLD 1106), Sanjha and another vs. Elahi Bakhsh and 3 others (2006 YLR 1931), Sardra and 4 others vs. Province of the Punjab through Collector, District Jhang and 17 others (2000 CLC 1752), Mst. Roshan Bibi vs. Member, Board of Revenue

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(Consolidation), Lahore and 2 others (1994 MLD 1513)
and *Karam Elahi through legal heirs vs. Feroz Mining Ltd., Abbotabad and another (PLD 1990 Peshawar 174)*.

8. The petitioner relies on precedents¹ to argue that civil courts retain jurisdiction when an authority's or tribunal's order is tainted by malice or fraud. There is no cavil to the proposition that the civil court possesses broad authority to review actions of any tribunal or authority that exceed jurisdiction or are ultra vires. However, where a special law provides a specific forum and expressly excludes the civil court's jurisdiction, the court's role becomes limited. Mere allegations of fraud or misrepresentation do not, by themselves, confer jurisdiction upon the civil court. To attract its jurisdiction, the alleged fraud must go to the root of the matter — affecting the very decision-making authority — and not be of a merely procedural or incidental nature. Bare or unsupported claims of fraud are insufficient to invoke civil court jurisdiction.

9. The perusal of the impugned judgments and decree reveals that the petitioner has challenged the order dated 29-12-1992 passed by respondent No. 3, alleging that respondent No. 7 procured the same by fraud, concealing the proceedings from the petitioner and thereby obtaining an ex-parte order. However, the record indicates otherwise; the petitioner himself has attached the civil miscellaneous application No.2156-2025 with the instant petition, containing the orders passed by official respondents Nos. 1 to 6; moreover, the order dated 29.12.1992 expressly records the petitioner's presence at

¹ Islamic Republic of Pakistan vs. S.A.Rizvi (1992 SCMR 1309) and Muhammad Zafar and 23 others vs. Yousaf Ali and 9 others (2003 CLC 1922).

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the time of its pronouncement. Accordingly, the challenge to the said order now taken by the petitioner appears to be an afterthought aimed at depriving respondent No. 7 of the fruits of that order.

10. Learned counsel for the petitioner has failed to point out any irregularity or illegality in the decisions rendered by the learned Courts below nor this Court found any misinterpretation of law or non-appreciation of material available on file to call for interference in its revisional jurisdiction and the learned *fora* below have correctly non-suited the petitioner while relying on provisions of section West Pakistan Consolidation of Holdings Ordinance, 1960.

11. Resultantly, this Civil Revision having no merit and force is **dismissed in *limine***.

(Syed Ahsan Raza Kazmi)
Judge

Approved for reporting.

Judge

Amjad

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