

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**

**CIVIL REFERENCE NO. 01 OF 2025**

**[The Civil Courts (Amendment) Act, 2025 and Transfer of Appeals from Islamabad High Court to District Judges (East) & (West), Islamabad, in pursuance thereof.]**

**PRESENT:**        **Mr. Zulfiqar Ali Abbasi, Member Islamabad Bar Council, Syed Wajid Ali Gillani, President Islamabad High Court Bar Association and Mr. Saif-ur-Rahman (State Counsel), on behalf of Advocate General, Islamabad.**

Date of Hearing: 23.06.2025

**MUHAMMAD AZAM KHAN, J.:**

1.        The Office of this Court has moved the instant Reference and attached a list of cases pertaining to Regular First Appeals filed against the decrees or orders passed by learned Civil Judges working under the administrative control of the Islamabad High Court. The list contained 1594 RFAs, which is stated to be tentative. The questions formulated in the Reference are as under:-

- (1) Whether amendment made in Section 18 is a matter of procedure and had retrospective effect?*
- (2) Whether High Court can transfer pending appeals to the District Judges on its own motion without notice to the parties to the lis?*

2.        The matters relating to the filing of the suit, determination of territorial limits of the Civil Court, receiving evidence, and filing of appeal, etc are provided under the Code of Civil Procedure, 1908 (“CPC”) The pecuniary limits/jurisdiction of the Civil Court vis-à-vis the Appellate Court were/are governed under the West Pakistan Civil Courts Ordinance, 1962 (“Ordinance, 1962”). At this juncture, it is expedient to reproduce the relevant provisions of the C.P.C. as well as Ordinance, 1962, which pertain to the present controversy:-

**The Code of Civil Procedure, 1908 (unamended)**

*“6. **Pecuniary jurisdiction.** Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.*

***96. Appeal from original decree.-** (1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any Court exercising original jurisdiction to the Court authorized to hear appeals from the decisions of such Court.*

*(2) An appeal may lie from an original decree passed ex parte.*

*(3) No appeal shall lie from a decree passed by the Court with consent of parties.*

***106. What Courts to hear appeals.-** Where an appeal from any order is allowed it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.”*

**The West Pakistan Civil Courts Ordinance, 1962**

*“3. **Classes of Courts.-** Besides the Court of Small Causes established under the Provincial Small Causes Courts Act, 1887 (IX of 1887) and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely.*

*(a) the Court of the District Judge;*

*(b) the Court of the Additional District Judge; and*

*(c) the Court of the Civil Judge.*

***7. Original jurisdiction of District Judges in suits.-** Except as otherwise provided by any enactment for the time being in force, the Court of the District Judge shall have jurisdiction in original civil suits without limits as regards the value.*

***9. Pecuniary limits of jurisdiction of Civil Judges.-** The jurisdiction to be exercised in original civil suits as regards the value by any person appointed to be a Civil Judge shall be determined by the High Court either by including him in a class or otherwise as it thinks fit.*

***17. Appeals from District Judges or Additional District Judges.-** (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional District Judge exercising original jurisdiction shall lie to the High Court.*

*(2) Any appeal shall not lie to the High Court from a decree or order of an Additional District Judge in any case in which, if the decree or order has been made by the District Judge, an appeal would lie to that Court.*

***18. Appeals from Civil Judges.-**(1) Save as aforesaid, an appeal from a decree or order of a Civil Judge shall lie:-*

*(a) to the High Court if the value of the original suit in which the decree or order was made exceeds ten million rupees; and*

*(b) to the District Judge in any other case.*

*(1A) Subject to the provisions of section 102 of the Code of Civil Procedure, 1908, no second appeal shall lie in any other suit when the amount or value of the subject-matter of the original suit does not exceed five hundred thousand rupees.*

*(2) Where the function of receiving any appeal which lies to the District Judge under the last preceding subsection has been assigned to an Additional District Judge, the appeal may be preferred to the Additional District Judge.*

*(3) The High Court may, by notification, direct that appeals lying to the District Judge from all or any of the decrees or orders passed in any original suit by any Civil Judge shall be referred to such other Civil Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly, and the Court of such Civil Judge shall be deemed to be a District Court for the purpose of all appeals so preferred.”*

3. Under Section 9 of the Ordinance, 1962, the pecuniary jurisdiction of the Civil Judges is to be determined by the High Court and notified, whereunder the Courts of Civil Judges in ICT are enjoying unlimited pecuniary jurisdiction. Whereas under Section 96 of the CPC, all decrees passed by Civil Judges or District Judges are appealable before the next higher forum. However, the forum of appeal relating to pecuniary jurisdiction is to be determined under Section 18 of the Ordinance, 1962. The contents of the Reference state that the Office of this Court proposed an amendment in Section 18 of the Ordinance, 1962, with respect to appellate jurisdiction of the learned District Judge in ICT. Pursuant to the said request, through an Act of Parliament, a legislation has been made with the title *The Civil Courts (Amendment) Act, 2025*, to the following effect:-

**“2. Amendment in section 18, W.P. Ordinance II of 1962.—***In the Civil Courts Ordinance, 1962 (W.P. Ordinance II of 1962), in section 18, for subsection (1), the following shall be substituted, namely: --*

***“(1) Save as aforesaid, an appeal from a decree or order of a Civil Judge shall lie to the District Judge.”***

4. The amendment as reproduced hereinabove has provided for a change of forum for filing appeals against the judgment and decree of the Civil Judge. While interpreting such enactments, the superior Courts have held that statutes providing change of forum for pecuniary jurisdiction or otherwise are procedural in nature and have retrospective effect. A portion of the order recorded by the august Supreme Court in the case of *Gul Hassan and Co. Vs. Allied Bank of Pakistan (1996 SCMR 237)* reads:-

*"7. It is well-settled principle of interpretation of statute that where a statute affects a substantive right, it operates prospectively unless "by express enactment or necessary indictment" retrospective operation has been given. (Muhammad Ishaq V. State PLD 1956 SC (Pak) 256 and State v. Muhammad Jamil (PLD 1965 SC 681). This principle was affirmed in Abdul Rehman v. Settlement Commissioner (PLD 1966 SC 362). However statute, which is procedural in nature, operates retrospectively unless it affects an existing right on the date of promulgation or causes injustice or prejudice the substantive right. In Adnan Afzal v. Capt. Sher Afzal (PLD 1969 SC 187). Same principle was re-affirmed and it was observed:-*

*"The next question, therefore, that arises for consideration is as to what are matters of procedure. It is obvious that matters relating to the remedy, the mode of trial, the manner of taking evidence and forms of action are all matters relating to procedure. Crawford too takes the view that questions relating to jurisdiction over a cause of action, venue, parties pleadings and rules of evidence also pertain to procedure, provided the burden of proof is not shifted. Thus, a statute purporting to transfer jurisdiction over certain causes of action may operate retrospectively. This is what is meant by saying that a change of forum by a law is retrospective being a matter of procedure only. Nevertheless, it must be pointed out that if in this case process any existing rights are affected or the giving of retroactive operation cause inconvenience or injustice, then the Courts will not even in the case of a procedural statute, favour an interpretation giving retrospective effect to the statute. On the other hand, if the new procedural statute is of such a character that its retroactive application will tend to promote justice without any consequential embarrassment or detriment to any of the parties concerned, the Courts would favourably incline towards giving effect to such procedural statutes retroactively".*

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*15. Similarly, in the case of Bashir v. Wazir Ali (1987 SCMR 978), the Apex Court has held that the change of forum during the pendency of appeal would operate retrospectively in the following words:-*

*"Before us the learned counsel for the appellant raised the same objection as before the High Court. It was, however, pointed out to him that the relevant provision of the amending Act V of 1986 had merely changed the forum in which the appeal was to be heard and did not affect any vested right of appeal and that, as held by this Court in Adnan Afzal v. Capt. Sher Afzal PLD 1969 SC 187, such amendments are merely procedural in nature and are, therefore, operative retrospectively".*

5. The learned Member of the Islamabad Bar Council, the President of the Islamabad High Court Bar Association, as well as the learned State Counsel appearing on behalf of the Advocate General, ICT, are in unison on the point that the amendment introduced by means of the *Civil Courts (Amendment) Act, 2025* is procedural in nature and does not affect rights of either party.

6. It is well settled principle of interpretation of statute that where a statute affects a substantive right, it operates prospectively. However, the statute, which is procedural in nature, operates retrospectively unless it affects an existing right on the date of promulgation or causes injustice or prejudice to substantive right. Similarly, a statute providing change of forum, pecuniary or

otherwise, is procedural in nature and would have retrospective effect. Likewise, any statute which enhances or reduces pecuniary jurisdiction of a Court, or alters the forum before which a case is to be filed or heard, would fall within the category of procedural law.

7. Regarding the other question, whether the High Court can transfer pending appeals to the District Judges, it suffices to state that under Section 24 of the CPC, it falls within the domain of the High Court to transfer any case either on its own motion or at the request of a party. For facility of reference, Section 24 is reproduced hereunder:-

**“Section 24 of CPC, 1908: General power of transfer and withdrawal.**

*“On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard. Or of its own motion **without such notice**, the high court or the District court may at any stage— (a) Transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court Subordinate to it and competent to try or dispose of the same, or (b) withdraw any suit, appeal or other proceeding pending in any court subordinate to it, and (i) try or dispose of the same; or (ii) transfer the same for trial or disposal to any court subordinate to it and competent to try or dispose of the same; or (iii) retransfer the same for trial or disposal to the court from which it was withdrawn. (2) where any suit or proceeding has been transferred or withdrawn under sub-section (1), the Court which thereafter tries such suit may, subject to any special directions in the case of any order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn. (3) For the purpose of this section, Courts of Additional and Assistant Judges Shall be deemed to be subordinate to the District Court. (4) The court trying any suit transferred or withdrawn under this section from a court of small Causes shall, for the purpose of such suit, be deemed to be a court of small Causes.” [Emphasis added]*

8. The power of High Court delegated under Section 24, CPC, is further fortified in the judgment passed in *Khan Muhammad and others Vs. Ishtiaq Hussain* reported as **1987 SCMR 1482**, in the following words:-

**“West Pakistan Civil Court Ordinance (II of 1962)**

*S. 18 (as amended by Punjab Civil Courts Ordinance (Amendment) Act (V of 1908), S. 24—Constitution of Pakistan (1973), Art. 185 (3) – Value of suit for purpose of jurisdiction being beyond Rs. Fifty thousand, appeal was filed before High court before promulgation of Ordinance V of 1986—on promulgation of Ordinance VI of 1986 appeal was transferred by high court to District Judge—Application for re-transfer of appeal to high court dismissed—contention of petitioners that they had a vested right to have their appeal heard and decided by high court and that amendment made by Act V of 1986 in West Pakistan Civil Courts Ordinance was not retrospective, repelled as per rule laid down by Supreme court in 1987 S C M R 978—Provisions of S.24, C.P.C furthermore expressly empowered*

*High Court of its own motion without notice to parties to transfer any appeal pending before it for disposal of the same—petitioner could not claim vested right in derogation of statutory power of high court under S.24, CPC – Petition for leave to appeal dismissed.” (p.1483)A. [Emphasis added]*

9. As stated in the preceding paragraphs, **a statute amending the forum for institution of appeal or that of the Appellate Court during the pendency of the *lis* will obviously have retrospective effect unless otherwise provided by the subsequent Act.** Prior to the instant amendment, appeals against interim orders passed by Civil Judges, where the value of the suit for the purpose of jurisdiction exceeded Rs. 2,500,000/-, were being filed in the High Court. **However, it is clarified that now any order passed by a Civil Judge during pendency of the proceedings is appealable before the District Judge.** The Office shall also transmit those appeals filed against interim orders to the respective District Judges.

10. There is no opposition to this legal proposition or to the course adopted from either side. Resultantly, all the appeals filed against decrees or orders passed by learned Civil Judges, including but not limited to those listed in the annexed list, are hereby ordered to be remitted to the learned District Judges of the respective Divisions, who may entrust the same to the learned Additional District Judges in the ordinary distribution of work. Given the fact that these appeals pertain to the year 2013, the learned District Judges are expected to place the older appeals on fast track and dispose of the same as per guidelines and policy on the subject. The learned M.I.T. of this Court is also directed to oversee the distribution of the oldest appeals proactively and ensure their expeditious disposal, and submit periodic reports to this Court.

11. The Reference is answered accordingly.

**(INAAM AMIN MINHAS)**  
**JUDGE**

**(MUHAMMAD AZAM KHAN)**  
**JUDGE**

*Approved for Reporting*  
*Blue Slip added.*