

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench-I:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Aqeel Ahmed Abbasi

Civil Petitions No. 1982 & 1983 of 2025

*(Against the order of Islamabad High Court, Islamabad
dated 19.5.2025, passed in Diary No.9715/2025)*

Frontier Holdings Limited through its Chief Executive, Islamabad and
another
(in both cases)

... Petitioners

Versus

Petroleum Exploration Pvt. Limited through its Chief Executive Officer,
Islamabad
(in both cases)

... Respondent

For the Petitioners: Ms. Zainab Janjua, Advocate High Court.

For the Respondent: N.R.

Date of Hearing: 29.05.2025.

ORDER

Syed Mansoor Ali Shah, J.- At the very outset, learned counsel for the petitioners submitted that she is not an Advocate of this Court and has filed a separate application in each case (C.M.As. No. 4089 & 4090 of 2025) seeking special permission to appear in matter. She stated that she has previously handled the case before the Islamabad High Court and, owing to the urgency of the matter, the petitioner companies have not yet been able to engage an Advocate of the Supreme Court. In view of the reasons stated, limited special permission is granted to the learned counsel to appear before this Court at this stage only. The petitioners are directed to engage an Advocate of the Supreme Court to argue the cases in the next stage. The present counsel shall be at liberty to assist any such counsel subsequently engaged in the matter. The applications stand disposed of accordingly.

Main Case

2. Learned counsel for the petitioners submits that the dispute between the parties was referred for arbitration under the auspices of the International Chamber of Commerce (ICC), London. Upon conclusion of the proceedings, a partial foreign arbitral award was rendered on 12.12.2024, and subsequently, a separate award on costs was issued on

31.03.2025. The awards were filed before the Islamabad High Court for enforcement under the Recognition and Enforcement (Arbitration, Agreements and Foreign Arbitral Awards) Act, 2011 ("Act").

3. Learned counsel submits that while admitting the enforcement petition, the learned Single Judge of the High Court issued interim relief *vide* order dated 24.04.2025, restraining the respondents from assigning, transferring, or alienating their working interest in Badin Fields and from creating any charge, lien, or encumbrance thereon. This interim order was subsequently challenged before a Division Bench in an intra-court appeal ("ICA"), which *vide* impugned order dated 19.05.2025, suspended the interim relief granted by the learned Single Judge.

4. It is contended that the interim relief was granted in aid of enforcement under the Act and did not amount to final relief. Courts are empowered to pass interim measures to protect the integrity and efficacy of the enforcement process. Denial of such protection would defeat the very purpose of the Act and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 ("Convention"). Reliance is placed on Taisei Corporation & another v. A.M. Construction Company (Pvt.) Ltd. (2024 SCMR 640), Orient Power Company (Pvt.) Ltd, Lahore v. Sui Northern Gas Pipelines Ltd. (2021 SCMR 1728), Government of India v. Vedanta Limited and Ors (AIR 2020 SC 4550), and Zeiler v. Deitsch (500 F.3d 157 (2007)) which affirm that courts must maintain a pro-enforcement bias while dealing with foreign arbitral awards. It was further argued that the Division Bench interfered at the interim stage without recording or satisfying any of the limited grounds of non-enforcement under Article V of the Convention, as incorporated into the Act. Such premature judicial interference sends an adverse signal to the international community, undermines arbitral sanctity, erodes investor confidence, and undermines Pakistan's international obligations. A stable and enforcement-friendly legal environment is vital for encouraging foreign direct investment.

5. It is further submitted with respect that the impugned order passed by the Division Bench, whereby the interim relief granted to the petitioners was suspended, has effectively obstructed the enforcement of the foreign arbitral award and is therefore inconsistent with the pro-enforcement mandate of the Act, the Convention, and the settled jurisprudence of this Court. Foreign arbitral awards are not to be treated as ordinary civil decrees; rather, they possess a binding character under international law, to which Pakistan has expressly committed itself.

6. It is also contended that the ICA before the Division Bench was not maintainable. Orders passed therein are not amenable to an ICA appeal under Section 3(2) of the Law Reforms Ordinance, 1972. It is well settled that ICAs do not lie from orders passed under special laws that contain a self-contained appellate mechanism and do not expressly provide for such appeals. See Karim Bibi and others v. Hussain Bakhsh and another (PLD 1984 SC 344), Muhammad Abdullah v. Deputy Settlement Commissioner Lahore (PLD 1985 SC 107) and International Islamic University, Islamabad v. Syed Naveed Altaf (2024 SCMR 472).

7. In view of the above, leave is granted to consider the questions raised. The appeals arising out of these petitions shall be heard on the basis of available record, however, parties are at liberty to file additional documents, if any. The said appeals shall be listed before a three-member bench after a fortnight.

C.M.As. No. 3673 & 3674/2025 (Stay Matter):

8. Notice to the respondents. Meanwhile, the operation of the impugned order dated 19.05.2025 passed by the Division Bench of the Islamabad High Court shall remain suspended until the next date of hearing in order to be consistent with the pro-enforcement bias maintained by this Court as well as the mandate of the Act, the Convention, and the settled jurisprudence of this Court. The interim restraining order passed by the learned Single Judge shall remain in field and continue to operate.

9. For completeness, it is clarified that a collective reading of Orders XI, XX, and XXXIII of the Supreme Court Rules, 1980 establishes that this Court, while entertaining a petition arising out of an order of a Division Bench of a High Court, is competent to grant leave and suspend the impugned order. Reference is made to Sheri-CBE & others v. Lahore Development Authority (2006 SCMR 1202), Municipal Committee v. Province of Punjab (2001 SCMR 745), and ICI Pakistan Ltd. v. Federation of Pakistan (2007 PTD 2306).

Judge

Islamabad,
29th May 2025.

Approved for reporting.
Umer A. Ranjha, LC*

Judge