IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Muhammad Ali Mazhar
Justice Aqeel Ahmed Abbasi

Civil Petition No.770-K of 2022
Against the order dated 10.03.2022 passed by the High Court of Sindh, Circuit Court Larkana in 2nd Civil Appeal No.S-06/2019

Habib-ur-Rehman and others ...Petitioners

Versus

Abdul Karim (deceased) through L.Rs & others ...Respondents

For the Petitioners: Mr. Nazar Akbar, ASC

For Respondents 1& 2: Mr. Habib ur Rehman Jiskan, ASC
Mr. Abida Parveen Channar, AOR

For Respondents 3 & 4 : Nemo.

Date of Hearing: 28.03.2025

Judgment

Muhammad Ali Mazhar-J. This Civil Petition for leave to appeal is brought to challenge the Order dated 10.03.2022, passed by the High Court of Sindh, Circuit Court Larkana, in IInd Appeal No.S-06/2019, whereby the concurrent findings of fact recorded by the fora below were affirmed.

2. The compendious chronicles of the case are jotted down as follows:-

"According to the facts narrated in the memo of civil petition, the petitioners are the owners of a hotel measuring 562.9 sq. ft. situated at Shahi/Sabzi Bazar Khairpur Nathan Shah, District Dadu (suit property), which was acquired by them through registered sale deed dated 13.01.1992 and on the basis of conveyance deed, the property was also mutated in their names in the record of rights on 06.02.1995. At the time of handing over the property, the predecessor-in-interest of respondents No.1 and 2 was occupying the property as tenant. The ejectment petition (Rent Case No. 02/1983) filed against tenant was allowed on 22.01.1987 and during pending adjudication of First Rent Appeal No.49/1987, the tenant was evicted from the property in 1988. Therefore, in execution of rent order, predecessor-in-interest of respondents No.1 and 2 was evicted from the suit property. However in view of the order dated 24.11.1994 whereby First Rent Appeal was allowed with the observation made in para 8 that that at the time of hearing, the learned counsel of the appellant stated that this Court had granted suspension of the impugned order of ejectment subject to the deposit of arrears of rent and future rent but this order was vacated on 20.08.1988 because the appellant

could not comply with the condition on which the operation of the impugned judgment was suspended and thereafter the respondent filed the execution application and got the ejectment order executed and ejected the appellant. Since FRA was allowed, therefore it was left to the predecessor-in-interest of respondents No.1 and 2 to approach Rent Controller for the restitution of possession, who after six years approached the Rent Controller and filed an application under Section 144 CPC. The petitioners filed an application under Order I Rule 10 CPC to resist the said application on the ground of their subsequent title/ownership. The application under Section 144 CPC was allowed and the petitioners were directed to hand over possession of the suit property to respondent No.1. The petitioners filed Civil Revision No. S-68/2011 in the High Court of Sindh, Circuit Court Larkana, which was dismissed on 26.04.2012 with the observations that applicants/petitioners for claiming possession may institute appropriate proceedings in accordance with law. The petitioners filed Civil Suit No. 151/2018 along with an application under Section 5 of the Limitation Act 1908, whereas, the respondent No.1 and 2 filed an application under Order 7 Rule 11 C.P.C on the ground that the suit is hit by principle of res judicata. The application filed by the petitioners for condonation of delay was dismissed whereas application filed under Order 7 Rule 11 C.P.C was allowed, which resulted further proceedings in the first appellate Court and then High Court in IInd Appeal that was culminated vide impugned order."

3. The learned counsel for the petitioners argued that the impugned order is not sustainable and that, while passing the impugned order, the High Court failed to consider that the question of limitation cannot be decided without referring to the accrual of cause of action and the right to apply. It was further contended that the High Court also failed to consider that the petitioners are owners of the property and the suit filed for the recovery of possession was within time, since limitation for filing a suit by the owner of immoveable property for recovery of possession is twelve years from the date of cause of action according to Article 142 of the Limitation Act, 1908. He further averred that the respondents admitted that they occupied the suit property as tenants, hence, they cannot challenge the ownership. It was further contended that the appeal filed in the first appellate court could not be dismissed on the ground of nonpayment of court fee without first giving a direction to the petitioners to deposit court fee within the stipulated time. He further argued that the findings of the two courts below, that the appeal is liable to be dismissed as time-barred on the ground of non-payment of court fee without providing an opportunity to the petitioners to pay the deficit court fee, were contrary to the judgment of the Full Bench of this Court rendered in the case of Siddique Khan Vs. Abdul Shakoor Khan (**PLD 1984 SC 289**). It was also contended that the findings of the Senior Civil Judge in Suit No.13/2014, wherein the petitioners were declared lawful owners, were never challenged by the respondents.

4. The learned counsel representing respondents No.1 and 2 admitted the tenancy but argued that it was entered into with the previous owners of the property (Mir Bandahy Ali Talpur). When we asked the learned counsel representing the respondents to clarify whether this case was hit by the principle of *res judicata*, he was of the view that the earlier suit was filed for claiming damages, in which certain observations regarding the title of the property were also made by the Trial Court. Though the learned counsel supported the orders passed by the courts below and also argued that concurrent findings cannot be upset, he could not satisfy the Court as to how the second suit was hit by principle of *res judicata*, nor could he explain whether, if the Appellate Court was of the view that the appeal filed against the rejection of plaint was deficient in court fee, any opportunity was provided to the petitioners to make good the deficiency before dismissing the appeal on this point. However, after arguing at some length, the learned counsel, on instructions, conceded that the matter may be remanded back to the Trial Court to decide F.C. Suit No.151/2018 after affording ample opportunity of hearing and adducing evidence by the parties on the issues of law and fact involved in the case.

5. Heard the arguments. The minutiae of the *lis* put on show that the respondent No.2 filed an application under Order VII Rule 11 of the Code of Civil Procedure ("CPC") in F.C. Suit No.151 of 2018, and in the supporting affidavit a plea of *res judicata* was taken with the prayer that lawsuit be dismissed as barred by Section 11, CPC. The aforesaid application was heard by the learned Trial Court and vide order dated 18.03.2019, was dismissed, as according to the learned Trial Court, the suit was not found hit by the doctrine of *res judicata*. Respondents No.1 and 2 challenged the said order by means of Civil Revision Application No.8 of 2019. It is quite strange to note that the Revisional Court, instead of considering the substance of the order of the Trial Court, which was focused solely on the point of *res judicata* raised for rejection of plaint in the application moved under Order VII Rule 11, CPC, diverted itself to another application moved under Section 5 of the Limitation Act, without examining whether the order passed by the Trial Court, dismissing the application under Order VII Rule 11, CPC, was based on sound reasoning or not. Nevertheless, the order passed by the Trial Court was set aside without any well-judged or well-thought-out reasons; however, directions were issued to the Trial

Court to decide the application under Section 5 of the Limitation Act. It is evident from the record that by means of the judgment and decree in F.C. Suit No.13 of 2014 (earlier suit) passed by the Senior Civil Judge K.N. Shah, the petitioners had filed a suit against Mst. Wizran and some other persons for recovery of damages. While Suit No.151 of 2018 (present suit) was filed for declaration, possession, mesne profit, and permanent injunction. In paragraph 14 of the plaint, the petitioners have described the cause of action as having accrued to them firstly when respondent No.2 obtained possession of the suit property from the petitioners, and secondly, when Rent Appeal No.2/2017 was disposed of by IInd Additional District Judge, Mahar, on 12.09.2018, holding that the petitioners are the owners of the suit property, which was established in Suit No.13/2014. Therefore, the petitioners sought the relief of possession through the subsequent suit.

6. While instituting the suit, the counsel for the petitioners, under a mistaken understanding of law, or rather a misconceived notion, also filed an application under Section 5 of the Limitation Act for condonation of delay. If we delve into the scope of Section 5, it applies, without a doubt, only to an appeal or application for revision, review of judgment, or for leave to appeal, or any other application to which the said section may be made applicable by or under any other enactment. The condonation may be granted by the court when the appellant or applicant satisfies that he had sufficient cause for not preferring the appeal or making the application within such period. So, for all intents and purposes, this section is only applicable to the instances mentioned above, and no condonation can be claimed for the delay in the institution of a suit, except for the exclusion of time specifically provided under Section 14 to 16 of the Limitation Act, and so on and so forth.

7. According to Article 142 of the Limitation Act, a suit for possession of immovable property can be filed within a period of twelve years, and the cause of action triggers from the date of dispossession. Though the Trial Court dismissed the application for condonation of delay and held that the suit was admittedly time-barred, the fact remains that if the period of limitation under Article 142 of the Limitation Act is reckoned, the suit was within time. In the present controversy, the question of limitation is a mixed question of law and fact, but due to

the misunderstanding of the advocate, the application was filed under Section 5. Nonetheless, it was also the responsibility of the Trial Court to examine the plaint diligently, including the cause of action vis-à-vis Section 3 of the Limitation Act. However, without any such examination or due diligence, the suit was dismissed; a grave illegality that was neither considered by the First Appellate Court nor by the High Court in the IInd Appeal. The First Appellate Court also observed that the civil appeal was admitted on 10.08.2019 but the petitioners failed to pay the requisite court fee. After admission of the appeal, neither was the court fee deposited nor was any application filed seeking time for its deposit. It was further observed that the appellants/petitioners only challenged the impugned order of the Trial Court in the appeal filed under Section 96, CPC, but did not challenge the decree; and ultimately, the appeal was dismissed as time-barred.

8. If we examine the doctrine of *res judicata* as accentuated under Section 11, CPC, it reveals certain constituents which establish that no court shall try any suit or issue in which the matter directly and substantially in issue has already been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such court. According to the six explanations attached to this very Section, the expression "former suit" shall denote a Suit which has been decided prior to the suit in question whether or not it was instituted prior thereto; for the purposes of this Section, the competence of a court shall be determined irrespective of any provisions as a right of appeal from the decision of such court; the matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly, or impliedly by the other; any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit; any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this Section, be deemed to have been refused and where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this Section, be

deemed to claim under the person so litigating. In our considerate view, what the aforesaid Section unambiguously advocates is that, before non-suiting under this doctrine, it is obligatory for the courts to carry out a diagnostic exercise to determine whether the circumstances pleaded actually attract the principle of *res judicata* or not, rather than summarily dismissing the lawsuits on mere contentions without judicious reasoning.

9. The far-sightedness or prudence ingrained in this doctrine of *res judicata* protects against never-ending litigation and ensures finality, thereby saving parties from the rigors of protracted or multiplicative proceedings. A cause of action finally adjudicated on merits must not be re-litigated. This doctrine also connotes “claim preclusion,” whose indispensable elements include that the erstwhile judgment must be valid and final between the parties, and the same issue must not be brought again for re-litigation. Furthermore, this rule is essential to avert repetitive litigation and to ensure justice, equanimity, and dependability in judicial proceedings by curbing frivolous and vexatious litigation, often initiated with *mala fide* intention or ulterior motives just to drag the opponents in courts for reopening matters already conclusively decided. Simultaneously, it also lightens the court’s docket and helps eliminate time-consuming and meritless litigation. At this juncture, we are reminded of the renowned Latin maxims: “*Nemo debet bis vexari pro una et eadem causa*”, no man should be vexed twice for the same cause, and “*Interest reipublicae ut sit finis litium*”, it is in the best interest of the State to put an end to litigation. What is generally done or believed along the lines of conventional astuteness is that one judicial contest is sufficient for litigants to lodge their claims or put forward a defense rather than litigating for one and the same cause of action between the same parties for the same subject matter again and again.

10. According to the Section 2 (2), CPC, "decree" means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit, and may be either preliminary or final. It shall be deemed to include the rejection of a plaint, the determination of any question within Section 144 and an order under Rules 60, 98, 99, 101, or 103 of Order XXI,

but shall not include: (a) any adjudication form which an appeal lies as an appeal from an order, or (b) any order of dismissal for default. Section 2 (2), CPC, further explains that a decree is preliminary when further proceedings have to be taken before the suit can be completely dispose of. It is final when such adjudication completely disposes of the suit and it may be partly preliminary and partly final.

11. The survey of various dicta laid down by this Court and the Supreme Court of India resonate with an all-encompassing and comprehensive discussion on the ways, and whys and wherefores, of including rejection of plaint within the definition of decree provided under the CPC. In the case of Abdul Hamid and another Vs. Dilawar Hussain alias Bhalli and others (**2007 SCMR 945**), it was held that the rejection of plaint is not an adjudication on merits. It is a decree only by fiction, therefore, there is no bar to filing a fresh suit. It was further emphasized that the statute must be read as an organic whole as laid down by this Court in various pronouncements and also referred to Mian Nawaz Sharif's case (**PLD 1993 SC 473**) and Mst. Iqbal Begum's case (**PLD 1993 Lah. 183**). The cases of Deepchand Vs. Land Acquisition Officer (**AIR 1994 SC 1901**), Alcon Electronics Pvt. Ltd. Vs. Celem S.A. (**AIR 2017 SC 1**) and Sayyed Ayaz Ali Vs. Prakash G. Goyal. (**2021 (7) SCC 456**) similarly reflect the same well-settled exposition of law that a decree means a formal expression of an adjudication which conclusively and finally determines the rights of the parties with regard to all or any of the matters in controversy in the suit. In line with Order VII Rule 13, the rejection of the plaint on any of the grounds, mentioned under Order VII Rule 11, CPC, shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action. In the case of Diwan Bros. Vs. Central Bank of India, Bombay (**AIR 1976 SC 1503**), it was held, while considering the question of maintainability of an appeal that the court fee paid was insufficient to start with but the deficiency is made good later on, that the provisions of the Court Fees Act and the CPC have to be read together to form a harmonious whole and no effort should be made to give precedence to one over the other unless the express words of a statute clearly override the other. The Court opined that Section 4 of the Court Fees Act is not the final word and the court must consider the provisions of both the Act and the Code and harmonize the two sets of provisions which can only be done by reading Section 149 as a proviso to Section 4 of the Court Fees Act by

allowing the deficiency to be made good within a period of time fixed by it. It was further held that in order to understand the expression "having the force of a decree" occurring in this article of the Court Fees Act, it would be useful to derive guidance from the definition of a "decree" contained in Section 2 (2), CPC, according to the provisions of which, a decree is a formal expression of an adjudication conclusively determining the rights of the parties with regard to all or any of the matters in controversy before the Court. The expression "decree" is not defined either in the Court Fees Act or in the General Clauses Act. It may, therefore, be safely assumed that this expression as used in the Court Fees Act, bears the meaning given to it by Section 2 (2), CPC.

12. The constituents of Order VII Rule 11, CPC, require proper appreciation and cannot be decided in a slipshod or perfunctory manner. Before rejection of a plaint, the Court must first discharge its onerous duty of examining whether the plaint discloses a cause of action; whether the relief claimed is undervalued, and if so, whether the plaintiff, on being required by the Court to correct the valuation within a fixed time, has failed to do so; whether the relief is properly valued but the plaint is written upon an insufficiently stamped paper, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a fixed time, has failed to do so; and whether the suit appears, from the statement in the plaint, to be barred by any law.

13. The provision for enlargement of time is assimilated under Section 148, CPC, which articulates that where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by the CPC, the Court may, in its discretion from time to time, enlarge such period, even though the period originally fixed or granted may have expired. Whereas, Section 149 deals with the power to make up the deficiency of court fee and provides in a translucent stipulation that where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court fee; and upon such payment, the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance even without filing any application for extension of time. Section 149, CPC, is an exception to

the command delineated under Sections 4 and 6 of the Court Fees Act, 1870. The exercise of discretion by the Court at any stage is, as a general rule, expected to be exercised in favour of the litigant on presenting plausible reasons which may include *bona fide* mistake in the calculation of the court fee; unavailability of the court fee stamps; or any other good cause or circumstances beyond control, for allowing time to make up the deficiency of court fee stamps on a case to case basis, and the said discretion can only be exercised where the Court is satisfied that sufficient grounds are made out for non-payment of the court fee in the first instance. The expression "at any stage" alluded to in Section 149 accentuates that the deficiency, if any, on account of court fee can be ordered to be made good by the Appellate Court at any stage of proceedings in appeal.

14. The provision delineated under Order VII, Rule 11 and Section 149, CPC, must be read collectively and in unison. In case of deficiency in the court fee, the Court cannot dismiss the suit or appeal without pinpointing the inadequacy and then providing a timeline for payment. In the present case, the First Appellate Court itself observed that the appeal was admitted for hearing, which raises a very crucial question in our minds of whether any objection regarding court fee was ever raised by the office. If so, did the Court ask for any explanation or clarification or provide an opportunity to cure the defect, especially after admitting the appeal? In addition, the petitioners were also nonsuited on another misconceived notion that they filed the appeal against the order allowing application under Order VII Rule 11, CPC, without appending a decree. However, it was not examined whether the Trial Court had actually prepared a decree when declining the condonation of delay under Section 5 of the Limitation Act and allowing the application for rejection of the plaint, without adverting to the question of limitation itself. Instead, the decision simply relied on a condonation application which was erroneously filed under Section 5 of the said Act either due to a lack of legal acumen, poor legal advice, or a lack of knowledge regarding the limitation period for possession under the Limitation Act. The Trial Court, while allowing the application under Order VII Rule 11, CPC, dismissed the suit, even though that provision only allows for rejection of plaint, and does not prevent the plaintiff from presenting a fresh plaint under Order VII Rule 13, CPC, in respect of the same cause of

action, if the action is not barred by limitation or *res judicata*. If limitation was such a crucial issue, it should have been addressed under Section 3 of the Limitation Act. The orders of the Trial Court and the First Appellate Court are also contradictory: the Trial Court dismissed the suit under Order VII Rule 11, CPC, while the First Appellate Court relied on Order VII Rule 13, CPC, for fresh institution of the suit, which was not possible if the suit is dismissed on the ground of limitation. A decree could be prepared if the suit was dismissed under Section 3 of the Limitation Act and not in the event of rejection of plaint under Order VII Rule 11, CPC, which by fiction of law, amounts to a decree for challenging in appeal. The next crucial point in our view is whether any objection was raised by the office for non-appending the decree (which is not otherwise prepared when the plaint is rejected) as the order of the Trial Court unequivocally divulges that the application for rejection of plaint was allowed and the suit was dismissed without any reference to Section 3 of the Limitation Act. Reference can be made to the judgments authored by one of us in the cases of Ahmed Ali Talpur Vs. Sub-Registrar Latifabad, Hyderabad (**PLD 2025 SC 302**), Kh. Muhammad Fazil Vs. Mumtaz Munnawar Khan Niazi (decd.) thr. L.Rs. (**2024 SCMR 1059**) and Meeru Khan Vs. Mst. Naheed Aziz Siddiqui & others (**PLD 2023 SC 912**).

15. Incontrovertibly, a judge is expected to possess an in-depth knowledge of relevant laws to interpret and apply justly and properly in court proceedings for dispensation of justice. Judgments and orders must align with legal principles and the Constitution, which forms the cornerstone of our judicial system. Time and again, it was held by this Court in various dicta that parties to a case are not under any obligation to engage lawyers to plead their cases because the primary duty to do justice and apply the correct law rests solely with the judges. It is not the obligatory duty of the litigant to point out the correct law to the court; rather it is the duty of the judges to apply the appropriate and applicable law. Law should be worn by the judge on their sleeves. Justice should be imparted according to the law, notwithstanding whether the parties in a *lis* before the court are misdirected and misplaced in that regard. Judges are expected in all circumstances to know the law and such is their hallmark as entrenched in the principle that “a Judge must wear all laws on the sleeve of his robes”. Courts, while dispensing justice, are duty-bound

to apply the law in its true perspective, and the application of the relevant legal provisions cannot be avoided simply on the ground that such provisions were not brought to the court's notice by the parties. Failure of counsel to properly advise their client is not a complete excuse in such matters [Ref: Government of K.P.K. Vs. Mehmood Khan (**2017 SCMR 2044**), Homoeo Dr. Asma Noreen Syed Vs. Government of the Punjab through its Secretary Health Department and others (**2022 SCMR 1546**), Rana Muhammad Asif Tauseef Vs. Election Commission of Pakistan (**2022 SCMR 1344**), Muhammad Aamir Khan Vs. Government of Khyber Pakhtunkhwa (**2019 SCMR 1021 = 2019 PLC (CS) 1014**), Chairman, NAB Vs. Muhammad Usman (**PLD 2018 SC 28**) Iffat Jabeen Vs. District Education Officer (M.E.E), Lahore (**2011 SCMR 437 = 2010 PLC (CS) 451**), Muhammad Shehzad Malik Vs. Muhammad Suhail and another (**2010 SCMR 1825**), Fasih-ud-Din Khan and others Vs. Government of Punjab and others (**2010 SCMR 1778**), Section Officer, Government of Punjab, Finance Department Vs. Ghulam Shabbir (**2010 SCMR 1425 = 2010 PLC(CS) 641**), Government of NWFP Vs. Akbar Shah (**2010 SCMR 1408**), Land Acquisition Collector and 6 others Vs. Muhammad Nawaz (**PLD 2010 SC 745**), Muhammad Shahban and others Vs. Falak Sher and others (**2007 SCMR 882**), Raja Hamayun Sarfraz Khan and others Vs. Noor Muhammad (**2007 SCMR 307**), Almas Ahmad Fiaz Vs. Secretary Government of the Punjab Housing and Physical Planning Development, Lahore (**2007 PLC 64 = 2006 SCMR 783**), Muhammad Gulshan Khan Vs. Secretary, Establishment Division, Islamabad (**PLD 2003 SC 102 = 2003 PLC (CS) 201**), and B.I.S.E Vs. Salam Afroze (**PLD 1992 SC 263**)].

16. If the concurrent findings recorded by the lower fora are found to be in violation of the law, or based on misreading or non-reading of evidence, they cannot be treated as so sacrosanct or sanctified that they cannot be reversed by the High Court in its revisional or constitutional jurisdiction or in a second appeal, as a corrective measure, come what may. Where glaring errors, non-reading or misreading of evidence, or any legal and jurisdictional issues arise, the stumbling block of the doctrine of concurrent findings cannot shield flawed or erroneous decisions. Undoubtedly, the Trial Court possesses the distinctive position to adjudge the trustworthiness of witnesses and the cumulative effect of evidence led in the *lis*. The Appellate Court

accords deference to such findings, which are not overturned unless found erroneous or defective. It is also not within the domain or function of the Appellate Court and/or the High Court to re-weigh or re-interpret the evidence, but they can examine whether the impugned judgment or order attains the benchmark of an unflawed judgment; and whether it is in consonance with the law and evidence and free from unjust and unfair errors apparent on the face of record, and if the concurrent findings are found to be in violation of law or based on flagrant and obvious defects floating on the surface of the record, then it can be reversed as a corrective measure without undue regard to the fact that the matter culminated in concurrent findings. This reminds us of the renowned idiom "to err is human," which suggests that making mistakes is a natural part of being human. The purpose of providing the right of appeal or revision is to test and comprehend the wholeness, soundness, and integrity of the judgment or order under challenge, and not to ingenuously or straightforwardly affirm it merely because it rests on concurrent findings, unless it satisfies the acid test of being in accordance with the applicable law and devoid of misreading or non-reading of evidence [Ref: judgments authored by one of us in the cases of Mst. Faheeman Begum (deceased) through L.Rs Vs. Islam-ud-Din (deceased) through L.Rs (**2023 SCMR 1402 = PLJ 2024 SC 75 = PLJ 2024 SC 326**), Ahmed Ali Talpur Vs. Sub-Registrar Latifabad, Hyderabad (**PLD 2024 SC 302**), United Bank Limited Vs. Jamil Ahmed (**2024 SCMR 164 = PLC 2024 SC 50**)].

17. As a result of the above discussion, this petition is converted into an appeal and allowed. As a consequence thereof, the order of the Trial Court which was affirmed by the first Appellate Court and the Sindh High Court in IInd Appeal (impugned orders) are set aside and the matter is remanded to the Trial Court to decide F.C. Suit No.151/2018 on merits and in accordance with law preferably within a period of six months from the receipt of the copy of this judgment.

Judge

Judge

KARACHI
28th March, 2025
Khalid
Approved for reporting