

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Justice Qazi Faez Isa, CJ  
Justice Syed Mansoor Ali Shah  
Justice Amin-ud-Din Khan  
Justice Athar Minallah

1. **Civil Misc. Application No. 677/20 in CP NIL/20**  
*[Under Order XXXIII Rule 6 of the Supreme Court Rules, 1980  
read with order 1 Rule 10 CPC for permission to file and argue  
the titled CPLA]*

*Taufiq Asif.* ... Applicant

Versus

*General (Retd.) Pervez Musharraf and others.* ... Respondents

2. **Civil Misc. Application No. 1875/20 in CP NIL/20**  
*[Under Order XXXIII Rule 6 of the Supreme Court Rules, 1980  
read with order 1 Rule 10 CPC for permission to file and argue  
the titled CPLA]*

*Pakistan Bar Council through its Vice-Chairman.* ... Applicant

Versus

*General (Retd.) Pervez Musharraf and others.* ... Respondents

3. **Civil Misc. Application No. 1580/20 in CP NIL/20**  
*[Under Article 187 of the Constitution, 1973 read with Order  
XXXIII Rule 6 of the Supreme Court Rules, 1980 for permission  
to file CPLA]*

*Sindh High Court Bar Association through its President.* ... Applicant

Versus

*Federation of Pakistan through Secretary,  
M/o Interior and others.* ... Respondents

4. **Civil Misc. Application No. 656-L/20 in CP NIL-L/20**  
*[Under Order V(2)(ii) of the Supreme Court Rules, 1980 for  
permitting the present applicant to file the titled CPLA]*

*Hafiz Abdul Rehman Ansari.* ... Applicant

Versus

*General (Retd.) Pervez Musharraf and others.* ... Respondents

For the Applicant: (in CMA. 677/20)	Mr. Hamid Khan, Sr. ASC (through video-link from Lahore) a/w applicant in-person)
(in CMA. 1875/20)	Mr. Haroon-ur-Rasheed, ASC
(In CMA. 1580/20)	Mr. Rasheed A. Rizvi, Sr. ASC (through video-link from Karachi)
(In CMA. 656-L/20)	In-person
For the Federation:	Ch. Aamir Rehman, Addl. Attorney-General for Pakistan
For the Respondents:	N.R.
Date of Hearing:	10.11.2023

### **ORDER**

**Qazi Faez Isa, CJ.** CMA No. 677/2020 has been filed by Mr. Taufiq Asif, former President of the Lahore High Court Bar Association, CMA No. 1875/2020 has been filed by the Pakistan Bar Council, CMA No. 1580/2020 has been filed by Sindh High Court Bar Association and CMA No. 656-L/2020 has been filed by Hafiz Abdul Rehman Ansari, an advocate of this Court.

2. It is submitted by the learned counsel that a Special Court comprising of three Judges of the High Court had conducted the trial at Islamabad and gave its judgment at Islamabad. It is further submitted that during an interim stage of the trial the matter had come up before this Court before a three-member Bench of this Court whose decision has been reported (*Lahore High Court Bar Association v General (Retd.) Pervez Musharraf*, 2019 SCMR 1029); the order of this Court was authored by one of us (Syed Mansoor Ali Shah, J, which necessitated his inclusion in this Bench). This Court had taken cognizance of the trial before the Special Court at Islamabad and had given certain directions to the Special Court *vide* order dated 1 April 2019. However, in complete disregard of the fact that the Supreme Court had taken cognizance of the Special Court's trial at Islamabad and had sustained it the Lahore High Court entertained WP No.

71713/2019, and then allowed it, on 13 January 2020 (reported as *Pervez Musharraf v Federation of Pakistan*, PLD 2020 Lahore 285).

4. The learned counsel submit that:

- (i) The Lahore High Court had no territorial jurisdiction;
- (ii) The jurisdiction of special courts is attended to in section 12 of the Criminal Law Amendment (Special Court) Act, 1976 and the purported *judgment* by the Lahore High Court is in derogation thereof;
- (iii) The Lahore High Court did not have constitutional jurisdiction under any of the provisions of Article 199 of the Constitution;
- (iv) The purported *judgment* of the Lahore High Court was *ab initio* void, illegal, unconstitutional and *coram non judice*;
- (v) The writ petition was not maintainable before the Lahore High Court;
- (vi) The Lahore High Court assumed jurisdiction which exclusively vested in the Supreme Court, under section 12(3) of the Criminal Law Amendment (Special Court) Act, 1976; and
- (vii) The Lahore High Court had acted in complete derogation of the Constitution and of the law and that it is the duty of bar associations, bar councils and lawyers to ensure that the Constitution and the law is not violated and, if such illegalities are committed, to bring the same to the notice of this Court to rectify them.

5. The abovementioned are substantial and legal points which require consideration, therefore, subject to all just exceptions, these applications are allowed and the office is directed to number the petitions and issue notices to the respondents, except respondent No. 1 who has since passed away, however, the legal heirs of respondent No. 1 may come forward to join these cases.

6. The record of WP No. 71713/2019, including the office file directing fixing of the case and constitution of special bench be requisitioned from the Lahore High Court and be put up along with these petitions when they

are fixed in Court for hearing on **Tuesday, 21 November 2023 at 11.30 am.**

Chief Justice

Judge

Judge

Judge

Islamabad  
10.11.2023  
(Farrukh)

Approved for Reporting