

THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

JUSTICE SHAHID WAHEED

JUSTICE SHAHID BILAL HASSAN

C.P.L.A. No. 1078/L/2025

[Against order dated 14.05.2025 passed in Review Petition No.25308 of 2025 by Lahore High Court, Lahore]

Munir Ahmad Bhatti

...Petitioner(s)

Versus

Mehmood Ahmad Tahir Bhatti etc.

...Respondent(s)

For the Petitioner(s) : Mr. Maqbool Hussain Sheikh, ASC
Mr. Sohail Dar, ASC

For Respondent(s) : N.R.

Date of Hearing : 02.01.2026

ORDER

SHAHID BILAL HASSAN-J: Brief facts germane to the filing of the instant Civil Petition for Leave to Appeal are as such that Respondent No.1 instituted a civil suit for declaration, cancellation of sale deeds, possession, permanent injunction and consequential relief in respect of land measuring 53 Kanals 03 Marlas situated at village Mohlanwal, Lahore, challenging various sale deeds and mutations executed during different periods, and asserting ownership rights therein against the petitioner/defendant No.1 and respondent No.2. The petitioner contested the suit by filing a written statement and the matter proceeded to trial after framing of issues. The plaintiff appeared in the witness box as PW-1 and his examination-in-chief was recorded on 19.11.2024, whereafter the case was adjourned for cross-examination. From 25.11.2024 onwards, the petitioner/defendant No.1 conducted cross-examination on PW-1 on multiple dates i.e. 25.11.2024, 07.12.2024, 17.12.2024, 19.12.2024, 02.01.2025, 04.01.2025 and 06.01.2025. During this period of nearly two months, extensive cross-examination spanning approximately thirty pages was recorded, and several adjournments were granted on one ground or the other. On 06.01.2025, during further cross-examination, learned counsel for the plaintiff raised a formal objection, contending that the petitioner was putting irrelevant, repetitive and scandalous questions with the sole object of

harassing and humiliating the witness, and that the right of cross-examination was being misused. On the said objection, both the sides advanced their arguments and vide order dated 13.01.2025, the trial Court held that the petitioner had already conducted prolonged and exhaustive cross-examination on PW-1; that no material question relevant to the controversy remained to be asked; and that further cross-examination would amount to abuse of the process of the court. Consequently, the right of the petitioner/defendant No.1 to further cross-examine PW-1 was closed and the case was fixed for cross-examination on PW-1 by defendant No.2.

Aggrieved of the said order, the petitioner invoked the revisional jurisdiction of the Lahore High Court by filing Civil Revision No.4257 of 2025 under Section 115 CPC. After examining the entire record and the manner in which cross-examination had been conducted, the learned High Court dismissed the civil revision, holding that the trial court is competent to regulate its proceedings and prevent harassment of a witness. However, with the consent of the parties, the learned High Court directed that the petitioner shall be afforded only one final opportunity to cross-examine PW-1 on 22.04.2025 at 10:30 a.m., and further ordered that such cross-examination shall be conducted strictly during court hours under the supervision of the learned trial court.

The petitioner, thereafter, filed a review petition before the Lahore High Court, which was also dismissed on the ground that no error apparent on the face of the record was made out and that the order under review suffered from no illegality or material irregularity. In the review proceedings, the petitioner specifically contended that no consent was ever given for grant of a limited opportunity of cross-examination and that the High Court could not lawfully fix a specific date and time for conducting cross-examination.

Having failed before the Trial court, the High Court in Revision, and again in Review, the petitioner has now approached this Court, assailing the closure of his right to further cross-examine PW-1 and the concurrent orders passed by the courts below.

2. Heard. Record perused.
3. The learned counsel for the petitioner has raised threefold contentions: firstly, that the learned Trial Court erred in closing the petitioner's right of further cross-examination; secondly, that no

consent was recorded before the learned Judge of the High Court, contrary to what has been reflected in the order dismissing the civil revision; and thirdly, that the High Court lacked the lawful authority to fix and limit a specific date and time for conducting cross-examination.

4. Adverting to the first contention regarding the closure of the right of cross-examination, the record unambiguously manifests that the petitioner was granted seven opportunities to cross-examine the witness (P.W.1), and during this period of nearly two months, extensive cross-examination spanning approximately thirty pages was recorded. To address this controversy, it would be advantageous to reproduce certain relevant provisions of the Qanun-e-Shahadat Order, 1984 ("QSO"):

144. Question not to be asked without reasonable grounds.— No such question as is referred to in Article 143 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

145. Procedure of Court in case of question being asked without reasonable grounds.— If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any advocate, report the circumstances of the case to the High Court or other authority to which such advocate is subject in the exercise of his profession.

146. Indecent and scandalous question.— The Court may forbid any question or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

148. Questions intended to insult or annoy.— The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

In light of the above provisions, it would also be appropriate to reproduce Rule 3 of Order XVII of the Code of Civil Procedure, 1908 ("CPC"):

3. Court may proceed not withstanding either party fails to produce evidence, etc._ Where any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith. (Underlined for emphasis)

In the backdrop of the aforesaid statutory framework and the submissions advanced on behalf of the petitioner, it would be appropriate to advert to the settled law enunciated by this Court in the

Muhammad Shafi Case (PLD 1967 Supreme Court 167) wherein it was observed:

"There is a regrettable practice among class of lawyers to use prolonged cross examination for the purpose of leading a witness to error after his alertness has been reduced through fatigue and his resistance to suggestions made in the form of leading questions has thereby been reduced. Such a practice is plainly designed not on the disclosure of truth, but for the manipulation of error, and we take this opportunity of expressing our entire disapproval of the use of such methods."

This Court, while dealing with a similar situation in the Mir Hassan Case (1999 SCMR 1418) further remarked:

"... the object of cross-examination is to extract truth from the witness. To achieve this objective, the cross-examination must confine to matters which are relevant. The witness may be questioned to establish his bias, interest, corruption or perjury. The witness may also be questioned to discover his position with reference to the controversy or to shake his credit by drawing his attention to any of his previous inconsistent statement as to relevant facts or to his previous statement containing admissions. So long the cross-examination proceeds on these lines, the Court may allow it to continue. However, it is noticed that of late, a tendency has developed amongst the counsel especially in criminal cases to intimidate and scare away the witnesses through prolonged cross-examination by asking them irrelevant and misleading questions. It is here that the Court should not remain as silent spectator for the right of cross-examination by a party is neither unlimited nor unbridled. As soon as the Court feels that the right of cross-examination is being abused by a party by asking questions to the witness which are irrelevant and intended only to prolong the cross-examination with the object of intimidating or scaring the witness, the Court should intervene and disallow such cross-examination. It cannot be denied that witnesses in adversary litigation occupy pivotal position. Without truthful witness, it may well-neigh be impossible for the Courts to reach a correct conclusion in the case. The witnesses, therefore, should be treated with dignity and respect by the Courts in cases. The witness while deposing in cases should feel assured that any attempt by party against whom he is deposing, to intimate or to humiliate him, will not be allowed by the Court and that he will be provided full protection against all such attempts. It cannot be denied that reluctant on the part of witnesses to give evidence in cases has been largely due to the rough and undignified treatment meted out to them by the Court and the humiliation and intimidation they suffer at the lands of the counsel for the party against whom they appear to depose in die case. The Court possesses ample power to provide protection to witnesses when confronted with such a situation, The present case is an example where cross-examination of prosecution witnesses continued unabated for days together on matters which were mostly irrelevant creating an impression that the Court was not alive to the proceedings going on before it. Much of the Court time could have been saved and the witnesses protected against unsavory cross-examination by the defence counsel, with the timely intervention of the Court." (Emphasis Supplied)

More recently, this Court reaffirmed the above principles in Meera Shafi Vs. Ali Zafar (PLD 2023 Supreme Court 211) holding as under:

"25. ... So far, a 24-page cross-examination of the petitioner has been recorded, and the parties are contesting on the mode of recording further cross-examination of the petitioner for the last about eight months. This state of affairs is really disquieting. 'The purpose of cross-examination', as observed by this Court in the case of Muhammad Shafi, 'is to assist the Court in bringing the truth to light by disclosing or clarifying matters which witnesses may wish to conceal or confuse from motives of partisanship.' There is, however, a regrettable practice to use the tool of prolonged cross-examination for the purpose of leading the witness into some error by exhausting him through unnecessary and irrelevant questioning. This practice is designed not for the disclosure of truth but for the manipulation of error. In such a situation the presiding officer of the court, the judge, should not remain a silent spectator but should act as a vigilant supervisor, for the right of cross-examination is neither unlimited nor unbridled. When the judge observes that the right of cross-examination is being abused by asking questions which are irrelevant and intended to prolong the cross-examination with the object of manipulating error, or to scandalize, insult or annoy the witness, he should intervene and disallow such questions."

(Underlined for emphasis)

5. Applying the above-settled principles to the facts of the present case, we find no illegality or material irregularity in the orders passed by the Learned Courts below. The record clearly reflects that the petitioner was afforded with more than adequate opportunities to cross-examine P.W.1 on as many as seven dates, resulting in an extensive cross-examination as observed above. Despite such lenience, the trial court was justified in forming the view that further cross-examination was neither necessary nor directed towards the discovery of truth, and that its continuation would amount to an abuse of the process of the Court and harassment of the witness. In such circumstances, the trial court was well within its lawful authority to regulate the proceedings and to close the petitioner's right of further cross-examination. The High Court, while exercising its revisional jurisdiction, correctly declined to interfere with a discretionary order passed in accordance with law. Consequently, the first contention raised on behalf of the petitioner is devoid of merit and is hereby repelled.

6. We now advert to the second contention of the learned counsel for the petitioner: that no consent was recorded before the learned Judge of the High Court for grant of a limited opportunity of cross-examination though the impugned order itself records the existence of such consent. It is a settled principle that there exists a strong and well-entrenched

presumption in favour of the correctness of judicial proceedings and the veracity of judicial record¹, which cannot be displaced by mere assertions or bald allegations, but only by cogent, convincing and unimpeachable proof², as enunciated in Article 129(e) of the Qanun-e-Shahadat Order, 1984. In the present case, no material whatsoever has been placed on record to rebut this presumption or to demonstrate that the recital contained in the impugned order is incorrect. In the absence of any such evidence, the contention that no consent was recorded remains wholly unsubstantiated and is, therefore, devoid of any merit.

7. The last contention raised on behalf of the petitioner concerns the competence of the High Court to fix and regulate the time for cross-examination. This contention, regrettably, is wholly misconceived. Courts are vested with ample inherent powers under Section 151 of the CPC to pass such orders as may be necessary to secure the ends of justice and to prevent abuse of the process of the Court. The power to regulate judicial proceedings, including the fixation of a specific date and time for the conduct of cross-examination after repeated and sufficient lenience has already been extended, squarely falls within the scope of this inherent jurisdiction. The exercise of such power becomes not only permissible but imperative where it is required to ensure the orderly and expeditious disposal of proceedings, to maintain discipline in the conduct of trials, and to protect witness(es) from needless harassment and protraction. This Court has already expressed a similar view in NWFP Government Vs. Abdul Ghafoor Through L.R.s (PLD 1993 Supreme Court 418):

"5. The Court has also inherent powers under section 151, C.P.C., to make such orders, as may be necessary for the ends of justice and to prevent the abuse of the process of the Court. These are all enabling provisions; the powers thereunder can be exercised by the Court to cover ostensibly impossible situations, for complete dispensation of justice, for which C.P.C. has been designed, but despite the best efforts of the draftsman, to cater for all possible situations, if it is found lacking in meeting some eventualities, the Court can act ex delicto justitiae, supply the omission in the procedure, adopt methodology, for effectually carrying out the purpose in view.

It is well settled that the inherent powers of the Court are to be exercised rarely and sparingly, and only where the ends of justice so demand. Such powers may be invoked to redress a grievance only in circumstances where, having regard to the facts of the case, no other efficacious procedure or statutory remedy is available. The exercise of inherent jurisdiction is extraordinary in

¹ Syed Ali Ahmed Shah Vs. Syed Shoukat Hussain Shah and others (2025 SCMR 361)

² Fayyaz Hussain Vs. Akbar Hussain and others (2004 SCMR 964)

nature and cannot be employed to override or circumvent the express provisions of law.

However, situations may arise where the demands of justice require immediate, bona fide, and substantial intervention by the Court. In such exceptional circumstances, the Court would be justified in exercising its inherent jurisdiction to protect a party from harassment and to prevent abuse of the process of the Court. Although this power is to be used with restraint and circumspection, it nevertheless vests the Court with sufficient latitude to pass such orders as may be necessary to secure the ends of justice."

8. In the present case, the High Court, merely structured the remaining opportunity of cross-examination in a controlled and supervised manner. Such exercise of jurisdiction is manifestly lawful and cannot, by any stretch of reasoning, be termed as without authority or in excess thereof. This stance of the petitioner is also hereby repelled.

9. Another aspect of the case which warrants consideration relates to the scope and extent of the power of review vested in the Courts under Section 114 read with Order XLVII, Rule 1 of the CPC, particularly in circumstances where the judgment sought to be reviewed was rendered after conscious appraisal of the record and a thorough examination of the attending facts and circumstances. The petitioner, in an attempt to invoke the said jurisdiction, has sought to characterize the recording of consent in the order passed by the High Court as an omission or error attributable to the Court. We are, however, unable to subscribe to this contention, as the impugned judgment reflects a deliberate and reasoned exercise of judicial power rather than any accidental slip or error apparent on the face of the record.

10. The grounds on which review can be sought are: (1) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of, or could not be produced by, the third party seeking review at the time when the decree was passed or order made; (2) some mistake or error apparent on the face of the record, and (3) any other sufficient reason.³ This Court has very recently affirmed the above principal in Syed Ali Ahmed Shah Vs. Syed Shoukat Hussain Shah (2025 SCMR 361) while holding as under:

³ Justice Qazi Faez Isa v. President of Pakistan PLD 2022 SC 119; M/s Habib and Co. v. Muslim Commercial Bank PLD 2020 SC 227; Engineers Study Forum v. Federation of Pakistan 2016 SCMR 1961; Government of Punjab v. Aamir Zahoor-ul-Haq PLD 2016 SC 421; Haji Muhammad Boota v. Member (Revenue) BOR 2010 SCMR 1049 and Mehdi Hassan v. Province of Punjab 2007 SCMR 755.

"4. ... In exceptional cases, any order or judgment passed by the competent Court of jurisdiction, or any proceedings can be subjected to review under Order XLVII Rule, 1 C.P.C. and Section 114 read with Section 151 C.P.C. by showing some error on the face of the record and the impugned order/ decision sought to be reviewed, which otherwise could be rectified without reappraisal of the evidence or re-examination of the merits of the case."

11. In order to ascertain as to whether this is a fit case for exercising the powers for review, it will be appropriate to peruse the principles of law with regard to review power. In the case of Smti Meera Bhanja vs. Smti Nirmala Kumari reported as (AIR 1995 SC 455) it was observed:

"The limits to exercise the power of review is limited, Review Court not to act as appellate court."

In the above cited case, it was further observed that:-

"The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the persons seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of Appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court."

In addition to the above, in order to appreciate the scope of a review, section 114 of the C.P.C. has to be read, but this section does not even insinuate or adumbrate the ambit of interference expected of the Court since it merely states that it "may make such order thereon as it thinks fit." The parameters are prescribed in Order XLVII of the CPC which permit the aggrieved person to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason." The former part of the Rule deals with a situation attributable to the applicant and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulates a rehearing of the dispute because a party

had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the Court and thereby enjoyed a favourable verdict. In M/s Thungabhadra Industries Ltd. (in all the Appeals) v. The Government of Andhra Pradesh represented by the Deputy Commissioner of Commercial Taxes, Anantapur (AIR 1964 SC 1372), it was held:-

"There is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterized as vitiated by "error apparent". A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. Where without any elaborate argument one could point to the error and say here is a substantial point of law which states one in the face and there could reasonably by no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out."

12. In the light of what has been discussed above, we find ourselves in agreement with the conclusion drawn by the High Court while exercising its review jurisdiction in declining to interfere with a well-reasoned judgment. The controversy sought to be resurrected by learned counsel under the garb that consent was not given and even then the same was recorded; in this regard is observed that judicial proceedings carry a presumption of correctness, regularity and sanctity as has been discussed above, the same cannot be overshadowed mere on bald assertions and stances, contumaciously.

13. Consequently, in view of the foregoing discussion, we find no force in the instant petition; the same is hereby dismissed and leave to appeal is refused.

Lahore the
02nd of January, 2026
"Approved for Reporting"
M.A.Hassan