

**IN THE FEDERAL SHARIAT COURT**  
(ORIGINAL JURISDICTION)

**PRESENT**

MR. JUSTICE MUHAMMAD NOOR MESKANZAI, CHIEF JUSTICE  
MR. JUSTICE DR. SYED MUHAMMAD ANWER  
MR. JUSTICE KHADIM HUSSAIN M. SHAIKH

**SHARIAT PETITION NO.08-I OF 2021**

MAQBOOL AHMAD QURESHI, ADVOCATE, DISTRICT  
COURTS, GUJRANWALA.

PETITIONER

**VERSUS**

GOVERNMENT OF PAKISTAN, THROUGH THE SECRETARY,  
LAW AND PARLIAMENTARY AFFAIRS, ISLAMABAD.

RESPONDENT

COUNSEL FOR THE PETITIONER ... (PETITION SENT BY ADVOCATE BY POST)

DATE OF INSTITUTION ... 16.01.2021  
OF PETITION

DATE OF HEARING ... 13.10.2021

DATE OF JUDGMENT ... 17.12.2021

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**JUDGMENT:**

**DR. SYED MUHAMMAD ANWER, J.** The petitioner has filed this Shariat Petition on 16.01.2021 under Article 203-D of the Constitution of the Islamic Republic of Pakistan, 1973. Through this petition, the petitioner seeks a declaration of Article 142 of the

Limitation Act, 1908 as un-Islamic. According to him, the Article 142 is unjust and un-Islamic being repugnant to the injunctions of Islam. He also requested through a separate application dated 11.06.2021 that the Court may declare this Article as un-Islamic being repugnant to the injunctions of Islam in exercise of its suo-motu power vested in Hon'ble Federal Shariat Court, Islamabad. In the Shariat Petition No.08-I of 2021, the petitioner vide para No.06 of the petition also requested that he may be allowed or granted exemption from personal appearance and personal presence in this Court due to his old age of over 70 years and weak physical condition.

2. The petitioner never appeared in person or through the counsel in this case; he only pleaded his case through the Shariat Petition as follows:

"(1) That the honourable Shariat Appellate Bench of Supreme Court of Pakistan, had declared Sec. 28 of Limitation Act, 1908, commonly known as "Adverse Possession", on the landed properties, owned by other people, without any right or title of ownership, unjust and un-Islamic, vide its judgment, cited as [1991 SCMR 2063]. The Court had ordered, to repeal Article 144 Limitation Act, 1908, for the matter and it was thus deleted, from the statute book, in compliance with the operative effect of the aforesaid judgment, of the Shariat Appellate Bench.

(2) That Article 142, Limitation Act 1908 still exists, remains operative and effective, with 12 years of time period, after which, any real owner of landed property, may or may not get possession of the same, from the illegal possession of other persons, for being time-barred, because of the legal effect of the aforesaid Article 142 of Limitation Act, 1908. The Courts of law, in Pakistan, thus pass orders and judgments, in accordance with the still existing and effective Article 142, as its sense shows and indicates.

(3) In the Holy Quran, Allah Almighty ordains:

اور ایس میں ایک دوسرے کا مال ناحق نہ کہا نو، اور نہ حا کموں  
کے پاس ان کا مقدمہ اس لئے پہنچائو کہ لوگوں کا کچھ مال نا جائز  
طور پر کھالو جان بوجھ کر۔ (البقرہ: ۱۸۸)

As, the Article 142 is also unjust and unfair, with regard to taking and holding illegal possession, on the landed properties, owned by other people, therefore it should also be declared un-Islamic, for being repugnant, to the injunctions of Islam.

(4) That the existing Article 142, Limitation Act, 1908, may very graciously be declared unjust and un-Islamic for being very harmful, to the lawful owners of landed properties, in the country.

(5) That Section 28 and Article 144 of the limitation Act, were considered and treated as substantive laws and not procedural law, in the aforesaid Supreme Court judgment, so Article 142 may please also be taken as substantive law, like the above cited, two laws of the Limitation Act, 1908."

3. On the basis of these arguments, the petitioner prayed that in the light of the judgment of Hon'ble Supreme Court [1991 SCMR 2063], Article 142 of the Limitation Act, 1908, may be declared unjust and un-Islamic.

4. We have thoroughly reviewed the Shariat Petition and the arguments forwarded by the petitioner through his Shariat Petition for declaring Article 142 of the Limitation Act, 1908 as un-Islamic and reached at the following conclusion:

i) Firstly, Articles 144 and 142 of the Limitation Act, 1908 are two different and distinct Articles; both the Articles deal with the two different propositions of law and facts. The difference between them is evident from bare reading of these two Articles as stated in the First Schedule of the Limitation Act, 1908 under Section 3 of the Act. For clarity, both the Articles as written in the Limitation Act, 1908, are reproduced herein below:

Articles	Description of suit	Period of limitation	Time for which period begins to run
Art. 142	For possession of immovable property when the plaintiff, while in possession of the property, <u>has been dispossessed or has discontinued the possession.</u>	Twelve years	The date of the dispossession or discontinuance.
Art. 144	For possession of immovable property or <u>any interest therein not hereby otherwise specially provided for.</u>	Twelve years	When the possession of the defendant become adverse to the plaintiff.

[Emphasis added]

- ii) Secondly, these two Articles of the Limitation Act, 1908, i.e., the Articles 142 and the Article 144 are also completely different in their scope and applicability. Article 144 deals with suits for possession of immovable property not otherwise specifically provided in the First Schedule of the Limitation Act, 1908, already referred and reproduced herein above. On the other hand, Article 142 deals with any specific case where the plaintiff while in possession of the property has been dispossessed, i.e., thrown out by somebody else, who has taken over possession or while in possession of the property, has discontinued the possession. [Ref: FAYYAZ ALI vs. Syed ISLAM AHMED KALIMI, PLD 2001 Karachi 403].
- iii) Thirdly, under Article 142 the burden of proof is on a plaintiff to show that he had brought suit within the time period of 12 years from the date of dispossession or from the date of discontinuance of this possession. On the contrary, under Article 144, the burden of proof is on the defendant to prove that suit had been filed after 12 years from the date when his possession become adverse to the plaintiff, which means that the possession of a trespasser even for

a period of more than 12 years is not sufficient to sustain a plea of “adverse possession”. [Ref: MOULVI NOOR MOHAMMAD vs. SHEIKH ABDUL QADEEM, 1995 PSC 1].

- iv) Fourthly, so far Article 144 of the Limitation Act, 1908 is concerned, it was related to the “adverse possession”, as it stood before its omission by Act II of 1995, which Act was promulgated in the consequence of judgment of the Hon’ble Supreme Shariat Appellate Bench in the case of Maqbool Ahmad Vs. Hakoomat-e-Pakistan, 1991 SCMR 2063. This judgment of Shariat Appellate Bench basically declared Section 28 of the Limitation Act as repugnant to the injunctions of Islam taking effect from 31.08.1991 because this Section would give legal protection to adverse possession. The Section 28 as it was in the Limitation Act, 1908 before its omission is reproduced below:

**“28. Extinguishment of right to property.** At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.”

The period of limitation under Article 144 would continue from the time when the possession of defendant becomes adverse to the plaintiff. The above referred judgment of the Hon’ble Supreme Court Shariat Appellate Bench clearly declared the Section 28 and consequently the Article 144 of the Limitation Act, 1908 as unjust and un-Islamic and set the principle that peaceful possession of any length of time would not render the nature of possession as adverse to the true owner. Earlier to the omission of Article 144, the basic ingredients for adverse possession which were required to be proved were that the possession was hostile; continuous; and notorious to the interest of true owner, for more than twelve years. This all practice was declared un-Islamic and unjust. [Ref: 1993 CLC 454 AZIZUR REHMAN and 10 others vs. ALI HAIDER SHAH and 4 others].

- v) Fifthly, Article 144 would include cases where the transfer or possession to the plaintiff originally was under permission or title. On the contrary, Article 142 of the said Act carried no such thought, but it presupposed a person who had possession, but had discontinued the same, therefore, consequently there was no question of any assumption that the subsequent person securing possession was the one who initially treated his possession as under the plaintiff's title. The discontinuation of the possession within the meaning of Article 142 of the Limitation Act, 1908 was more in consonance with the view that the discontinuation was a form of abandonment and not a transfer of possession under permission or title [Ref: PLD 2001 Karachi 403 page 405].
- vi) Sixthly, if a suit is brought by an encroacher against any person other than the owner within a period of 12 years after his dispossession is maintainable within the meaning of Article 142 of the Limitation Act, 1908, which means that a suit by an encroacher against another encroacher is maintainable but not against the actual owner. Article 142 of the Limitation Act, 1908 is governed by a legal maxim or a principle of natural law "possession follows title; title follows possession against the whole world except the actual owner" whereas this legal maxim was not applicable to Article 144 when it was in place in the Act, i.e., before its omission from the Limitation Act, 1908. [Ref: Mst. QASIMA BEGUM and 2 others vs. ABDULLAH through Legal Heirs and others, 2013 CLC 191].
- vii) Lastly, we want to make it very clear that Article 144 and the Article 142 of the Limitation Act, 1908 are totally and completely different in scope, application and enforceability. Article 142 clearly speaks of dispossession or discontinuation of possession. Whereas the Article 144 would apply where the cause of action for

the suit is based on the plaintiff's title to immovable property. Under Article 142 the plaintiff has to prove his dispossession from the immovable property within twelve years of dispossession, on the contrary, under Article 144, the plaintiff must bring his suit within twelve years from the date when the possession of the defendant becomes adverse to the plaintiff.

5. We have thoroughly gone through the judgment of the Hon'ble Shariat Appellate Bench of the Supreme Court [1991 SCMR 2063, Maqbool Ahmad Vs. Hakoomat-e-Pakistan] and reached to a conclusion that this judgment of Shariat Appellate Bench is only related to the concept of adverse possession; consequently all the Sections or Articles of the Limitation Act, 1908 ancillary thereto to the concept of adverse possession. That is why only Section 28 and Article 144 were omitted from the Limitation Act, 1908 in consequence of the judgment cited as 1991 SCMR 2063, Maqbool Ahmad Vs. Hakoomat-e-Pakistan. The relevant sections of the Act II of 1995 which omitted the Section 28 and Article 144 from the Limitation Act, 1908 is reproduced below:

"ACT II OF 1995  
**LIMITATION (AMENDMENT) ACT, 1995**  
 An Act further to amend the Limitation Act, 1908  
 [Gazette of Pakistan, Extraordinary, Part I,  
 18<sup>th</sup> October, 1995]

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2. Omission of section 28, Act IX of 1908.- In the Limitation Act, 1908 (IX of 1908), hereinafter referred to as the said Act, section 28 shall be omitted.
  3. Omission of Article 144 of the First Schedule, Act IX of 1908, the said Act, in the First Schedule, Article 144 shall be omitted."

This judgment 1991 SCMR 2063, Maqbool Ahmad Vs. Hakoomat-e-Pakistan of the Hon'ble Shariat Appellate Bench is not related to Article 142 as perceived by the petitioner in his Shariat Petition. Hence, the Shariat Petition of the petitioner is misconceived; therefore, it is dismissed in *limine*.

**JUSTICE DR. SYED MUHAMMAD ANWER**

*Mubashir/\**

**MUHAMMAD NOOR MESKANZAI, C-J---** I have gone through the proposed draft authored by my learned brother Dr. Syed Muhammad Anwer, J, I concur with the conclusions for dismissal of petition, but for my own reasons. The vires of Article 142 of Limitation Act are in question on the ground that Article 144 of Limitation Act has been declared repugnant to Injunctions of Islam by Hon'ble Shariat Appellate Bench of Supreme Court vide judgment titled Maqbool Ahmed v. Government of Pakistan reported in 1991 SCMR 2063 and thus deleted from Statute Book, Article 142 occupies field and thereby compels a dispossessed owner of a property to file a suit for possession within the period of 12 years and failure of owner would vest the defendant with the right to retain possession as owner. Therefore, this article being oppressive, harmful and unjust be declared un-Islamic as Islam does not allow the eating of wealth of others unjustly. Reliance has been placed on following Ayat-188 Al-Baqarah:-

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْخِلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ  
أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ (١٨٨)

Do not eat up one another's property among yourselves by false means (unjustly) nor give bribery to the judges so that you may knowingly eat up a part of the property of others sinfully.

2. According to petitioner, Section 28 and Article 144 of Limitation Act and Article 142 are on same footings with same object, therefore, on the same analogy Article 142 deserves to be struck down. Office found the petition suffering from procedural infirmities and lapses, so felt it advisable to return the petition to petitioner as contemplated by Rule 9(3) of Federal Shariat Court (Procedure) Rules, 1981. So, the petition was accordingly returned with the copy of Procedure Rules, 1981 to petitioner with advice to file it again after compliance with the rules.

3. The petitioner instead of complying with rules re-submitted it again, with an application that Article 142 of Limitation Act be declared un-Islamic in exercise of Suo Moto powers. In main petition, the petitioner vide Para 6 has sought exemption of his personal appearance on account of old age but was not generous to provide us with the assistance of a counsel.

4. We have gone through the contents of petition and application dated 11.06.2021 but have not been able to persuade ourselves to subscribe either of two requests for multiple reasons. Firstly, because perhaps the petitioner has not gone through the judgment referred to and relied by the petitioner or has not been able to grasp, understand and comprehend the dictum laid down therein. In fact, the Court did not declare Article 144 of Limitation Act repugnant to Islamic Injunctions because Article 144 is a Procedural Law

and itself neither creates any right of ownership nor vests someone with proprietary right.

5. To this extent the provisions of Article 144 of Limitation Act are purely procedural, ineffective, inconsequential, inoperative towards creating or extinguishing right of ownership in an immovable property. Observations at Para 37 at page 2083 of judgment reported as 1991 SCMR 2063 are relevant and reproduced:

"۳۷۔ اپیل کنندہ نے لمیٹیشن ایکٹ کے پہلے شیڈول میں آرٹیکل ۱۴۴ کو بھی دفعہ ۲۸ کے ساتھ چیلنج کیا ہے، اور اس کو بھی قرآن و سنت سے متصادم قرار دینے کی درخواست کی ہے، لیکن میں سمجھتا ہوں کہ شیڈول کا آرٹیکل ۱۴۴ درحقیقت قبضے کی واپسی سے متعلق مقدمات کے لئے بارہ سال کی میعاد سماعت اور اس میعاد کا نقطہ آغاز بتانے کے لئے وضع کیا گیا ہے، اس میں بذات خود قبضہ مخالفانہ کے ذریعے مالک کے حق کے خاتمے یا ناجائز قابض کی ملکیت ثابت ہو جانے کا کوئی حکم موجود نہیں ہے، یہ آرٹیکل درحقیقت اس وقت قرآن و سنت کے احکام کے خلاف نتائج پیدا کرتا ہے جب اسے ایکٹ کی دفعہ ۲۸ کی روشنی میں پڑھا جائے، لیکن اگر دفعہ ۲۸ ایکٹ میں موجود نہ ہوتو یہ آرٹیکل محض سادہ میعاد سماعت کے بیان پر مشتمل ہے، جس کے بارے میں یہ قرار دے چکا ہوں کہ وہ اس عدالت کے دائرہ اختیار سے باہر ہے، اور اس میں کوئی شرعی خرابی بھی نہیں ہے، لہذا اگر دفعہ ۲۸ قانون کا حصہ نہ رہے، تو پھر آرٹیکل ۱۴۴ کے باقی رہنے سے محض اس آرٹیکل کی بنیاد پر قبضہ مخالفانہ (Adverse Possession) کے ذریعے ملکیت کا حصول اور اصل مالک کی ملکیت کا خاتمہ ممکن نہیں رہے گا، لہذا دفعہ ۲۸ کے قرآن و سنت سے متصادم اور بے اثر قرار یا جانے کے بعد پہلے شیڈول کے آرٹیکل ۱۴۴ کو قرآن و سنت سے متصادم قرار دینے کی کوئی ضرورت میرے نزدیک باقی نہیں رہتی۔"

However, at the strength of Section 28 of Limitation Act a person in adverse possession of property could have maintained a suit for a declaration of ownership by involving the provisions of Article 144 of Limitation Act after the lapse of 12 years on account of his continuous uninterrupted and notorious possession, which of course was repugnant to Injunctions of Islam, as in the Islam, lapse of time cannot create right of ownership in favour of a trespasser, wrongdoer or a land grabber against the rightful owner of the property. Therefore, only Section 28 of Limitation Act was declared repugnant to

Injunctions of Islam. For the sake of convenience, operative portion of judgment reported in 1991 SCMR 2063, relevant portion at Page 2083 is reproduced:-

*“For reasons recorded in two separate judgments, the Court is unanimous in holding that section 28 of the Limitation Act, 1908 (Act No.IX of 1908) is repugnant to the Injunctions of Islam in so far as it provides for extinguishment of the right in the property at the determination of the period prescribed for instituting a suit for possession of the said property. It is further held that this decision shall take effect from 31<sup>st</sup> of August, 1991 and on this date section 28 aforesaid shall also cease to have effect.”*

Of course, by now Article 144 of the Limitation Act is no more part of the Statute after its repeal by Act II of 1995.

6. Secondly, Article 142 of Limitation Act simply prescribes a period of 12 years for maintaining a suit by a dispossessed owner of an immovable property within the stipulated period and thereafter suit will be barred. However, such non-maintainability or rejection/dismissal of the suit on this very ground i.e. limitation would not cloth defendant with proprietary rights nor shall confer a title of ownership to defendant, at the best, the remedy provided to plaintiff to knock at the door of Court for possession of property within the period of 12 years stands barred. So, at the strength of dictum laid down by the Hon’ble Shariat Appellate Bench of Supreme Court, this can safely and without any amount of hesitation be concluded that Article 142 of Limitation Act like Article 144 of the schedule of Limitation Act is simply, purely and absolutely a procedural law.

7. Once it is conceded and concluded that Article 142 of Limitation Act is a procedural law, then the constitutional bar of jurisdiction within the

meaning of Article 203-B(c) is attracted. Intrinsically, what can be deduced from the contents of petition is that the petitioner is perhaps under a misconception that there is no, or, there should be no law of limitation under Islamic Law governing litigations in respect of immovable property. Such an ill and hard approach being illegal, irrational and illogical cannot be subscribed to at any cost. This issue too was dealt with by the Hon'ble Shariat Appellate Bench in the same judgment. Relevant portion is reproduced:-

"۱۰۔ اب میں اصل مسئلے کی طرف آتا ہوں۔ واقعہ یہ ہے کہ اگر بات صرف اتنی ہوتی کہ مقدمات کی سماعت کے لئے قانون کی طرف سے کوئی مدت مقرر کر دی گئی ہے، جس کا مطلب یہ ہے کہ اس مدت کے بعد عدالتیں کسی مقدمے کو سننے سے انکار کر دیں گی، لیکن اس انکار کا اثر فریقین کے اصلی حقوق (Substantive rights) پر کچھ نہیں پڑے گا، تو محض یہ ایک ضابطے (Procedure) کی بات ہونے کی وجہ سے اس عدالت کے دائرہ اختیار میں بھی نہیں تھی، اور خود شرعی اعتبار سے بھی اس پر کوئی بڑا اعتراض مشکل تھا، کیونکہ عدالتیں اس شخص کی مدد کر سکتی ہیں جو مناسب وقت پر چارہ کار حاصل کرنے کے لئے ان سے رجوع کرے، اگر لوگوں کو یہ کھلی چھٹی دے دی جائے کہ وہ سینکڑوں سال پرانے تنازعات کو جب چاہیں زندہ کر کے عدالت میں پہنچ جایا کریں، تو اس سے لامحدود مقدمہ بازی کا دروازہ کھل جائے گا، اور عدالتوں کے لئے نہ صرف یہ کہ ایسے پرانے جھگڑوں کو نمٹانا تقریباً ناممکن ہو گا، بلکہ اس سے فوری اور حقیقی تنازعات کے تصفیے میں بھی سخت رکاوٹ پڑے گی، اسی لئے مختلف اسلامی حکومتوں میں بھی مقدمات کی سماعت کے لئے مختلف مدتیں مقرر کی جاتی رہی ہیں، علامہ شامی نے شمس الائمہ سرخسیمی کے حوالے سے لکھا ہے کہ اگر کوئی شخص تینتیس سال تک مقدمہ دائر نہ کرے تو اس مدت کے بعد اس کا دعویٰ قابل سماعت نہیں رہے گا، (ردالمختار ص ۴۲۲ ج ۵ مطبوعہ کراچی) شمس الائمہ سرخسیمی خلافت عباسیہ کے زمانے کے ہیں، لہذا اس سے معلوم ہوتا ہے کہ خلافت عباسیہ کے زمانے میں بھی میعاد سماعت کا تصور موجود تھا۔

۱۱۔ بعد میں حنفی فقہاء نے چھتیس سال کی میعاد سماعت مقرر کی جس کے بعد کوئی دعویٰ قابل سماعت نہیں رہتا، (ردالمختار، حوالہ بالا) پھر ترکی خلافت کے زمانے میں پندرہ سال کی میعاد مقرر کی گئی، اور یہ حکم دیا گیا کہ وقف اور میراث کے مقدمات کے علاوہ کوئی بھی مقدمہ بناہ دعویٰ قائم ہونے کے پندرہ سال بعد نہیں سنا جائے گا، نیز ترکی خلافت کے آخری دور میں جب شریعت کا دیوانی قانون "مجلہ" کے نام سے مدون کیا گیا تو اس کی دفعات نمبر ۱۶۶۰ ۱۶۶۱ اور ۱۶۶۲ میں عام مقدمات کے لئے پندرہ سال اور وقف کے مقدمات کے چھتیس سال کی میعاد مقرر کی گئی۔ اور اس کے بعد کی دفعات میں اس میعاد کو شمار کرنے کے لئے تفصیلی قواعد وضع کئے گئے۔۔۔

۱۲۔ ان مدتوں کے تعین پر قرآن و سنت کے نقطہ نظر سے کوئی قابل ذکر اعتراض نہیں ہوا، بلکہ جب خلافت عثمانیہ میں پندرہ سال کی مدت مقرر کی گئی تو علامہ شامی نے نقل کیا ہے کہ حنفی، شافعی، مالکی اور حنبلی چاروں مکاتب فکر نے یہی فتویٰ دیا کہ اس مدت کے بعد کسی مقدمے کے سماعت نہیں ہو سکتی۔

(شامی ج ۵ ص ۴۱۹)

۱۳۔ مختلف مقدمات میں مدتوں کی مقدار پر تو بحث ہو سکتی ہے کہ کس مقدمے میں کتنی مدت مناسب اور کتنی غیر مناسب ہے؟ لیکن جہاں تک اس اصول کا تعلق ہے کہ مقدمات کی سماعت کے لئے کوئی میعاد مقرر ہونی چاہیے، یہ اصول بالکل درست اور غیر متنازعہ ہے، جس پر شرعی نقطہ نظر سے کوئی اعتراض نہیں ہو سکتا۔

۱۴۔ مگر ساتھ ہی یہ یاد رکھنا چاہئے کہ میعاد سماعت کا یہ تعین اسی وقت جائز اور درست ہے جب عدالت کی عملی دشواریوں پر قابو پانے کے لئے اس کا مقصد صرف اتنا ہو کہ اس مدت کے بعد عدالتوں میں کوئی دعویٰ قابل سماعت نہیں ہوگا، اور اس سے فریقین کے واقعی حقوق اور ذمہ داریوں پر کوئی اثر نہ پڑے، چنانچہ جن فقہاء اسلام یا اسلامی حکومتوں نے مقدمات کی سماعت کے لئے کوئی میعاد مقرر کی، انہوں نے ساتھ ساتھ یہ بھی کہا دیا کہ یہ میعاد مقرر کرنے کی بنیادی وجہ یہ ہے کہ مدت دراز گزرنے کے بعد مقدمات میں مکروفریب، جعلسازی اور جھوٹی گواہیوں کا امکان بڑھ جاتا ہے، اگر عدالتیں ایسے مقدمات کی سماعت شروع کر دیں تو بہت سے لاینحل مسائل کھڑے ہو جائیں۔ لیکن اگر اس اصول کے تحت عدالت نے کسی حق کا تصفیہ کرنے سے انکار کر دیا ہے تو اس کا یہ مطلب نہیں ہے کہ وہ حق موجود نہیں رہا، بلکہ وہ حق اس انکار کے باوجود باقی ہے، اور جس کے ذمے حق ہے، اس پر شرعاً اور اخلاقاً فرض ہے کہ وہ اسے حقدار تک پہنچائے، خواہ کتنا طویل زمانہ گزر چکا ہو، اگر وہ ایسا نہ کرے گا تو عدالت خواہ اسے کچھ نہ کہے، لیکن وہ سخت گناہ گار ہوگا۔"

8. In the light of above discussion, provisions of Article 142 of the Schedule to Limitation Act being procedural in nature are out of ambit of examination of this Court as contemplated by Article 203-B(c) of the Constitution of Islamic Republic of Pakistan. Hence, petition being incompetent is dismissed *in-limine*.

**Mr. Justice Muhammad Noor Meskanzai**  
**Chief Justice**

*Imran/\**

**KHADIM HUSSAIN M. SHAIKH, J,** I have had the privilege to go through the proposed judgment authored by my respected brother Dr. Syed Muhammad Anwer, J, and note of my worthy brother Mr. Muhammad Noor Meskanzai, C-J and I agree with their conclusion

for dismissal of the petition. Accordingly this petition is dismissed in *limine*.

**JUSTICE KHADIM HUSSAIN M. SHAIKH**

Dated the 17<sup>th</sup> December, 2021  
at Islamabad.

*Khurram/\**