JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

F.A.O No.97 of 2025

Latif Hakeem and another
Vs.
Samsung Gulf Electronics FZE and others

Appellants by:	M/s Kashif Ali Malik, Qaisar Abbas Gondal and Barrister Gul Share Ali, Advocates (for appellants No.1 & 2). M/s Abdul Basit Bhatti, Muhammad Saqib Bhatti, Qaisar Abbas Gondal, Syed Wasif Hussain Shah Kazmi and Muhammad Hamza Malik, Advocates (for appellant No.1).
Respondent No.1 by:	Mian Muhammad Kahsif and Mr. Nasir Mehmood, Advocates.
Respondents No.2 to 4:	Ex-parte.
Date of Hearing:	**03.06.2026.**

INAAM AMEEN MINHAS, J:- Through the instant appeal, the appellants have assailed the order dated 09.07.2025 **("Impugned Order")**, passed by the learned Additional District Judge (West), Islamabad **("Executing Court")**, whereby objection petitions filed by the appellants in an execution petition, filed for the enforcement/execution of the judgment passed by the Court of United Arab Emirates(UAE), were dismissed.

2. The facts, in brief, leading to the filing of the present appeal are that respondent No.1 [Samsung Gulf Electronics FZE] filed an execution petition u/s 44-A read with Order XXI, Rules 10 and 11 CPC before the learned Executing Court for the enforcement of the judgment passed by the Court of first instance of Dubai (UAE) dated 20.10.2021, which was upheld by the Dubai Court of Appeal on 28.06.2022 and further upheld by the Court of Cassation of Dubai on 27.10.2022. The appellants filed objection petitions, to which respondent No.1 filed its

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reply. After hearing the learned counsel for both sides, the learned Executing Court dismissed the objection petitions vide the Impugned Order.

3. The learned counsel for the appellants argued that the learned Executing Court wrongly dismissed objection petitions through the Impugned Order without properly considering the requirements of Sections 13 and 44-A CPC and the relevant provisions of the Qanoon-e-Shahadat Order 1984, regarding the enforcement of foreign judgments; that the foreign decree was not conclusive, as the same was passed in violation of natural justice, and obtained in the appellants' absence without affording them a proper opportunity of hearing; that the dispute was already covered by a valid arbitration agreement and arbitral award, which restrained the decree holder from pursuing proceedings in Pakistan and the UAE; therefore, the execution proceedings were contrary to the arbitral award and the principles of *res judicata*; that the decree holder failed to fulfil the mandatory legal requirements for enforcing a foreign decree, and that the foreign judgment was obtained through fraud, suppression of material facts, and reliance on findings of a foreign criminal Court rather than on an independent civil adjudication; that the decree sought to impose personal liability upon directors and employees for corporate acts is in violation of Pakistani company law and public policy, while the multiple proceedings initiated in different jurisdictions amounted to forum shopping, abuse of process and vexatious litigation; that the learned Executing Court failed to appreciate these objections and passed the Impugned Order without proper application of judicial mind, thereby causing serious prejudice to the appellants and rendering the Impugned Order liable to be set aside.

4. On the other hand, the learned counsel for respondent No.1 argued that the objections raised by the appellants relate to pre-decretal issues, which had already been raised and finally decided by the Dubai Courts up to the Court of Cassation; that the learned Executing Court, while exercising jurisdiction u/s 44-A CPC cannot go behind the

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foreign decree or re-examine matters already adjudicated; that the decree was based not solely on the criminal judgment but also on an independent expert report accepted by the Dubai Courts under its procedural law; that the foreign judgment was duly authenticated, its existence and genuineness were never disputed, and electronic copies are legally admissible; that the objections relating to arbitration, forum shopping, SECP registration, territorial jurisdiction, ex-parte proceedings, personal liability, and joint liability had already been considered and rejected by the Dubai Courts, therefore, none of these objections falls within the exceptions provided u/s 13 CPC, and the foreign decree is conclusive and fully executable in Pakistan u/s 44-A CPC.

5. I have heard arguments of the learned counsel for the parties and gone through the record.

6. The present appeal involves the question of the execution of a foreign decree u/s 44-A CPC, as well as the determination of the objections regarding the enforceability of the foreign judgment on the grounds specified in Section 13 CPC. The appellants filed objection petitions against in the execution of the judgment passed by the Court of Dubai dated 20.10.2021, which were dismissed vide the Impugned Order.

7. Before considering merits of the case, it is necessary to first discuss the powers and functions of the learned Executing Court while exercising power u/s 44-A CPC for execution of the foreign judgment and decree. A foreign decree passed by a superior Court of a reciprocating territory is recognized u/s 44-A CPC and may be executed in Pakistan as if it was a decree passed by a District Court in Pakistan. However, this legal recognition does not mean that the Executing Court is automatically or mechanically bound to enforce every foreign decree. The executing Court is not expected to act merely as a post office or a rubber stamp by accepting and executing the foreign decree without applying its judicial mind. Rather, it has a legal duty to carefully

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examine whether the decree fulfils all the conditions prescribed by Pakistani law, particularly those contained in Sections 13 and 44-A CPC. The Executing Court must satisfy itself that the foreign judgment is conclusive, has been passed by a Court of competent jurisdiction, has not been obtained by fraud, has not been delivered in violation of the principles of natural justice, and is not based on a claim or law that is contrary to the public policy or laws of Pakistan. A foreign decree from a reciprocating territory is generally executable in Pakistan, however, its execution is always subject to judicial scrutiny, and the Executing Court must independently examine its legality before granting execution. This judicial exercise ensures that only foreign judgments that comply with Pakistani law are enforced, thereby safeguarding the parties' rights and maintaining the integrity of the legal system. It is duty of the Executing Court to strike a balance between the principle of international comity and the protections afforded by domestic law, ensuring that only those foreign judgments that satisfy the conditions set out in Section 13 CPC are enforced in Pakistan. If any of the statutory exceptions mentioned in Section 13 CPC are attracted, the Executing Court is fully empowered and legally bound to refuse execution of the foreign decree. Where any of the statutory exceptions are attracted, the foreign judgment loses its conclusiveness and cannot be executed u/s 44-A CPC. For more clarity and understanding, Section 13 CPC is reproduced here under:-

> *"13. When foreign judgment, not conclusive. A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties under whom they or any of them claim litigating under the same title except-*
>
> *(a) where it has not been pronounced by a Court of competent jurisdiction;*
>
> *(b) where it has not been given on the merits of the case,*
>
> *(c) where it appears on the face of the proceedings to be founded on an incorrect view of international law*

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or a refusal to recognize the law of Pakistan) in cases in which such law is applicable,

(d) where the proceedings, in which the judgment was obtained are opposed to natural justice,

(e) where it has been obtained by fraud,

(f) where it sustains a claim founded on a breach of any law in force in Pakistan].

8. The appellants have attacked the judgment of the foreign Court on multiple grounds in the light of the exceptions u/s 13 CPC, which are summarized as under:-

"A. Against the laws of Pakistan, as it is based on a criminal judgment passed against the respondent No.1.

B. Against the law of Pakistan due to the arbitration agreement b/w the parties.

C. Under Pakistani law, the company's directors are not personally liable.

D. In absentia and without any jurisdiction, as the respondent No.1 had never submitted to the jurisdiction of the Dubai courts.

E. Not executable due to Non-production of the decree sheet and non-compliance of section 44-A (2)

F. Violation of Section 5 of the Foreign Exchange Regulations Act 1947.

G. Violation of Companies Act 2017 Section 435, 436 & 441."

9. A careful examination of the record shows that before passing of the judgment and money decree dated 20.10.2021 by the Court of First Instance, Dubai, a criminal case had already been registered against the appellants on 07.05.2020. The criminal proceedings continued independently and ultimately resulted in the appellants' conviction in absentia. Thereafter, respondent No.1/decree holder instituted civil recovery proceedings against the appellants and others to recover the amount. The Court of First Instance of Dubai decreed the suit on

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20.10.2021, and the said decree was subsequently affirmed by both the Appellate Court and the Court of Cassation. A perusal of the foreign judgment reveals that the civil liability of the appellants was substantially founded upon the judgment and findings recorded in the earlier criminal proceedings. Respondent No.1/decree holder filed its reply to the objections and in paragraph (c)-vi admitted as under:-

> *"The Court of First Instance has relied on the findings of the criminal court in accordance with the applicable law and the Court of appeals and Court of Cassation have confirmed the judgment of Court of First Instance. It is thus clear that the Foreign Judgment does not suffer from any misapplication of law. The Foreign Judgment is final and binding and merits to be executed by this learned court."*

10. In view of the above categorical admission by respondent No.1/ decree holder, there is no doubt that the subject judgment for execution was primarily based on criminal Court's findings, which were passed in absentia by the Appellate Court. This Court is of the opinion that such an approach for deciding civil liabilities cannot be accepted under the settled principles of Pakistani law. It is a well-established rule that civil and criminal proceedings are separate and independent. Both are governed by different statutes, procedures, rules of evidence, and standards of proof. A criminal Court determines whether an accused has committed an offence punishable under criminal law, whereas a civil Court determines the parties' civil rights and liabilities arising from contractual, commercial, or other civil obligations. Therefore, the findings recorded in one proceeding cannot automatically govern or determine the outcome of the other.

11. Under Pakistani law, the burden and standard of proof in criminal and civil proceedings are fundamentally different. In a criminal case, the prosecution must prove its case beyond a reasonable doubt, and the burden of proof always rests upon the prosecution throughout the trial. On the other hand, in civil proceedings, rights and liabilities are determined on the principle of preponderance of probabilities, where

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the Court examines the comparative weight and credibility of the evidence produced by both parties. The burden of proof may shift during the proceedings depending upon the evidence led by the parties. Consequently, a criminal conviction, by itself, neither establishes nor concludes civil liability, nor can it dispense with the independent judicial determination required in a civil suit.

12. The superior Courts of Pakistan have consistently held that civil and criminal proceedings may continue simultaneously and independently, and the outcome of one does not automatically bind the other. A civil Court is under a legal obligation to independently evaluate the pleadings, documentary evidence, and oral evidence produced before it and thereafter determine the civil liability of the parties in accordance with the applicable civil law. It cannot merely adopt or rely upon the findings of a criminal Court without undertaking its own independent judicial assessment of the evidence.

13. In the present case, the foreign judgment demonstrates that the Dubai Court, while passing the money decree against the appellants, substantially relied on the criminal Court's conviction and treated the criminal findings as the basis for determining the appellants' civil liability. Such a course, if examined under Pakistani law, is contrary to the settled legal principles governing civil adjudication. The foreign Courts did not independently determine the appellants' civil liability on the basis of the evidence required in civil proceedings, but instead based the decree on the conclusions already reached in the criminal case.

14. The learned counsel for the respondent No.1/decree-holder argued that the foreign Court did not determine the civil liability solely on the basis of the criminal judgment. According to him, the Trial Court also referred the dispute to a committee of experts, obtained an expert report, and considered that report while deciding the civil claim, therefore, the decree was based upon independent evidence and not merely upon the findings recorded in the criminal proceedings.

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15. This contention has been carefully considered but does not carry sufficient force. Even if the foreign Court obtained and relied upon an expert report, the record shows that the criminal Court's findings were also taken into account in determining the appellants' civil liability. Once the findings of a criminal Court become one of the foundations for determining civil rights and liabilities, the legality of such reliance must be examined in the light of the settled principles of law applicable in Pakistan.

16. It is a well-established principle that criminal proceedings and civil proceedings operate in different fields and are governed by different standards of proof. In criminal cases, guilt must be established beyond a reasonable doubt, whereas in civil cases, liability is determined on the basis of the preponderance of probabilities. For this reason, the findings recorded in criminal proceedings are not binding upon a civil Court while deciding civil rights and obligations. The civil Court is under a legal duty to independently appreciate the evidence produced before it and reach its own conclusion without treating the criminal judgment as determinative of the civil dispute.

17. The superior Courts of Pakistan have consistently held that a criminal judgment cannot be treated as conclusive evidence in determining civil liability. Therefore, even if an expert report had been obtained in the present case, the foreign Court would still have relied on the criminal findings when deciding the civil dispute. Such reliance is not recognized under the settled jurisprudence of Pakistan. Consequently, the presence of an expert report does not remove the legal defect arising from the reliance placed upon the criminal judgment. The civil decree, having been founded in part on findings that are not legally admissible for determining civil liability under the settled principles recognized by Pakistani law, cannot be treated as a conclusive determination of the parties' civil rights for the purposes of execution in Pakistan.

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18. This aspect directly attracts the exceptions contained in Section 13(c) & (f) CPC , which are reproduced as under:-

> *"13. When foreign judgment not conclusive.— A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigation under the same title except:-*
>
> *a. …….*
>
> *b. …….*
>
> *(c)where it appears on face of the proceedings to be founded on an incorrect view of the International Law or a refusal to recognize the law of Pakistan in cases in which such law is applicable;*
>
> *d. …….*
>
> *e. …….*
>
> *(f) where it sustains a claim founded on a breach of any law enforced in Pakistan."*

19. The above-referred provisions provide that a foreign judgment shall not be regarded as conclusive, if it appears on the face of the proceedings to be founded on an incorrect view of international law or on a refusal to recognize the law of Pakistan where such law is applicable. Had the dispute been adjudicated before a competent Court in Pakistan, the civil Court would have been legally bound to determine civil liability independently and could not have based its decree solely on the criminal conviction. The legal principle prevailing in Pakistan clearly requires separate adjudication of civil and criminal liability. Therefore, a foreign decree founded substantially upon criminal findings, without an independent determination of civil liability in accordance with the principles recognized under Pakistani law, cannot be treated as conclusive for the purposes of execution.

20. Accordingly, the foreign decree, to the extent it determines the appellants' civil liability by substantially relying upon the criminal conviction, falls within the mischief of Section 13(c) & (f) CPC. Such a

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decree cannot be enforced mechanically in Pakistan merely because it originates from a reciprocating territory. The Executing Court is under a statutory duty to examine whether the foreign judgment satisfies any one of the conditions prescribed u/s 13 and 44-A CPC. Since the foreign decree is based on a mode of determination inconsistent with the settled principles governing civil liability under Pakistani law, it loses the protection of conclusiveness and is therefore not entitled to execution in Pakistan.

21. This Court has carefully examined the legal position governing the effect of criminal proceedings on civil liability under the law of Pakistan. The Honourable Supreme Court of Pakistan, in the case of ***Karachi Transport Corporation vs. Muhammad Hanif***, **(2009 SCMR 1005)** categorically held that the standard for appreciation of evidence in criminal and civil proceedings is entirely different and that the findings recorded by a criminal Court are not binding upon a civil Court. The Apex Court has clarified that criminal and civil proceedings are independent of each other, as they are governed by different laws, different procedures, and different standards of proof. Therefore, a civil Court is under a legal obligation to independently examine the evidence before it and determine the parties' civil rights and liabilities without being influenced by the findings of a criminal Court.

22. The principle laid down by the Honourable Supreme Court is binding upon all Courts, tribunals, and authorities throughout Pakistan by virtue of Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973 **("Constitution")**, which mandates that any decision of the Supreme Court deciding a question of law shall be binding on all other Courts. Consequently, no Court in Pakistan, including an Executing Court exercising jurisdiction u/s 44-A CPC can ignore or act contrary to the law declared by the Honourable Supreme Court. The Executing Court is constitutionally bound to ensure that any decree sought to be enforced in Pakistan is consistent with the settled principles of Pakistani law laid down by the Honourable Supreme Court

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and the High Courts. Had the matter been decided under Pakistani law, the civil Court would have been required to conduct an independent assessment of the evidence and determine the civil liability without treating the criminal conviction as conclusive, whereas the learned Executing Court ignored all the settled principles of law and passed the Impugned Order in violation of the law laid down by the superior Courts on the subject matter.

23. That if the foreign judgment is contrary to the settled law of Pakistan as declared by the Honourable Supreme Court. Such inconsistency directly attracts the exception contained in Section 13(c) CPC, which provides that a foreign judgment shall not be regarded as conclusive where it is founded on an incorrect view of international law or where it refuses to recognize the law of Pakistan in cases in which such law is applicable. Accordingly, such a course is neither permissible under the Constitution nor u/s 13 and 44-A CPC. Therefore, the foreign judgment is not entitled to execution in Pakistan to the extent that it is based upon principles inconsistent with the settled law of this country, and the foreign Court adopted a course inconsistent with the binding principles governing civil adjudication under Pakistani law; the foreign decree cannot be treated as conclusive for execution purposes.

24. This Court is of the considered opinion that the right to due process and a fair trial is a fundamental constitutional guarantee protected under Article 10-A of the Constitution. The said Article mandates that every person is entitled to a fair trial and due process in determining his civil rights and obligations, as well as in any criminal, judicial, quasi-judicial, or administrative proceedings affecting his rights. The requirement of due process is not a mere procedural formality; rather, it is a substantive constitutional safeguard intended to ensure that every dispute is decided independently, fairly, and strictly in accordance with law after giving the parties a proper opportunity to produce evidence and contest the claims against them.

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25. In matters relating to civil liability, due process requires the civil Court to independently examine the pleadings, documentary evidence, and oral evidence produced by the parties and thereafter determine their respective rights and obligations on the basis of the standard of proof applicable to civil proceedings. A civil decree cannot lawfully be founded merely upon the findings recorded in criminal proceedings because criminal and civil cases serve different purposes, are governed by different procedural laws, and require different standards of proof. The findings of a criminal Court cannot replace the independent judicial inquiry required in civil proceedings to determine contractual or financial liability.

26. The record of the present case reveals that the Court of First Instance, Dubai, while passing the money decree, substantially relied upon the judgment rendered in the criminal proceedings and treated the criminal findings as the basis for determining the appellants' civil liability. Such an approach deprived the appellants of the independent adjudication that is an essential component of due process in civil proceedings and is a violation of Article 10-A of the Constitution and hit clause (f) of Section 13 CPC.

27. Therefore, a foreign decree is sought to be enforced in Pakistan, the executing Court is under a statutory obligation to examine whether the foreign judgment satisfies the conditions prescribed u/s 13 CPC. A foreign judgment cannot be treated as conclusive if it has been rendered in disregard of the fundamental legal principles recognized by Pakistani law. The denial of an independent civil adjudication and the determination of civil liability merely on the strength of a criminal judgment are inconsistent with the concept of due process embodied in Article 10-A of the Constitution and the settled principles governing civil justice in Pakistan. Consequently, the foreign judgment falls within the exceptions contemplated by Section 13(c) & (f) CPC.

28. Section 13 CPC provides that a foreign judgment is conclusive and enforceable in Pakistan unless it falls within any of the six

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exceptions mentioned in clauses (a) to (f). Each exception is an independent ground for refusing recognition and execution of a foreign judgment. The exceptions are not cumulative, and it is not necessary that all six should exist together. If a foreign judgment falls within even one of the exceptions u/s 13 CPC, it loses its conclusiveness and cannot be recognized or enforced in Pakistan. Once the Court finds that any one of the clauses is attracted, the execution of the foreign decree must fail irrespective of the remaining exceptions.

29. In the present case, this Court has already held that the foreign judgment falls within clauses (c) and (f) of Section 13, CPC. These exceptions are sufficient on their own to render the foreign judgment inconclusive and unenforceable in Pakistan. Once these clauses are attracted, there is no legal requirement to examine the remaining objections raised by the appellants. Any further discussion on those objections would be merely academic and would not affect the result of the case. Courts are required to decide only those issues which are necessary for the effective disposal of the matter. Accordingly, the remaining objections need not be answered.

30. In view of the foregoing discussion, the instant appeal is hereby **allowed** and the Impugned Order dated 09.07.2025, passed by the learned Executing Court, is **set-aside**. Consequently, the objection petitions filed by the appellants are **accepted**, and the execution petition instituted by respondent No. 1 is **dismissed**. There shall be no order as to costs.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 21.07.2026.

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APPROVED FOR REPORTING.

R.Anjam

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