JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Civil Revision No.340-2025

Dr. Ijaz Bashir and another

Versus

Qazi Humayun and others.

Civil Revision No.314-2025

Ambassador (R) Qazi Humayun

Versus

Dr. Ijaz Bashir and others.

Petitioners by:	Barrister Adil Aziz Qazi, Mr. Muhammad Yasin Iqbal, Barrister Malik Talha Ahmad and Ms. Maimoona Mudassir, Advocates alongwith petitioners (in C.R. No.340-2025). Mr. Babar Mumtaz, Advocate (in C.R. No.314-2025).
Respondents by:	Mr. Babar Mumtaz, Advocate for respondent No.1 (in C.R. No.340-2025). Barrister Adil Aziz Qazi, Mr. Muhammad Yasin Iqbal, Barrister Malik Talha Ahmad and Ms. Maimoona Mudassir, Advocates for respondent No.1 (in C.R. No.314-2025). Ms. Iffra Muzammil Gondal, State Counsel.
Date of Hearing:	06.04.2026.

Islamabad High Court, Islamabad

.....

MOHSIN AKHTAR KAYANI J., Through this single judgment, I intend to decide both the captioned civil revisions arising out of the judgment and decree dated 08.09.2025, passed by learned Additional District Judge (West), Islamabad, whereby suit for declaration, cancellation of documents dated 20.01.2017 and 23.01.2017, and permanent injunction was initially dismissed; however, later on, learned first appellate Court allowed the appeal filed by the parties to the following effect:

New appointments against vacant offices of Trustee are required to be made within a reasonable time with agreement of all the existing Trustees. As per Clause 22 of the Trust Deed, the Managing Trustee shall represent the Trust in all actions, proceedings and matters relating to the Trust and shall have the power to engage lawyers, to institute or defend suit or other proceedings and prosecute all type of actions etc. Hence, the Managing Trustee i.e. respondent/defendant No.1 is hereby directed and bound down to convene meeting of existing/remaining Trustees as early as possible. The existing/remaining Trustees i.e. both the appellants/plaintiffs and respondent No.1/Qazi Humayun, respondent No.3/Muhammad Masud Khan, respondent No.1/Mr. Aslam Qazi and respondent No.7/Mr. Imran Ali Malik shall make their best efforts to appoint new Trustees against the vacant offices of Trustee with agreement as early as possible but not later than 45 days from the date of this judgment. If they cannot agree or they fail to appoint the new Trustees against the vacant offices of Trustee within 45 days from the date of instant judgment, respondent/defendant No.1 Qazi Humayun, being Managing Trustee, will be bound to approach the court within one week for said new appointment/s by the court as per Clause 24 of the Trust of Deed. Any failure on the part of the Managing Trustee to approach the court for appointment of requisite new Trustees within a week after lapse of 45 days, will amount to gross negligence on his part providing a lawful ground of his removal from the office of Managing Trustee. It is also directed that minutes of every meeting of the Trustees shall be recorded and its record be preserved as it is the requirement of Trust Deed itself.

2. Both sides, in their cross Civil Revisions, have challenged the above findings of the appellate Court on the basis of their respective principal stances.

3. Arguments heard. Record perused.

4. Perusal of record reflects that Pakistan Youth Hostel Association Trust (hereinafter referred to as "the Trust") is a non-political, non-profit making, non-government organization, registered on 28.02.1981 under the provisions of the Societies Registration Act, 1860, to build various youth hostels all over the country with its own resources. The Constitution of PYHA provides for the creation of a Trust comprising all the properties and assets of the Association, and pursuant to Article 28 of the Constitution, the Executive Committee of the Trust passed a resolution on 31.08.1997 to create a Trust of all the assets of PYHA. A Deed of

Islamabad High Court, Islamabad

Trust was accordingly executed and duly registered with the Joint Registrar, Islamabad, on 29.05.1999, referred as Exh.D1. As per the Trust Deed, all the functions of the Trust are to be executed by a Board of Trustees consisting of nine persons mentioned in the Deed of Trust:

i. Begum Viqar-un-Nisa Noon N.I., former Minister of State, Government of Pakistan.
ii. Malik Meraj Khalid, Rector, International Islamic University, Islamabad.
iii. Dr. Anwar H. Siddiqui, Vice Chancellor, Allama Iqbal Open University, Islamabad.
iv. Mr. M. Aftab former Director General, Associated Press of Pakistan, Islamabad.
v. Professor Nisar Ahmed Shah, Lecturer, Himayat-i-Islam Law College, Lahore.
vi. Mr. Omer Malik, President, A.Y.M. Corporation, Lahore.
vii. Agha Afzaal Hussain, Additional Secretary, Senate of Pakistan.
viii. Dr. Akhtar Rehman, Chest Specialist, F-8/3, Islamabad.
ix. Qazi Hamayun, Additional Secretary, Ministry of Foreign Affairs, Government of Pakistan, Islamabad.
(hereinafter called "The Trustees") which expression shall include the trustees for the time being of the other part.

5. The above-mentioned persons are called the Principal Trustees. However, at present, respondent No.1 Qazi Humayun has been left out from that list of nine persons, who were declared as Principal Trustees during the course of arguments as well as in this order. Whereas, after the demise of some of the Trustees and resignation of others, new Trustees have been appointed, and at present, Qazi Humayun has been appointed as Managing Trustee, who is also acting as Managing Director of the Trust.

6. As per record, prior to the appointment of Qazi Humayun as Managing Trustee, late Agha Afzal Hussain remained Managing Trustee till his demise on 04.08.2015, whereas Mr. Anwar Siddiqui (deceased defendant No.2) had been acting as a co-signatory to sign cheques jointly with Agha Afzal Hussain during his lifetime. However, in their absence, Qazi Humayun (defendant No.1) and

Islamabad High Court, Islamabad

Raja Muhammad Amin (petitioner in CR No.340 of 2025) have been performing the functions of Managing Trustee and co-signatory, respectively.

7. After the demise of Agha Afzal Hussain, former Managing Trustee, the Board of Trustees, in an emergency meeting, appointed Qazi Humayun as Managing Trustee through a resolution passed on 07.08.2015, which was duly signed by the persons present on that day, including late Umar Malik. The Board also appointed Muhammad Masood Khan as Trustee against the vacancy caused due to the death of Agha Afzal Hussain, the former Managing Trustee. Another vacancy was also filled due to the demise of Umar Malik on 24.01.2020. Similarly, it has also been admitted on record that Raja Muhammad Amin and Qazi Humayun had been signing cheques and other documents as Trustees jointly till October 2016; however, thereafter, certain unilateral decisions were taken, as reflected from the record.

8. The primary dispute raised in the main civil suit by Muhammad Aftab, Dr. Ijaz Bashir, and Raja Muhammad Amin, in a suit for declaration, cancellation of documents dated 20.01.2017 and 23.01.2017, and permanent injunction, is primarily with regard to the resolution dated 20.01.2017 as well as the subsequent registration of addendum to the Trust Deed (Exh.DW1/6 and Exh.DW1/7). The said resolution reflects the minutes of the Trustees' meeting held on 20.01.2017, whereby three Trustees, namely Dr. Anwar Siddiqui, Umar Malik, and Qazi Humayun (Managing Trustee) held a meeting, in which Trustee Aftab did not attend, and they declared that Raja Muhammad Amin and Ijaz Bashir, who claimed to be Trustees, were debarred

Islamabad High Court, Islamabad

from attending meetings or claiming to be Trustees on the ground that they failed to provide any proof of appointment or any resolution or amendment in the Trust Deed dated 29.05.1999. At the same time, the said Trustees appointed four new Trustees, namely Imran Malik, Tariq Hanif Khan, Mumtaz, and Aslam Qazi, respectively, whereas the addendum to the Deed of Trust was also registered before the Joint Sub-Registrar, Islamabad, wherein these new Trustees' names have been incorporated along with the principal Trust document dated 29.05.1999. These two documents have been challenged by the petitioners in C.R No.340 of 2025. However, at present, the vacancy position available on record has also been addressed during the course of arguments and is admitted by both sides.

9. In addition to above, the contesting defendant Qazi Humayun, during the course of his evidence (Exh.DW1/1), claimed that after the demise of Agha Afzal Hussain, the then Managing Trustee, he had been appointed as Managing Trustee in order to run the affairs of the Trust. That plaintiff No.3, Raja Muhammad Amin, started impersonating himself as a Trustee without lawful appointment through any resolution of the Board of Trustees.

10. It has further been argued by learned counsel for the petitioner that Civil Revision No.314 of 2025 was filed by Ambassador (R) Qazi Humayun (petitioner) on the ground that the plaintiffs have failed to discharge their onus, as the essential requirements for appointment as a Trustee are the passing of a resolution by the Board of Trustees as well as the registration of an addendum to the Trust Deed before the Joint Sub-Registrar, whereas in the present case, both these requirements are missing

Islamabad High Court, Islamabad

on the part of the plaintiffs. The plaintiffs, however, produced seven witnesses. Abid Hussain, (PW-01), Relationship Manager appeared and confirmed the working of Raja Muhammad Amin. Asad Iqbal, (PW-02), Manager Customer Services, Silk Bank appeared and submitted documents. Usman-ud-Din, National Savings Officer, (PW-03) submitted statements of accounts. Abdul Waheed (PW-04), Area Manager, HBL, Civic Centre Branch G-6 submitted documents (Exh.P1 to Exh.P8 comprising 245 pages), including updated statements of accounts as well as a resolution dated 01.08.2021 (Exh.P11). Arshad Iqbal (PW-05), employee of PYHA Trust submitted document Exh.P12 issued by Agha Afzal Hussain (ex-Managing Trustee). Muhammad Arsalan Hassan (PW-06) (TSO, MCB) confirmed saving accounts statements (Exh.P13). Dr. Aurangzeb (PW-07) appeared and claimed that he was appointed as a Trustee about 22 years ago, i.e., in the year 2000, and referred to documentary evidence (Exh.P22). However, he admitted that he was unaware of his appointment through any resolution or registered deed and that after 2015 he was never called to any meeting nor any notice was served upon him. During cross-examination, PW-07 acknowledged:

البتہ 2010 سے وہ ٹرسٹی ہیں مجھے یاد نہ ہے کہ راجہ امین اور اعجاز بشیر کی بطور ٹرسٹی تعینات کرنے کے لیے کوئی قرارداد پاس ہوئی تھی از خود کہا کہ مجھے آغا افضال صاحب نے زبانی طور پر بتایا تھا پرانی بات ہے میں نے مسعود صاحب راجہ امین اور اعجاز بشیر کی تعیناتی کی بات نہ کی ہے مسعود صاحب بعد میں آتے ہیں جبکہ امین اور اعجاز بشیر پہلے سے ٹرسٹی تھے۔

یہ درست ہے کہ میں نے اپنی تعیناتی بطور Trustee کبھی بھی رجسٹر کروانے کی کوشش نہ کی ہے از خود کہا کہ Managing Trustee کی ذمہ داری ہے۔

Islamabad High Court, Islamabad

That he was not part of the resolution dated 20.01.2017 nor the addendum dated 23.01.2017.

11. The most crucial evidence has been brought on record by Raja Muhammad Amin (plaintiff No.3), who submitted his evidence through Exh.P18 and claimed that the original Trust Deed dated 29.05.1999 is a registered document, and at the time of registration of the Board of Trustees, there were nine members who had signed the same, which is an admitted position on record. However, he acknowledged that, except plaintiff No.1 and defendant No.1, all original Trustees have passed away. He further stated that after the demise of Agha Afzal Hussain, former Managing Trustee, who died on 04.08.2015, respondent No.1 Qazi Humayun has been appointed as Managing Trustee. In his affirmative evidence, he contended that the Trust accounts had been operated by Agha Afzal Hussain and Dr. Anwar Siddiqui through joint signatures; however, in case any one of them was not present, he (Raja Muhammad Amin) used to operate such accounts. In this regard, he submitted resolutions dated 18.05.2015 and 13.05.2016 (Exh.P18/1 and Exh.P18/2) and verified his signatures thereon. He also confirmed that he had signed multiple negotiable instruments as a Trustee of PYHA Trust. He further deposed that after the demise of Agha Afzal Hussain, Qazi Humayun was appointed as Managing Trustee through a joint resolution dated 05.08.2015 (Exh.P18/3), and he himself signed the same as co-Trustee (Exh.P18/4). He also confirmed that Muhammad Masood Khan was appointed as Trustee.

12. According to him, the dispute started when Qazi Humayun allegedly co-opted Umar Malik in a collusive manner through a

Islamabad High Court, Islamabad

resolution dated 29.10.2016 and thereafter proceeded with the affairs of the Trust, which he challenged through various letters (Exh.P18/5). This continued till the passing of the impugned resolution dated 20.01.2017, wherein Malik Umar's son was appointed as Trustee and Qazi Humayun appointed his nephew, which, according to him, is a clear conflict of interest.

13. During cross-examination, he acknowledged that Qazi Humayun's name appears at serial No.9 in Exh.D1 and alleged that the addendum dated 23.01.2017 was registered through fraud. He further admitted:

> ازخود کہا کہ ناموں کی رجسٹریشن کرانا Managing Trustee کی ذمہ داری ہے۔ یہ درست ہے کہ ہم نے کبھی بھی Managing Trustee کو کبھی اس سلسلے ۔ کوئی لیٹر نہ لکھا کہ ہمارے نام رجسٹرڈ کئے جائے۔

that it is the responsibility of the Managing Trustee to register the names of Trustees.

14. Now, considering the entire evidence on record, I have attended to the Trust Deed (Exh.D1), particularly Clause 14:

> *That all or any of the Trustees and powers vested in an exercisable by the Trustees hereunder shall be capable of being performed or exercised by a majority of the Trustees thereof for, the time being and any action or decision of such majority shall be as valid and effective as it would have been if done by all the Trustees.*

15. The primary clause giving rise to the present controversy is Clause 24 of the Trust Deed:

> *That whenever on account of death or other cause, the office of a Trustee becomes vacant, the remaining Trustees shall appoint a new Trustee and if they cannot agree about the appointment of a new Trustee or fail to appoint one within a reasonable time, the court may appoint a new Trustee in accordance with law for the time being in force in this behalf and in making such appointment, the Trustees or the court shall give due weight to the wishes of the Association expressed in this behalf through*

Islamabad High Court, Islamabad

> *resolution in accordance with its Constitution. Pending the appointment of a new Trustee, the remaining Trustees shall continue to administer the Trust as per provisions of the Constitution of the Association.*

16. The above-mentioned clause provides a mechanism regarding appointment of a Trustee in case of vacancy arising due to death, resignation, or any other cause. It provides that the remaining Trustees shall appoint a new Trustee, and if they fail to do so within a reasonable time, the Court may appoint a Trustee in accordance with law.

17. The cumulative reading of these clauses demonstrates that quorum, majority, and lawful appointment are essential requirements for the validity of any decision or resolution. Besides the above-referred clauses of the trust deed, the provisions of the Trust Act, 1882, as well as the Islamabad Capital Territory Trust Act, 2020, also play a significant role in determining this issue. The new law has been enacted in the ICT primarily for the reason that the Trust Act, 1882 does not adequately cater to effective administration, financial monitoring, and evaluation of trusts. Under this new law, Chapter III deals with the administration of trusts, wherein Section 12 imposes a restriction that *"no trust shall function unless it is registered under this Act."* For such registration, an application under Section 13 of the Act is required to be filed, which must be verified in terms of Section 14 by the Director through an investigating or prosecuting agency. Section 15 further provides that all immovable and movable properties must be registered in the name of the trust under the Registration Act, 1908, whereafter a certificate of registration is to be issued to the trust under Section 16 of the Act. All these provisions impose certain obligations. Chapter IV, which deals with the duties and

Islamabad High Court, Islamabad

liabilities of trustees, requires that a trustee is bound to fulfill the purpose of the trust and to obey the directions of the author of the trust given at the time of its creation, as envisaged under Section 22 of the ICT Trust Act, 2020.

18. While considering these aspects, I have also examined the definition of "registered," which means registered with the Director under Section 2 of the Act. If this definition is read in conjunction with the concept of "instrument of trust," defined as the instrument by which the trust is declared under Section 2(j), it becomes evident that registration of the instrument of trust is mandatory. Any subsequent amendment or appointment of trustees is required to be made through a resolution and thereafter through an addendum (deed of trust), as confirmed through Exh.DW1/6, duly registered with the Joint Sub-Registrar, Islamabad, within the mandate of the Registration Act, 1908. If this requirement is not complied with, no person is entitled to act as a trustee. Similarly, the original trust deed, Exh.D1, also lays down a complete mechanism for convening meetings and vests powers to perform or exercise any act by majority from time to time through a special resolution at a notified place, as may be mentioned in the notice issued by the Managing Trustee. If this procedure is not followed, no valid order, decision, or action can be taken within the four corners of law.

19. No doubt the entire dispute revolves around two resolutions of the Board of Trustees which have been assailed by the plaintiffs, claiming therein that by virtue of resolutions dated 20.01.2017 and 23.01.2017, the new trustees appointed in the trust are illegally appointed and all of their actions be cancelled. But the primary

Islamabad High Court, Islamabad

question raised in the defence is that the plaintiffs have no right to challenge the appointments, both of the plaintiffs namely Raja M. Amin and Dr. Ijaz Bashir are not trustee by any stretch of imagination based upon any documentary evidence including the mode and manner in which any trustee has to be appointed. In this regard, this Court has also gone through Clause 14 as well as 24 of the trust deed Exh.D1, which primarily gives a way forward to appoint any new trustees if a position has been vacant by virtue of any resignation or death of any trustee. When a particular procedure has been provided and laid down in the trust document, then no exception could be taken in any manner, as the primary factor is to protect the trust and the objectives of the trust. In this regard, the plaintiffs, in this case Dr. Ijaz Bashir and Raja Mohammad Amin are not trustee by virtue of any document. Therefore, they both have to demonstrate their case by means of evidence, and in this regard, 07 PWs have been produced from the plaintiffs' side and their detailed aspects have been discussed in the preceding paragraphs, considering the evidence of PW-01 to PW-07 in Paragraph Nos.10, 11 and 12 in detail. When an admission has been brought on record that there is no documented resolution available, therefore, considering these aspects, the onus is upon the plaintiffs to prove their assertion on the basis of Article 117 of Qanun-e-Shahadat Order, 1984, which they failed. As a result whereof, even assuming that trustees could be appointed impliedly, such appointment must originate from a valid resolution of the Board of Trustees in accordance with the trust deed. However, no resolution appointing Dr. Ijaz Bashir or Raja Amin has been produced on record. Even no resolution has

Islamabad High Court, Islamabad

been proved through any independent evidence. The absence of this preliminary requirement goes against the plaintiffs' case. Despite other requirements, when any trustee has been appointed, it involves a legal responsibility and obligation, and there must be an appointment or an offer which must be accepted by the proposed trustees, followed by lawful vesting of the property, and this aspect comes under the concept of the Contract Act, 1872. But the entire evidence lacks that there was ever an offer made after a meeting of the Board of Trustees, where the offer of trusteeship through resolution passed by the Board of Trustees was accepted by the plaintiffs. Neither there is any instrument vesting trust property in them. Thus, no legal relationship of trustee ever came into existence, and this aspect was not appreciated by the courts below concurrently. In this regard, this Court has also taken advantage of a judgment reported as ***2019 CLC [Karachi] 781 (Advocate General Singh Vs. Islamic Education Trust)***, whereby, the Honorable Sindh High Court has considered the matter in that case, where a dispute of the trustees started to deal with the affairs of the trust and the Court settled that:

> *whether they are de jure trustees or de facto / constructive trustees, have been in conflict with each other for decades over the control of IET. They do not recognize each other as lawful trustees and have not been able to work together as the board of trustees of IET. The litigation listed in para 12 above is testament to that fact. Thus, the IET has been without a recognized board of trustees for decades. That, in my view is sufficient to conclude that the said trustees are at odds with the interest of the IET and that is reason enough to hold that directions of the Court are necessary for the administration of IET.*

Islamabad High Court, Islamabad

20. Considering this principle, this Court also believes that in the present case, there is a long-standing battle between two sets of trustees, one which has been recognized, i.e., the defending managing trustee, and the plaintiffs whose appointments have not been demonstrated from any record of trust proceedings in the Board of Trustees meeting. In such a scenario, the Court has to apply strict rules as fixed in the trust document.

21. The other important aspect is to be seen with regard to pre-existing right of the plaintiffs' in terms of section 42 of the Specific Relief Act, 1877, and if a declaration has to be awarded, then there must be a pre-existing right. When there is no pre-existing right, as no Board resolution was demonstrated, no registered instrument was brought on record by the plaintiffs under the Trust Act and Registration Act, as compared to the registered trustees already existing through a valid addendum trust deed on the other side, then this Court has to apply the principle laid down by the Hon'ble Supreme Court of Pakistan in terms of ***2020 SCMR 202 (Abdul Razaq Vs. Abdul Ghaffar)***, where it was held that:

> "*A suit filed under section 42 of the Specific Relief Act, 1877, a declaration can be granted with regard to legal character or the right as to any property, however, no new right can be created in favor of plaintiff, by grant of a declaratory decree*".

Similar view has been rendered in ***2022 SCMR 348 (Muhammad Jameel Vs. Abdul Ghafoor)***, where it was held that where plaintiff fails to establish a pre-exiting vested rights, the suit for declaration is not maintainable.

22. Hence these aspects are based upon the analogy of declaration as per section 42 of the Act of 1877, where for qualifying the same, one has to necessarily prove that he has an

Islamabad High Court, Islamabad

existing right to particular property, that means a right without any deficiency and lacuna, and must be complete in all respects and not liable to be made complete after fulfilling the deficiencies, particularly when defendants have not only pointed out the said deficiency, but after taking into account said deficiencies, actions were not taken.

23. Similarly, the suit under section 42 of the Act of 1877 is not meant for rectification, improvements to fulfill the shortcoming and then to reach upon the destination of complete right, but is for confirmation of existing complete right. The existence of a right is *sine qua non* for a declaratory suit under section 42 of the Act of 1877. The right relating to property does not mean to convert a defective or non-existent right into an effective/complete right. A question may arise that when a right is complete in all respects, then why the plaintiff has to move the Court, the answer is that although a right is complete in all aspects, yet the requirement which forces the plaintiff to move to the Court is that the defendants are denying or even interested in denying that right, therefore, he is compelled to move the civil Court, being a Court of plenary jurisdiction, to obtain a decree upon the existing right. It is so, because when a decree is passed in favor of the plaintiff, the law says the defendants are bound to acknowledge the said status/right in respect of that property, duly affirmed by the Court of competent jurisdiction as held in ***2020 MLD 2025 (Messrs Tameer-e-Mashriq Private Limited Vs. Government of Pakistan)***. But surprisingly, the plaintiffs have failed to establish a right through documentary evidence. Though indirectly Raja Muhammad Amin performed the majority of the acts in the shoes

Islamabad High Court, Islamabad

of a trustee, that does not mean that such actions recognize his legal character as a trustee; rather, he is helping hand and associated with the operation of the trusts and the management by the old trustees, and why they have not chosen a procedure for his regular legal appointment, remains a mystery. Considering this discussion, the plaintiffs have no legal right or character to file a suit or claim to be a trustee.

24. Now considering the question of limitation by way of conduct of the plaintiffs, it appears that the resolutions dated 20.01.2017 and addendum trust deed dated 23.01.2017 have been assailed by the plaintiffs through the civil suit, and the plaintiffs themselves pleaded that their authority as co-signatory was extinguished on 29.10.2016 and that the bank updated the record removing their names on 30.12.2016 and 16.01.2017. Such aspects reflect that the plaintiffs admittedly had knowledge of the dispute regarding trusteeship in December 2016 and January 2017. Despite having this knowledge, the suit was filed on 18.03.2020, which is beyond the statutory limitation period of 3 years in terms of Articles 91 and 92 of the Limitation Act, 1908. A suit seeking cancellation of an instrument or declaration of forgery must be filed within 3 years from the date when the plaintiff first acquired knowledge of the instrument. Hence, the suit is time-barred, but such aspect was not considered by the trial Court or the appellate Court, and this aspect reflects that jurisdiction has been exercised illegally in favour of the plaintiffs.

25. Considering the question of limitation from another angle, in which the conduct of the plaintiffs is the most relevant, who during the course of cross-examination admitted that they remained silent

Islamabad High Court, Islamabad

till filing of the suit on 18.03.2020. Such prolonged silence clearly demonstrates acquiescence and waiver, and the law does not assist a party who sleeps over his alleged right. The plaintiffs have claimed that it is the responsibility of the managing trustee for registration of the trust documents or any instrument. Considering this aspect, I have gone through sections 11, 47 and 48 of the Trust Act, 1882, where duties relating to trust administration cannot be delegated solely to the managing trustee. Execution and registration of trust instruments are the collective responsibility of all the trustees. However, during the course of cross-examination, the plaintiffs admitted that they never requested the managing trustee to execute an addendum trust deed for their alleged appointment. Even they never initiated any process for registration of their trusteeship. This admission clearly demonstrates that no such appointment ever took place. The entire evidence of the plaintiffs is silent on specific issues. Even the questions relating to any date of meeting, place of meeting, names of the participants, and exact resolution passed were not pleaded in the plaint to demonstrate that they have lawfully been appointed as trustees. Therefore, the plaintiffs have failed to plead or to prove any such particulars. The entire case rests upon vague and unsubstantiated assertions, which cannot form the basis of a legal right as held in ***2013 SCMR 1300 (Muhammad Nawaz Vs. Haji Muhammad Baran Khan)*** and ***2019 CLC N [Lahore] 46 (Ch. Tariq Mehmood Vs. Khadim Hussain (Deceased)***.

Islamabad High Court, Islamabad

26. I have also gone through the basic provisions of impartiality, especially section 29 of the Islamabad Capital Territory Trust Act, 2020, with other enabling provisions where a trustee is to collect

and hold information, protect the title of the trust property, and extend care required from the trustee, and he shall prevent the waste of the property. All such aspects have been seen with regard to sections 23 to 31 of the Islamabad Capital Territory Trust Act, 2020. It appears that the managing trustee has also not performed his primary role while dealing with the affairs of the trust. Even otherwise, Section 59 of the Islamabad Capital Territory Trust Act, 2020 does not allow a trustee to delegate his office or any of his duties either to a co-trustee or to a stranger unless the instrument of trust so provides, or the delegation is in the regular course of business, or such delegation is necessary, or the beneficiary, being competent to contract, consents to the delegation. Therefore, in view of the above provision, the role of one of the plaintiffs, namely Raja Mohammad Amin, cannot be considered that of a trustee in any manner, nor can any function of the trust be lawfully assigned to him. Although he is stated to have performed certain duties as reflected from the evidence of the seven PWs, the same does not confer upon him the status or authority of a trustee. If such functions were entrusted to Raja Mohammad Amin, the same would be illegal. However, at this stage, this Court does not intend to go into the detailed examination of the acts allegedly performed by Raja Mohammad Amin on behalf of the trust, as the said actions, if any, fall within the ambit of closed and past transactions.

27. This Court has also confronted the counsel for the plaintiffs/petitioners, namely Dr. Ijaz Bashir and another with regard to the PYHA Trust, which is the subject matter of the entire suit, appeal, as well as in these civil revisions. However, the said

Islamabad High Court, Islamabad

Trust has not been impleaded as a party in the main civil suit before learned trial Court, but no justifiable reason has been brought on record as to why the plaintiffs failed to implead the PYHA Trust as a respondent in the main civil suit. This aspect gives rise to a situation, wherein the entire controversy revolves around the Trust, including its constitution and composition, yet the Trust has not been impleaded as a party to the proceedings. This omission is of crucial importance, as it is a settled principle of law that where a necessary party against whom a decree is sought has not been impleaded, the suit is liable to fail.

28. Similarly, this Court also inquired from the petitioners, who instituted the civil suit, as to whether prior permission had been obtained from the Advocate General's Office in terms of Section 92 of the Code of Civil Procedure, 1908, before filing the suit. The plaintiffs/petitioners seek removal of the existing trustees, appointment of new trustees, and have also prayed for audit and inquiry into the affairs of the Trust. All such reliefs require prior sanction of the Advocate General, as the PYHA Trust is a public trust, and its protection necessitates the knowledge and consent of the Advocate General. Without such consent, no suit can be instituted; alternatively, the Advocate General himself may initiate proceedings if so warranted under the law. These fundamental legal defects unequivocally demonstrate that the original suit filed by the plaintiffs was not maintainable, and the same was rightly dismissed by learned trial Court.

29. In addition to above discussion, another important aspect has been brought to the notice of this Court through CM No.3 of 2026, which was filed in C.R No. 314 of 2025 for submission of

Islamabad High Court, Islamabad

additional documents. Learned counsel for the applicant/petitioners also drew the attention of this Court towards the properties of PYHA Trust, wherein two of the properties, namely Bhurban and Karachi, are presently in possession of third parties, i.e. Landmark Hospitality Management Company, for a period of 15 years. It is further alleged that the said Company has already invested a substantial amount and has raised claims/liabilities against the PYHA Trust. The correspondence placed on record also reflects a proposed sharing formula of net profits as well as adjustment of the invested amount.

30. In view of these aspects, this Court, vide order dated 12.03.2026, issued notice to Syed Muhammad Ali Hamdani, Chief Executive Officer, Landmark Hospitality Management Company, through Special Messenger with direction to appear in person and submit complete details of the entire expenditure as well as income generated from the properties of Karachi and Bhurban belonging to PYHA Trust.

31. Pursuant thereto, the said Syed Muhammad Ali Hamdani, CEO, Landmark Hospitality Management Company, appeared before this Court on 17.03.2026 and submitted the requisite details. He claimed that he has taken over Pakistan Youth Hostel, Bhurban (Murree) as well as the Karachi property. He further stated that, in addition thereto, Islamabad Youth Hostel has also been renovated by him, for which detailed expenditure has been submitted on record. According to his version, an amount of Rs.4.1 million is still outstanding on account of renovation cost against the PYHA Trust, which has not yet been cleared, and he has raised a claim for the said amount. He further contended that the said

Islamabad High Court, Islamabad

properties have not been utilized for any commercial/business purpose in a structured manner. It was further asserted that due to the absence of a proper lease agreement, and on the basis of different commitments made by various members, he proceeded with the management of the said properties. However, during the course of hearing, he expressed his willingness to hand over the two premises, i.e. Bhurban (Murree) and Karachi buildings of PYHA Trust, so as to minimize further financial losses, as recorded in the order dated 17.03.2026.

32. Thereafter, this Court, after hearing the parties, deemed it appropriate to appoint an audit firm, M/s Khilji Rahat Waheed, Chartered Accountants (ECOVIS-KRW), with the consent of both sides, for conducting audit of PYHA Trust for from the year 2016 till date. The representative of the said firm was also directed to appear in person and submit an initial work plan along with the timeline required for completion of the audit proceedings.

33. Pursuant thereto, a report was submitted by M/s Khilji Rahat Waheed, Chartered Accountants, and their representative also appeared before this Court and explained the proposed work plan and timeline. It was stated that, as per Clause 7.1, the final audit report would be completed up to 30.10.2026. The firm further claimed an amount of Rs.7,307,000/- towards audit charges, including but not limited to travelling, accommodation, daily allowances, engagement of partners, supervisors, associates, and allied expenses. The firm also placed on record preliminary income and expenditure details for the period 2016 to 2025, reflecting income, operational expenses, cost of services, general expenses, administrative expenses, etc., for the years 2016 to

Islamabad High Court, Islamabad

2020. However, no data or financial details were provided for the years 2021 to 2025, which *prima facie* reflects a gap in the financial record management of the Trust affairs. It was also noted that a certificate on record reflects that audited financial statements for the year ended 30.06.2024 have been issued by M/s Azimullah & Co., Chartered Accountants.

34. Be that as it may, this Court is neither in a position to verify the veracity of these documents nor is it within the mandate of this Court to render any conclusive findings thereupon. Accordingly, this Court deems it appropriate not to proceed further with the proposed audit by M/s Khilji Rahat Waheed, Chartered Accountants, particularly in view of the fact that they are charging an exorbitant amount of Rs.7.3 million, which appears to be on the higher side. Consequently, the matter of audit is dropped, and the inception report is taken on record without granting any direction in favour of the said audit firm. Similarly, the CEO of Landmark Hospitality Management Company has also stated at the bar that he is ready to hand over both buildings to the Trust. Accordingly, the Managing Trustee/authorized representative of the Trust may take over the said properties after settlement of all outstanding rights and liabilities of the Trust with the said Company, in accordance with law. It is further observed that if any legal action is deemed appropriate, the Managing Trustee may proceed in accordance with law.

35. The detailed discussion referred above discloses that the Trust is not being operated and managed strictly in accordance with the trust deed as well as the trust law, therefore, certain preventive measures are required to protect the trust property as

Islamabad High Court, Islamabad

well as assets as adopted by the Sindh High Court in Islamic Education Trust case supra, the Sindh High Court appointed official assignee for pursuing the recovery of rent and eviction from the trust buildings, this aspect gives rise to exercise the powers provided in section 75 CPC read with order XXVI of the CPC to appoint a local commission to look-after the Board of Trustees meeting in which certain actions are required to be passed under the law, especially with regard to:

i. The appointment of new trustees.
ii. Any factor that amounts to a conflict of interest, especially in the appointment of a new trustee, including their eligibility and commitment to perform the duties of the trust with integrity and the highest standards.
iii. Management decisions of the Board of Trustees regarding steps taken for the recovery or protection of trust property.
iv. All legal actions, including but not limited to the appointment of an Advocate and other necessary expenses incurred before any Court of law.

36. Hence, a Local Commission in the form of a Court Observer is required to be appointed to supervise the official functioning of the Board of Trustees for the next three meetings, in respect of the duties and obligations imposed by this Court; accordingly, Ms. Aymen Azeem, Advocate High Court (Cell No.0349-6054796), is hereby appointed as Court Observer at a remuneration of Rs.100,000/- per meeting, who shall submit a report to the Court of principal civil jurisdiction, i.e., the learned District Judge (West), Islamabad, after each meeting, highlighting the functioning of the Trust, suggesting a future course of action to avoid any untoward situation, and making appropriate recommendations for the protection of Trust properties as well as regarding the process of appointment of any Trustee to the Board of Trustees of PHYA, and the Managing Trustee shall pay the said remuneration upon

Islamabad High Court, Islamabad

submission of each report; however, in case the Court Observer is not satisfied with the functioning of the Board of Trustees, she shall be at liberty to recommend appropriate action under Section 46 read with Section 86 of the ICT Trust Act, 2020, including appointment of a Trustee through a Court of law, consideration of disqualification and removal of any Trustee, and she may further recommend appointment of a new Trustee in case such appointment is not made within a period of thirty days from the first meeting of the Trust.

37. In view of the above discussion, Civil Revision No.340-2025 filed by Dr. Ijaz Bashir and another, stands **DISMISSED** as Raja Mohammad Amin and Dr. Ijaz Bashir can no longer be claimed as trustees, and the remaining positions/vacancies shall be filled through a meeting of the Board of Trustees, wherein the appointment of trustees shall be considered accordingly in the presence of the Court observer. Consequently, Civil Revision No.314-2025 is **ALLOWED** and the judgment and decree dated 08.09.2025, passed by learned Additional District Judge (West), Islamabad, is hereby **SET-ASIDE**. Consequently the judgment of trial Court is **UPHELD**.

Islamabad High Court, Islamabad

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in open Court on _____

JUDGE

APPROVED FOR REPORTING.

RAMZAN