JUDGEMENT SHEET

IN THE ISLAMABADHIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Civil Revision No. 396/2026

Capital Development Authority through its Chairman and others
VERSUS
M/s Exceed (Private) Limited, through its Chief Executive

PETITIONERS BY:	Mr. Amir Latif Gill and Ms. Sabeen Fahim, Advocates
RESPONDENT BY:	Sardar Hayat Muhammad Khan Mandokhel, respondent in person
DATE OF HEARING:	27.08.2026

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AYYAZ SHAUKAT, J.- Through this judgment, this Court will decide the captioned Civil Revision, along with Civil Revision Nos. 397, 398 and 399 of 2026, as all four revision petitions involve the same parties and raise common questions of law arising out of similar impugned orders. The petitions have, therefore, been heard together.

2. Through these four civil revisions filed under section 115 of the Code of Civil Procedure, 1908 **(the "Code")**, the petitioners have assailed separate but identical orders dated 09.06.2026 passed by the learned Additional District Judge, West-Islamabad, whereby their applications under Order XLI Rule 27 of the Code, filed in Regular First Appeal Nos.235, 236, 237 and 238 of 2024, seeking production of additional documentary evidence, were dismissed.

3. The facts giving rise to Civil Revision No. 396 of 2026, which is being treated as the main case, are that the respondent

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was awarded the work for construction of craft shops, a hall, a kiosk shop, a store, a kitchen and a restaurant at Saidpur Village, Islamabad. The respondent's case was that it had completed the assigned work to the satisfaction of the petitioners; however, its outstanding dues remained unpaid. It, therefore, instituted Civil Suit No. 372 of 2015 on 18.04.2015 before the learned Civil Judge 1st Class (West), Islamabad, seeking declaration, recovery and damages. The petitioners contested the suit, inter alia, on the grounds that the work had not been completed and that payment for the work actually executed had already been made. Issues were framed on 07.01.2017, whereafter both parties led their respective oral and documentary evidence.

4. During the course of the trial, the petitioners sought permission to produce certified copies of their payment record as additional documentary evidence, particularly the record relating to an alleged payment of Rs.17,08,550/- made to the respondent through cheque No. 1159475 dated 10.05.2008. An earlier application seeking substantially the same relief had already been dismissed on 16.12.2022, and the subsequent application was likewise dismissed vide order dated 11.03.2024. The suit was thereafter partly decreed vide judgment and decree dated 01.04.2024. Aggrieved by the said judgment and decree, the petitioners preferred R.F.A. No. 236 of 2024 before the learned appellate court. During the pendency of the appeal, they again sought to introduce the aforesaid cheque, along with the record evidencing its encashment, as additional evidence by

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moving an application under Order XLI Rule 27 of the Code. The dismissal of that application vide order dated 09.06.2026 has occasioned the filing of the instant Civil Revision No. 396 of 2026.

5. Civil Revision Nos. 397, 398 and 399 of 2026 arise out of separate suits instituted by the same respondent against the same Authority in respect of works of a similar nature. Each of the suits was adjudicated upon by the same learned Trial Court through separate judgments and decrees dated 01.04.2024. The appeals arising therefrom are pending before the same learned Appellate Court, in which applications under Order XLI Rule 27 of the Code, were moved on substantially identical grounds and dismissed through orders of even date. The legal questions arising in all four revisions are, therefore, substantially common, notwithstanding the fact that the nature and particulars of the works, the amounts claimed and the payment instruments relied upon vary from case to case. For the sake of convenience and consistency, Civil Revision No. 396 of 2026 is being treated as the main case, and the decision rendered herein shall govern the remaining revisions to the extent applicable.

6. Learned counsel for the petitioners contends that the impugned orders are the result of material misreading and non-reading of the record and reflect an erroneous and irregular exercise of jurisdiction by the learned Appellate Court. He submits that the learned Appellate Court fell into error in treating W.P. No. 4841 of 2022 as an opportunity previously available to the petitioners for production of the evidence now

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sought to be brought on record. According to learned counsel, the said constitutional petition had no nexus whatsoever with the cheques in question or the record relating to their encashment and, therefore, could not reasonably be construed as an occasion for production of such evidence. He further submits that the relevant record is maintained by the concerned bank and was neither in the possession of the petitioners nor within their direct control, thereby explaining why the same could not earlier be produced before the learned Trial Court. It is argued that the necessity for producing this evidence became particular significance in view of the respondent's persistent denial of having received or encashed the payments in question.

7. Learned counsel further submits that the petitioners had, in fact, made bona fide efforts to place the relevant payment record before the learned Trial Court and had moved applications for that purpose, which were dismissed vide orders dated 16.12.2022 and 11.03.2024. He argues that the petitioners cannot legitimately be faulted for the non-production of evidence when their attempts to bring the same on record had themselves been declined by the learned Trial Court. According to him, this circumstance constituted a substantial and sufficient basis for invoking the jurisdiction of the learned Appellate Court under Order XLI Rule 27 of the Code. He emphasizes that the proposed additional evidence is not collateral or irrelevant material but bears directly upon the central controversy between the parties, namely, whether the amounts claimed by the respondent had already been paid. It is, therefore, urged that its production is

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necessary for enabling the learned Appellate Court to arrive at a just, complete and effective determination of the appeals. Learned counsel further contends that admission of the additional evidence would not occasion any prejudice to the respondent, as the latter would have a full opportunity to inspect the documents, controvert their authenticity or relevance, cross-examine any witness produced in support thereof and, if necessary, lead evidence in rebuttal. He submits that the object of judicial proceedings is to determine the real controversy between the parties and those procedural rules should not be applied in a manner that results in the exclusion of material evidence having a direct bearing on the merits of the dispute. He particularly stresses that the litigation concerns public funds and that the Court ought not, on a mere procedural objection, prevent examination of documentary material which may establish whether public money was already disbursed in respect of the works forming the subject matter of the suits. It is accordingly argued that the impugned orders have resulted in a failure to exercise jurisdiction vested in the learned Appellate Court and are liable to be set aside, with the applications under Order XLI Rule 27 of the Code, being allowed in the interest of justice.

8. The respondent, appearing in person, controverts the submissions advanced on behalf of the petitioners and maintains that the applications for additional evidence constitute nothing more than an attempt to reopen a concluded trial and to cure deficiencies in the petitioners' case. He submits that, during his

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cross-examination before the learned Trial Court, the petitioners' own representatives categorically stated that no payment had been made to the respondent through a bank; rather, their specific case was that the alleged payment had been made to a purportedly authorized representative of the respondent. It is, therefore, contended that the petitioners cannot now be permitted to depart from the position taken by them during trial and introduce a wholly different factual basis through documents which, according to the respondent, do not relate to the projects in question. The respondent further argued that the cheques now sought to be produced were never issued in connection with the works forming the subject matter of the suits and that their introduction at this belated stage is intended to mislead the Court, prolong the litigation and secure an opportunity for the petitioners to reconstruct their defence after the conclusion of the evidence. He emphasizes that the petitioners have already availed themselves of the opportunity to lead their evidence and that the matter has progressed to the stage of final arguments before the learned Appellate Court. According to him, the petitioners have, on several dates of hearing, undertaken to conclude their final arguments, but have instead sought to introduce further evidence whenever the proceedings approached final adjudication. The respondent submits that such conduct cannot be permitted under the guise of invoking Order XLI Rule 27 of the Code, which is not intended to provide a party with a further opportunity to improve, supplement or repair its case after the evidence has been closed.

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9. The respondent further submits that, following acceptance of W.P. Nos. 4839, 4840, 4841 and 4842 of 2022 by this Court, the petitioners were afforded sufficient and repeated opportunities to produce whatever documentary material they considered necessary before the learned Trial Court. Despite having knowledge of the controversy regarding payment, they failed to produce the cheques in question or the alleged record of their encashment at the appropriate stage. He therefore argues that the plea of subsequent necessity is an afterthought and does not satisfy the requirements governing admission of additional evidence at the appellate stage. According to him, the mere assertion that a document may have some bearing upon the controversy cannot, by itself, justify its admission under Order XLI Rule 27 of the Code, particularly where the party seeking its production had already been afforded adequate opportunity to establish its case. It is further contended that the power to permit additional evidence at the appellate stage is exceptional in nature and cannot be exercised merely to enable a party to fill a lacuna left in its evidence or to remedy the consequences of its own omission or lack of diligence. The respondent maintains that allowing the applications at this stage would not only prejudice his accrued rights but would effectively reopen proceedings which have already culminated in judgments and decrees after both parties were afforded full opportunity to produce their evidence. He accordingly submits that the learned Appellate Court, having considered the entire background and the conduct of the petitioners, correctly exercised its discretion

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in declining to permit the production of the proposed additional evidence.

10. I have heard the learned counsel for the petitioners, examined the submissions advanced by the respondent in person, perused the written arguments submitted by the respondent as well as carefully examined the impugned orders, the judgments and decrees passed by the learned Trial Court, and the material available on the record.

11. It is appropriate, at the outset, to reproduce the statutory provision governing the admissibility of additional evidence at the appellate stage. Order XLI Rule 27 of the Code of Civil Procedure, 1908, as applicable in Pakistan, provides as follows:-

> ***"27. Production of additional evidence in Appellate Court.—(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if—***
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> ***(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or***
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> ***(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause,***
>
> ***the Appellate Court may allow such evidence or document to be produced, or witness to be examined.***
>
> ***(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."***

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12. A plain reading of Rule 27 makes it clear that production of additional evidence at the appellate stage is not a matter of right, but an exceptional course permissible only in the circumstances specified therein and in the exercise of judicial discretion governed by the statutory parameters. The burden, therefore, lies upon the party seeking to introduce additional evidence to demonstrate that the case falls within one or more of the situations contemplated by the Rule. The provision, however, cannot be read in isolation. Section 107(2) of the Code, subject to the conditions and limitations prescribed by law, vests the Appellate Court with the same powers and imposes upon it, as nearly as may be, the same duties as are conferred and imposed upon a court of original jurisdiction. Rule 27 must further be read harmoniously with Rules 28 and 29 of Order XLI. Rule 28 empowers the Appellate Court, where additional evidence is permitted, either to record such evidence itself or to direct the Court from whose decree the appeal is preferred, or any other subordinate Court, to take such evidence and transmit it to the Appellate Court. Rule 29, in turn, requires the Appellate Court to specify the points to which the additional evidence is to be confined. In addition, sub-rule (2) of Rule 27 expressly obliges the Appellate Court to record the reasons for allowing such evidence. The statutory scheme, when read as a whole, therefore establishes adequate procedural safeguards: additional evidence is to be admitted only for a legally permissible purpose, confined to identified points in controversy, and received in

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accordance with a procedure determined by the Appellate Court, with reasons for its admission duly recorded.

13. This framework also answers the apprehension, relied upon by the respondent and accepted by the learned Appellate Court in the impugned orders that permitting the proposed evidence would necessarily amount to reopening a concluded trial. Admission of additional evidence under Order XLI Rules 27 to 29 does not, by itself, have the effect of setting aside the trial proceedings, reopening the entire evidentiary record, or directing a retrial. The exercise is confined to supplementation of the appellate record to the extent considered necessary for the lawful and effective determination of the appeal. Equally important, the opposing party remains entitled to contest the admissibility, authenticity, relevance and evidentiary value of the material so produced and, where appropriate, to lead evidence in rebuttal. The mere fact that additional evidence is permitted at the appellate stage, therefore, cannot by itself constitute a ground for its rejection; the decisive question is whether the statutory conditions for its admission have been satisfied in the particular circumstances of the case.

14. The judgments cited at the Bar, together with the authorities which is considered necessary to examine, yield the following principles governing the exercise of jurisdiction under Order XLI Rule 27 of the Code:

> *(i)* ***The production of additional evidence at the appellate stage is an exception to the general rule that an appeal is to be decided on the record as it stands. The power is,***

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therefore, to be exercised with circumspection and only where the statutory requirements are satisfied. At least one essential consideration is that the proposed evidence must have a direct and material bearing upon a substantial issue arising in the case. Reliance may be placed upon Parsotim Thakur and others v. Lal Mohar Thakur and others (AIR 1931 PC 143), Mad Ajab and others v. Awal Badshah (1984 SCMR 440), **and** ***Shamshad Bibi and others v. Riasat Ali and others (PLD 2023 SC 643).***

(ii) ***The jurisdiction under Rule 27 cannot be invoked merely to fill a lacuna in the evidence, remedy a deficiency in a party's case, repair a case which has failed for want of proof, or introduce an altogether new plea. Additional evidence is not intended to afford a litigant an opportunity to reconstruct or improve its case after the conclusion of the trial. Reliance may be placed upon*** **Parsotim Thakur** ***(supra) and*** **Shamshad Bibi** ***(supra).***

(iii) ***The proposed evidence must be material to the controversy, and its materiality must be of such a character that its absence may result in a failure of justice or a miscarriage of justice. Evidence which is merely cumulative, collateral or incapable of materially assisting the Court in resolving the controversy does not ordinarily justify recourse to Rule 27. In this regard, reliance may be placed upon*** **Taj Din v. Jumma and 6 others** ***(PLD 1978 SC (AJ&K) 131).***

(iv) ***Additional evidence must remain within the scope of the pleadings and the issues arising therefrom. A party cannot, under the guise of producing additional evidence, travel beyond the case set up in its pleadings or introduce a factual foundation for which no case was pleaded. Evidence in support of a matter which is itself outside the pleadings cannot ordinarily be looked into. Reliance may be placed upon*** **Binyameen and 3 others v. Chaudhry Hakim and another** ***(1996 SCMR 336),*** **Major (Retd.) Barkat Ali and others v. Qaim Din and others** ***(2006 SCMR 562), and*** **M/s Essa Engineering Company (Pvt.) Ltd. v.**

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Pakistan Telecommunication Company (Pvt.) Ltd. ***(2014 SCMR 922).***

(v) ***Where a party has been afforded a full and adequate opportunity to produce evidence but, without sufficient justification, fails to avail itself of that opportunity, or remains negligent or indolent, it ordinarily cannot claim indulgence at the appellate stage. The appellate jurisdiction under Rule 27 is not intended to reward a party for its own omission, negligence or lack of diligence.*** **Reliance may be placed upon** ***Mst. Jewan Bibi and 2 others v. Inayat Masih*** **(1996 SCMR 1430) and** ***Abdul Hameed and 14 others v. Abdul Qayyum and 16 others*** **(1998 SCMR 671).**

(vi) ***The Court considering an application for reception of additional evidence is not required to approach the matter mechanically or solely from the standpoint of procedural compliance; it must have regard to both the probative significance of the proposed evidence and the prejudice, if any, likely to be caused by its admission. Procedural rules are intended to facilitate the administration of justice and, unless a procedural requirement presents an insurmountable legal impediment, mere technicalities should not ordinarily be permitted to defeat a just adjudication. The Court is not required to remain a passive observer, waiting to capitalize upon a procedural misstep of one of the litigants where the substantive claim otherwise merits adjudication in accordance with law. The overriding duty of the Court remains to administer justice between the parties. Reliance may be placed upon Mirza Ali Khan v. Mst. Shahida Parveen and others*** **(1992 SCMR 2112),** ***Khurshid Ali and 6 others v. Shah Nazar*** **(PLD 1992 SC 822),** ***Mst. Ilyas Akhtar v. Province of Punjab*** **(2025 CLC 452), and** ***Manager, Jammu and Kashmir State Property in Pakistan v. Khuda Yar and another*** **(PLD 1975 SC 678).**

(vii) ***Mere delay in the disposal of proceedings, by itself, does not constitute an absolute or independent ground for refusing additional evidence where the requirements***

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of Rule 27 are otherwise satisfied. Delay may, however, be a relevant circumstance in determining whether the application is bona fide, whether the applicant exercised due diligence, and whether admission of the evidence would occasion prejudice or otherwise defeat the ends of justice. Reliance may be placed upon **Rehman Dad and another v. Major Raja Sajawal Khan** ***(1976 SCMR 350).***

(viii) ***At the stage of determining an application under Rule 27, the Court is not ordinarily required to finally adjudicate upon the authenticity, genuineness or ultimate evidentiary worth of the document sought to be produced. It must, nevertheless, satisfy itself, at least*** **prima facie*****, that the proposed material is not inherently suspect or of a character readily susceptible to fabrication, tampering or manufacture. Once admitted, the questions of formal proof, genuineness, authenticity, reliability and ultimate evidentiary value remain open for determination in accordance with law. The opposite party must, in all cases, be afforded a meaningful and effective opportunity to contest the document, challenge its authenticity or relevance, and lead evidence in rebuttal where necessary. Reliance may be placed upon Allama Muhammad Inayatullah v. Ghulam Rasool and others*** **(1994 MLD 1984) and *Shamshad Bibi* (supra).**

(ix) ***Where the application is founded upon the ground that the Appellate Court requires the proposed evidence to enable it to pronounce judgment, the necessity for such evidence ordinarily emerges from the Court's consideration of the appeal and the existing record as a whole. In such circumstances, the application may appropriately be considered in conjunction with the hearing of the appeal, since the question whether the additional evidence is necessary for pronouncing judgment can properly arise only when the Appellate Court has examined the record for that purpose. The jurisdiction under clause (b) of Rule 27 is thus directed not merely to the convenience of a litigant, but to the***

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Court's own requirement for reaching a just and effective determination of the appeal.

15. Tested against the foregoing principles, the impugned orders do not withstand judicial scrutiny. It is well settled that evidence travelling beyond the pleadings cannot be received merely because it may appear cogent or potentially relevant. The present case, however, does not fall within that prohibition. The plea of payment was taken by the petitioners in their written statement from the very inception of the proceedings. Their defence was, inter alia, that the work had been left incomplete and that payment for the work actually executed had already been made. That plea was thereafter carried into the evidence, as DW-1 deposed that payment had been made to the contractor. The documents now sought to be produced are directed towards establishing that very plea; they do not introduce a new factual case, a new defence, or a matter beyond the pleadings. The proposed evidence is thus plainly referable to an issue already raised, contested and subjected to evidence before the learned Trial Court.

16. There is, moreover, a further feature of the record which appears to have escaped consideration by the learned Courts below. During the course of the petitioners' documentary evidence, DW-1 produced the Bill Submission Proforma together with the connected documents, which were exhibited as Exh. D.1/3-1 to Exh. D.1/3-5. A close examination of those documents reveals that the cheque and the record relating to release of the payment now sought to be brought on record are

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directly connected with the very documentary material already exhibited. Significantly, the number of the cheque in question is inscribed upon a document already forming part of the evidentiary record. The proposed material is, therefore, neither alien to the proceedings nor wholly extraneous to the evidence already before the Court. Rather, it appears, prima facie, to complete an evidentiary chain whose constituent links have already been placed on record, namely, the bill, the assessment of the work executed, the deductions made therefrom, and the payment instrument through which the resulting amount is alleged to have been released. In these circumstances, to characterise the proposed evidence, without further examination, as an attempt to reconstruct or recast the petitioners' case at the appellate stage would be premature and unsupported by the record.

17. For the same reason, the objection that the petitioners are merely seeking to fill a lacuna in their case cannot, at this stage, be accepted as conclusive. What is sought is not the introduction of a fresh case but further proof in support of a defence which was pleaded from the outset and in respect of which evidence was already led. This, however, does not mean that the proposed documents must necessarily be accepted as genuine, proved or conclusive. The respondent must be afforded a full and effective opportunity to contest their production, authenticity, relevance, evidentiary value and connection with the transactions in question, and to lead evidence in rebuttal, if so advised. Conversely, the allegation that the documents may

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have been forged, fabricated or tampered with cannot, in the absence of examination of the documents and their provenance, furnish a sufficient basis either for their automatic admission or for their outright rejection. The Court considering their reception must first examine, *prima facie*, their source, custody, nature and connection with the existing record and satisfy itself that the material is not inherently susceptible to easy fabrication, tampering or manufacture. Questions of formal proof, genuineness, reliability and ultimate evidentiary weight must thereafter remain open for determination by the learned Appellate Court in accordance with law.

18. The impugned orders further proceed upon the premise that the petitioners had already been afforded a sufficient opportunity, including pursuant to the relief granted by this Court in W.P. No. 4841/2022, to produce the documents now sought to be brought on record. That premise, however, is not borne out by a proper reading of the record. The documents forming the subject matter of the two applications before the learned Trial Court were distinct. The application disposed of on 16.12.2022 concerned the Bill Submission Proforma and other connected documents. Pursuant to the acceptance of W.P. No. 4841/2022, the petitioners were permitted to produce those documents before the learned Trial Court, where they were duly exhibited as Exh. D.1/3-1 to Exh. D.1/3-5. The subsequent application, dismissed vide order dated 11.03.2024, was directed, in contrast, to the cheques allegedly issued against the

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payments in question and the record relating to their encashment.

19. The relief granted in W.P. No. 4841/2022 neither concerned those cheques and their encashment record nor afforded the petitioners an opportunity to produce them. The learned Appellate Court, therefore, fell into error in treating the two applications as though they related to the same documents and in construing the earlier proceedings before this Court as an opportunity to produce the material which was subsequently sought through the application dated 11.03.2024. The distinction was material and required specific consideration. The learned Appellate Court was required to examine independently whether the documents sought through the subsequent application ought to have been admitted, having regard, inter alia, to their relevance to the pleaded defence of payment, their apparent connection with the Bill Submission Proforma and other documents already exhibited, and their bearing upon the principal controversy between the parties. The impugned orders disclose no such independent examination. Instead, they rest upon a conflation of two separate applications concerning materially different sets of documents. That approach materially affected the exercise of jurisdiction vested in the learned Appellate Court.

20. The objections filed by the respondent invoke both clauses (a) and (b) of Order XLI Rule 27 of the Code. The relevant inquiry, however, is not whether the petitioners have invoked a particular clause in their application, but whether,

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upon the facts and record, the case falls within any of the eventualities contemplated by the statutory provision. In the present case, the petitioners had sought production of the cheques and the connected record before the learned Trial Court, but their application was declined vide order dated 11.03.2024. The learned Appellate Court was, therefore, required to consider whether the evidence so refused was evidence which, within the meaning of clause (a), "ought to have been admitted." That question could not be answered merely by referring to an earlier application concerning different documents.

21. Equally, if the application was to be considered under clause (b), the learned Appellate Court was required to examine the appellate record and determine whether the proposed documents were required to enable it to pronounce judgment or whether any other substantial cause existed for their production. The two statutory situations are distinct, and the satisfaction of either, if otherwise established, may furnish a lawful basis for receiving additional evidence. The impugned orders, however, do not demonstrate an independent consideration of either statutory gateway in the light of the actual documents sought to be produced.

22. Diligence nevertheless remains a material and, ordinarily, weighty consideration in the exercise of the jurisdiction under Rule 27. The provision is not intended to reward negligence, indolence or deliberate withholding of evidence, nor to afford an unsuccessful litigant an opportunity to repair a case which has failed for want of proof. At the same time, a finding of want of

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diligence cannot, by itself, dispense with the statutory inquiry mandated by Rule 27. The Court must still determine whether the case otherwise falls within one of the eventualities expressly recognized by the provision. Thus, the conduct of the applicant is undoubtedly relevant to the exercise of discretion, but it cannot substitute for, or render unnecessary, the examination of the statutory conditions themselves.

23. In the present case, the conduct of the petitioners does not merit approval. The suit was instituted in 2015 and issues were framed as far back as January 2017. The respondent's plea of non-payment was known to the petitioners from the very inception of the litigation, and no new factual stance appears to have emerged during the trial which could reasonably have taken them by surprise. The particulars of the payment instrument, stated to date back to May 2008, were likewise matters within the petitioners' knowledge. Yet, notwithstanding the considerable duration of the proceedings and the opportunities available to them, the complete record concerning the alleged payment was not produced at the appropriate stage. The fact that the petitioners are a statutory authority and the dispute concerns public funds does not entitle them to any relaxation of the ordinary requirements of procedural diligence. If anything, an authority administering public resources is expected to maintain its records in an orderly manner and to exercise a high degree of institutional vigilance in the conduct of litigation concerning public money. The respondent's grievance that the proceedings have been prolonged is, therefore, not

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without substance and must be kept in view when the learned Appellate Court exercises its discretion afresh.

24. That circumstance, however, does not cure the material defect in the manner in which the impugned orders were passed. The plea of payment formed part of the written statement; evidence concerning payment was led before the learned Trial Court; the cheque number is stated to appear on a document already exhibited in evidence; and, significantly, production of the cheques and the connected payment record was sought before the learned Trial Court through a distinct application which was dismissed on 11.03.2024. These circumstances called for a substantive examination under Order XLI Rule 27 rather than rejection on the assumption that the petitioners had already been afforded an opportunity to produce the same material pursuant to the earlier proceedings. At the same time, the respondent's objections concerning the genuineness, fabrication or possible tampering of the documents cannot be disregarded. They are matters relevant to the exercise of judicial discretion at the threshold and, if the documents are admitted, to their subsequent proof and evidentiary assessment. The Court dealing with the application must accordingly examine, *prima facie*, their source, custody, nature and connection with the existing record and determine whether there is sufficient basis for permitting their reception. Thereafter, the questions of formal proof, authenticity, reliability and evidentiary worth must remain open for adjudication in accordance with law, after affording the respondent a meaningful opportunity to contest the material.

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The learned Appellate Court, however, did not undertake this statutory exercise. Instead, it proceeded upon the erroneous premise that the petitioners had already been afforded an opportunity, pursuant to the order passed by this Court in W.P. No. 4841/2022, to produce the very documents which subsequently formed the subject matter of the application dismissed by the learned Trial Court on 11.03.2024. As demonstrated above, the two applications concerned distinct sets of documents, and the earlier order did not afford the petitioners an opportunity to produce the cheques and the connected encashment record subsequently sought to be introduced. By conflating the two applications and, consequently, failing to examine whether the evidence refused by the learned Trial Court was evidence which ought to have been admitted within the meaning of clause (a) of Rule 27, or whether the case otherwise attracted clause (b), the learned Appellate Court failed to address the statutory questions which lay at the heart of the applications before it. The error was not merely one of appreciation of facts; it materially affected the exercise of jurisdiction vested in the learned Appellate Court. The impugned orders, therefore, suffer from material irregularity in the exercise of jurisdiction within the contemplation of Section 115(1)(c) of the Code and cannot be sustained.

25. The question that consequently arises is whether this Court, while exercising revisional jurisdiction, should itself determine the applications for additional evidence or remit the matter to the learned Appellate Court for consideration afresh.

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Although, in an appropriate case, a revisional Court may itself exercise the power relating to additional evidence where the law so permits, I am not persuaded that such a course would be appropriate in the circumstances before us. The determination whether the proposed documents satisfy the requirements of Rule 27, whether the evidence refused by the learned Trial Court was evidence which "ought to have been admitted" within clause (a), whether the learned Appellate Court itself requires the material to enable it to pronounce judgment or whether any other substantial cause exists within clause (b), and whether the source, custody, nature and *prima facie* integrity of the documents justify their reception are matters which, in the first instance, ought to be considered by the learned Appellate Court upon a proper examination of the record of the respective appeals. To determine those questions for the first time in revision would effectively pre-empt the statutory discretion vested in the learned Appellate Court and would deprive the parties of consideration of their respective positions by the forum presently seized of the appeals. The appropriate course, therefore, is to set aside the impugned orders and remit the applications to the learned Appellate Court for fresh determination in accordance with law and in the light of the observations made herein.

26. It may further be observed that where additional evidence is sought on the ground that the Appellate Court itself requires such evidence to enable it to pronounce judgment, the necessity for receiving the material is most appropriately assessed in the

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context of the appeal as a whole and upon examination of the existing record. In such circumstances, the application under Rule 27 may appropriately be considered along with the hearing of the main appeal, so that the learned Appellate Court may determine whether the proposed evidence is genuinely necessary for pronouncing an effective judgment, rather than considering the application in isolation. Such a course would also enable the Court to determine the relevance and necessity of the proposed evidence in the context of the pleadings, issues, evidence already recorded and grounds of appeal, while ensuring that the proceedings are not unnecessarily or indiscriminately reopened. It is, however, clarified that the observations made herein are confined to the legal and procedural infirmities identified in the impugned orders. Nothing contained in this judgment shall be construed as a final determination by this Court regarding the genuineness, admissibility, relevance or ultimate evidentiary value of the documents sought to be produced. Those questions shall remain open for determination by the learned Appellate Court in accordance with law.

27. As regards costs, this Court is conscious that the failure of the petitioners to produce the complete payment record at the appropriate stage has contributed to the prolongation of the litigation and that the respondent has consequently been subjected to further delay and expense. Nevertheless, the impugned orders are being set aside not because the petitioners have established an unconditional entitlement to produce the proposed evidence, but because the learned Appellate Court

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failed to undertake the statutory inquiry required by Order XLI Rule 27 of the Code and proceeded upon an erroneous understanding of the earlier proceedings and the documents to which they related. In these circumstances, the Court considers it appropriate, at this stage, to make no order as to costs. The learned Appellate Court shall, however, remain at liberty to consider the question of costs, in accordance with law, if either party causes unnecessary delay or otherwise obstructs the expeditious disposal of the appeals.

28. For the foregoing reasons, these Civil Revisions are **ALLOWED**, and the impugned orders dated 09.06.2026 passed by the learned Additional District Judge, West-Islamabad, in Regular First Appeals Nos. 235, 236, 237 and 238 of 2024, are hereby set aside. The applications filed by the petitioners under Order XLI Rule 27 of the Code of Civil Procedure, 1908, are remitted to the learned Appellate Court for fresh consideration and decision in accordance with law and in the light of the principles enunciated hereinabove. The learned Appellate Court shall preferably consider and decide the said applications in conjunction with the main appeals and shall independently determine whether the proposed documents fall within the statutory parameters of Rule 27. In the event that the additional evidence is permitted, its reception and recording shall be regulated strictly in accordance with Rules 28 and 29 of Order XLI, and the respondent shall be afforded a full and effective opportunity to contest and rebut such evidence, including, where relevant, its issuance, custody, authenticity, genuineness,

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connection with the projects in question and ultimate evidentiary value. Having regard to the age of the controversy, the learned Appellate Court shall make every endeavour to dispose of the appeals expeditiously and shall avoid unnecessary adjournments. The parties shall bear their own costs.

(AYYAZ SHAUKAT)
JUDGE

Announced in open Court on **08-09-2026**.

JUDGE

Approved for reporting

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