

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT  
MIRPURKHAS**

Constitution Petition No.S-203 of 2025

Petitioner: Rab Raazi Cotton Ginning Pressing Factory,  
Mirpurkhas, through Barrister Jawad Ahmad  
Qureshi

Respondent No.1: M/s. Cotton Export Corporation (Pvt) Ltd.,  
merged into, M/s. Trading Corporation of  
Pakistan (Pvt). Ltd. (Nemo)

Respondent No.2: Government of Pakistan, Ministry of  
Commerce. (Nemo)

Date of decision: 10.03.2026

**JUDGMENT**

**MUHAMMAD HASAN AKBER J.:-** The Petitioner's suit was decreed on 30.05.1996 in the sum of Rs.9,66,900/-, for implementation whereof, Execution Application No.02/2019 was preferred, wherein the Petitioner claimed a sum of Rs.5,00,00,000/- (Rupees Five Crore). During Execution proceedings, the quantum of such amount claimed in the execution application was challenged by the Judgment Debtors, which was decided vide Order dated 22.08.2025 [**impugned Order**], in Civil Revision Application No. 27/2025 by the learned Additional District Judge-I, Mirpurkhas.

2. Through the impugned Order, the issue of quantum of the decretal amount was remanded to the learned Executing Court, with the following directions:

“(i) determine the exact decretal amount payable under judgment and decree dated 30-05-1996, together with interest at 14% simple per annum (as ordered dated 10.09.2020) till realisation;

(ii) adjust the amount already deposited by the J.D.; and

(iii) thereafter pass appropriate orders for payment/ satisfaction in accordance with law”.

3. Heard learned counsel for the petitioner, who has also filed a Statement dated 15.01.2025 to justify the claim of Rupees Five Crore in the Execution proceedings. The statement reflects that the suit was decreed on 30.05.1996 in the sum of Rs.9,66,900/- with 14% interest; that the execution application was filed in the year 2019; and as per the break-up, a sum of Rs.56,160,628/- was being claimed by the petitioner. From the calculations, it appears that the decree holder has charged compound interest on the decretal amount. Whether interest payable under the decree is to be calculated at a compound rate is a question to be decided.

4. To justify such a claim, learned counsel firstly argued that it was due to the delay in the payment of the decretal amount by the Judgment Debtors; and his second argument was that under Section 34 CPC, the decree holder is also entitled to Additional Compensation. Both arguments are distinct and are treated separately.

5. As regards charging of compound interest under decrees passed by the Courts of law, the same was declared contrary to the injunctions of Islam, hence illegal and void in the case of **Muhammad Aslam Khaki case**<sup>1</sup> vide Judgment dated 23-12-1999 passed by the learned Shariat Appellate Bench of the Honourable Supreme Court of Pakistan, while affirming the Judgment dated 14.11.1991 by the learned Federal Shariat Court in the case of **Mahmood-ur-Rahman Faisal**<sup>2</sup>. Both the Judgments were set aside by the learned Shariat Review Bench of the Supreme Court in **Farooq Brothers' case**<sup>3</sup> and the matter was remanded to the Honourable Federal Sharat Court for a decision afresh. Finally, vide landmark Judgment on *Riba* dated 28<sup>th</sup> April 2022 in the case of '**Farooq Brothers Vs. UBL etc.**', by the Federal Shariat Court of Pakistan, it has been concluded, *inter alia*, that compound interest is not permissible, in the following terms:

“16. ....After undertaking all this exercise, we are of the view that following are some basic points which need our determination:

ii) What is Riba' according to injunctions of Islam in the light of Holy Qur'aN and Sunnah of the Holy Prophet and how it is defined by the Muslim jurists and scholars in the light of Holy Qur'an and Sunnah?

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1. *M. Aslam Khaki v. Muhammad Hashim (PLD 2000 SC 225)*  
 2. *Mahmood-ur-Rahman Faisal v. Secretary Ministry of Law (PLD 1992 FSC 1)*  
 3. *United Bank Ltd. v. Farooq Brothers (PLD 2002 SC 800)*  
 4. '*M/s. Farooq Brothers Vs. UBL, etc.*' in *Shariat Petition No.30-L of 1991 & 81 connected matters*

105. The counsel of UBL also argued that the present day banking is a business and the word (بيع) used in verse 2:275 of Surah *Baqarh* includes sale, business, trade, investment, bargaining, etc. therefore, the present banking business is also covered by term (بيع). Since the Shariat Appellate Bench noted these arguments in the remand order while remanding the case, we have made it a point of determination to decide while doing the re-determination of the case.

106. Although these were the very first arguments used, raised and advanced by the Mushrekeen of Makkah that practice of charging interest on a loan is also a business, therefore, nothing is wrong in it. But Quran categorically and clearly separated the two. The verse of Surah *Baqarh* reads as follows:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ (275)

جو لوگ سود کھاتے ہیں وہ قیامت کے دن نہ کھڑے ہوں گے مگر اس شخص کے کھڑے ہونے کی طرح جسے آسیب نے چھو کر پاگل بنا دیا ہو۔ یہ سزا اس وجہ سے ہے کہ انہوں نے کہا: خرید و فروخت بھی تو سود ہی کی طرح ہے حالانکہ اللہ نے خرید و فروخت کو حلال کیا اور سود کو حرام کیا تو جس کے پاس اس کے رب کی طرف سے نصیحت آئی پھر وہ باز آ گیا تو اس کیلئے حلال ہے وہ جو پہلے گزر چکا اور اس کا معاملہ اللہ کے سپرد ہے اور جو دوبارہ ایسی حرکت کریں گے تو وہ دوزخی ہیں، وہ اس میں مدتوں رہیں گے۔

107. Those who eat Riba (usury) will not stand (on the Day of Resurrection) except like the standing of a person beaten by Shaitan (Satan) leading him to insanity. That is because they say: "Trading is only like Riba (usury)," whereas Allah has permitted trading and forbidden Riba (usury). So whosoever receives an admonition from his Lord and stops eating Riba (usury) shall not be punished for the past; his case is for Allah (to judge); but whoever returns [ to Riba (usury) ], such are the dwellers of the Fire - they will abide therein. The opening sentence of the verse contains the argument of those people who indulged or involved in taking Riba. They used to equate Riba with trade or business (Bay).

بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا

کہ وہ کہتے ہیں، تجارت بھی تو آخر سود جیسی ہے۔

Same arguments were forwarded by the counsel of a bank after almost fifteen hundred years. The answer to this argument is unequivocally stated in the Holy Quran as:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

حالانکہ اللہ نے تجارت کو حلال کیا ہے اور سود کو حرام

108. The bare reading of the verse tells us that (بيع) sale is permissible and (ربا) Riba is prohibited, one is permitted (Halal) and other is prohibited (Haram). This is one of the basic Ayah or Hukam upon which all or any banking transaction is analyzed separately and individually, by the Islamic jurists on the analogy (Qiyas) of permissible and non-permissible sale (بيع) transactions according to injunctions of Islam, i.e., Quran and Sunnah. Therefore, we have decided this point against the respondents. All or any transaction undertaken by a bank if it involves interest or Riba at any percentage less or more, in any form simple or multiplied or compound is prohibited and haram. Banking itself per se is neither permissible nor impermissible according to the Injunctions of Islam in the light of the Quran and Sunnah, it is actually the nature of transaction which it undertakes that makes it permissible or impermissible according to the Injunctions of Islam. If

its transactions are Shariah compliant then it is permissible and if they are not Shariah compliant or have doubts in them of being Shariah compliant then such transactions are impermissible and against the Injunctions of Islam.”

6. Hence, with respect to the claim of compound interest by the Decree Holder, neither was the same prayed in the suit, nor was the same allowed in the Judgment and decree, nor in consonance with the injunctions of Islam, nor with the Judgment of the Federal Shariat Court. The same is therefore unsustainable. Reliance on **Najm Koreshi’s case**<sup>5</sup> by the learned counsel is misplaced since in that very Judgment, it has been recorded that the issue of Riba is pending before the Federal Shariat Court of Pakistan, whereas the same now stands decided, as discussed at para 5 *ibid*.

7.(a) It was also noted from the plaint during the course of hearing (at pages 43-49 of the Court file), that there was no prayer for any interest sought by the Plaintiff in the suit:

**“The plaintiff, therefore, pray that this honourable court may be pleased to pass Judgment and decree for Rs.9,66,900-00 in favour of the plaintiff and against the defendants severally and jointly, with the cost of the suit. The Court may also grant such other relief as it may deem fit and proper.”**

7.(b) The learned trial Court in the Judgment concluded that:

**“In view of my findings on the above issues, the suit of the plaintiff is decreed as prayed, with no order as to costs. Such decree be prepared accordingly.”**

7.(c) However, when the decree was prepared, it was recorded that:

**“..Plaintiff pray for judgement and decree as under: honourable Court may be pleased to pass Judgment and decree for Rs.9,66,900-00 in favour of the plaintiff and against the defendants severally and jointly with interest at 14% per annum with cost of the suit. The court may also grant such a relief as it may deem it and proper.”**

[underlining added for emphasis]

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5. *Najm Koreshi v. Chase Manhattan Bank now MCB Ltd., others* (2015 SCMR 1461)

8. From the prayer clause in the suit; the conclusion in the Judgment; and from the underlined portion in the decree, it appears that a prayer for 14% per annum was never sought in the plaint, nor was the same specifically allowed in the Judgment, but the same appears to be added in the decree, as highlighted in the underlined portion. The legal position on the subject is that the terms “**Judgment**” and “**Decree**” are respectively defined under sections 2(9) and 2(2) CPC. Section 33 CPC. requires that the Judgment be pronounced after hearing, and on such Judgment, the decree shall follow. Order XX Rule 6 CPC., which is mandatory in nature,<sup>6</sup> stipulates the requirements for the preparation of a decree, whereby the decree shall agree with the Judgment and shall specify clearly the relief granted in the Judgment. The Decree and Judgment are two separate and distinct documents. It is the decree that has to be executed, and as such, it should agree with and be in accordance with the Judgment; therefore, it should be self-contained and capable of execution, without reference to any other document.<sup>7</sup> It is the Court’s duty to draw up a decree in accordance with the Judgment,<sup>8</sup> and not the duty of the litigant;<sup>9</sup> for it is the decree, and not the Judgment, that is to be executed.<sup>10</sup>

9. It is further to be noted that the decree shall be in accordance with and should automatically follow the Judgment;<sup>11</sup> that the judgment is the substratum on which the decree has its foundation, and it cannot stand independent of the same.<sup>12</sup> The decree shall be in accordance with the relief granted by the Court, or other determination of the suit;<sup>13</sup> that decree is to be prepared and construed, with reference to the Judgment and not with reference to the pleadings of the parties;<sup>14</sup> That the decree drawn by the Court must not be vague, leaving the parties to guess the decision of the Court, or to ascertain its terms from some other document. The decree must be precise, deliberate and couched in legal terminology. It must conform to the requirements of Order XX rule 6, CPC.<sup>15</sup>

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6. ‘Abdul Aziz & 2 others V. Ch. Asghar Ali (PLD 2020 Lahore 831)’

7. ‘Abdul Sattar & 10 others V. Haji Fateh Khan & 6 others’ (2010 CLC 1462)

8. PLD 1963 SC 265, 2001 CLC1847, 1993 CLC 1202, 1982 CLC 550,

9. AIR 1961 SC 832, AIR 1924 Nagra 271, AIR 1914 Bombay 23.

10. ‘Rehmat Wazir v. Sher Afzal’ (2005 SCMR 668); ‘Sultan Ali v. Khushi Muhammad’ (PLD 1983 SC 243); ‘Shaukat Ismail Charania v. Mrs. Shakeela Hayat Khan’ (2006 CLC 1126); ‘Muhammad Shareef Uppal v. Muhammad Hussain’ (PLD 1990 Lahore 229); ‘Tepri Mai Bewa v. Farey Mahmood and others’ (PLD 1970 Dacca 475)

11. ‘Ghulam Muhammad v. Sultan Mahmood’ (PLD 1963 SC 265)

12. ‘Muhammad Suleman v. Wilayatullah Khan’ (1990 CLC 110).

13. ‘Seth Manakchand v. Chaube Manoharlal and another’ (AIR 1944 PC 46); ‘Mst. Mumtaz Begum v. Said Zaman and 11 others’ (1993 CLC 1202); ‘LIEDA and another v. Prism Printer (Pvt.) Ltd.’ (PLD 2011 Quetta 48); ‘Dilmeer v. Rajab Ali and others’ (2003 MLD 484).

10. It has been settled long ago that where law requires an act to be done in a particular manner, it shall be done in that manner alone, for if done otherwise, it would be non-compliance with the legislative intent, and such a dictate of law could not be termed a mere technicality.<sup>16</sup> The Honourable Supreme Court has declared that where the form of the decree is not in accordance with law, rectification in the Decree is to be ordered, in accordance with the reliefs granted in the Judgment,<sup>17</sup> and a party cannot be penalised for the act or neglect of the Court or its officials.<sup>18</sup> Hence, necessary clarifications in such a decree can be made under section 152 CPC., to bring such decree absolutely in consonance with the Judgment passed by the Court, as required under Order XX Rule 6 CPC., so that after clarification, the decree becomes executable.<sup>19</sup> Such power of the Court has been further extended, to the extent that if any of the defects in the decree, which could not be remedied under section 152 alone, then the Court may also exercise its powers under sections 151 and 153 CPC., since section 152 is not the sole remedy available to the parties, and it does not curtail any other remedy or exercise of powers of the Court under the law; Where the decree is ambiguous, the Court may also construe the decree.<sup>19</sup> Lastly, with respect to the duty of the executing Courts in such circumstances, it has been held that where the executing Court cannot alter a decree, it may direct the parties, in appropriate cases, to get the decree modified and rendered executable.<sup>20</sup>

11. "**Actus Curiae Neminem Gravabit**" lays down one of the fundamental principles of the Administration of Justice, that an act of Court shall *prejudice* no man. Hence, in the words of the Honourable Supreme Court,<sup>21</sup> parties cannot be penalised for the act of the Court.<sup>22</sup> Even the mischiefs of the law of Limitation were not applicable in such circumstances.<sup>23</sup> For a further in-depth study of the law on the subject, **Abdul Kareem's case**<sup>24</sup> can be referred.

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14. 'Kareem Bux v. Province of Sindh and others' (1998 CLC 27)

15. 'Shahida Bibi and others v. HBL and others' (PLD 2016 SC 995); 'Muhammad Anwar and others v. Mst. Ilyas Begum and others' (PLD 2013 SC 255); 'Zia ur Rehman v. Syed Ahmad Hussain' (2014 SCMR 1015).

16. 'Muhammad Shamshad v. Haji Allah Rakha' (1980 SCMR 397), 'Sh. Muhammad Sharif Uppal v. Sh. Akbar Hussain and others' (PLD 1990 Lahore 229).

17. 'Mst. Mumtaz Begum v. Said Zaman and 11 others' (1993 CLC 1202), 'Abdul Aziz and 2 others v. Ch. Asghar Ali' (PLD 2020 Lahore 831).

18. 'Abdul Sattar and 10 others v. Haji Fateh Khan and 6 others' (2010 CLC 1462); PLD 2006 Karachi 410, 1980 CLC 110, PLD 1976 Lahore 269, PLD 1970 Dacca 475, PLD 1964 Dacca 10.

19. 'Ghulam Muhammad v. Sultan Mahmud and others' (PLD 1963 SC 265).

20. 'Jai Narain Ram Lundia vs Kedar Nath Khetan and others' (AIR 1956 Supreme Court 359); 'Muhammad Tahir v. Khanan' (2007 CLC 145), 'M.D. Punjab Seed Corporation v. Muhammad Awais Buksh sahib' (1999 SCMR 2150), 'Zubair Ahmad v. Shahid Mirza' (2006 YLR 1900).

12. The learned counsel's last argument is that the petitioner is also entitled to compensation under section 34 CPC. on the ground that the suit was filed in the year 1988, and despite lapse of 38 years, no payment has been made by the Judgment Debtor. It was further prayed that the petitioner may be allowed to agitate the same before the learned Executing Court, even if the same was not part of the Judgment, or the decree, or even not pleaded. At this stage, after arguing the matter at length, learned counsel, under instructions, states that he would be satisfied if the impugned Order is upheld; however, the Decree Holder is allowed to raise his claim under Section 34 CPC. before the learned executing Court for additional compensation under Section 34 CPC.

13. In view of the above, the impugned Order dated 18.09.2025 passed by the learned Additional District Judge-I, Mirpurkhas, is upheld, and the Decree Holder in the subject Execution may agitate his claim under section 34 CPC. before the learned Executing Court, which shall be decided on its own merits strictly in accordance with law.

The petition, therefore, stands disposed of along with the listed application in the above terms.

**JUDGE**

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21. *'Muhammad Ijaz and another v. Muhammad Shafi through L.Rs.'* (2016 SCMR 834); *'Hidayatullah v. Murad Ali Khan'* (PLD 1972 SC 69).
22. *'Wasal Khan and others v. Dr. Niaz Ali Khan'* (2016 SCMR 40), *'Sherin and 4 others v. Fazal Muhammad and 4 others'* (1995 SCMR 584); *'Hidayatullah v. Murad A. Khan'* (PLD 1972 SC 69), *Government of NW.F.P. and others v. Akbar Shah and others* (2010 SCMR 1408), *Muhammad Sarwar's case* (PLD 1969 SC 278).
23. *'Shaukat Ismail Charania v. Mrs. Shakeela Hayat Khan and others'* (2006 CLC 1126)
24. *'Abdul Kareem and others vs. Abdul Waheed and others'* by Sindh High Court in CP No.D-375 of 2014 and CP No.D-1794 of 2015.