

OFFICE OF THE OMBUDSMAN

Islamabad

FORM OF ORDER SHEET

Complaint No. FOH-ONL/0000031/2020

Serial No. of Order of Proceedings	Date of order of Proceedings	Order of other proceedings with Signature of Federal Ombudsman TITLE: FARZANA BEHZAD
1	2	3
	26-10-2021	Complaint No. <u>FOH-ONL/0000031/2020</u> After effecting amendment vide order dated 12-07-2021 passed by this court, the report from the Assistant Commissioner/Sub-Divisional Magistrate (Shalimar Islamabad) was again sought. Letter No. 488/AC (Shalimar) dated 13-08-2021 has been transmitted to this court whereby it has been laid down that inquiry report in the matter has already been submitted vide this office letter No. 86/AC (Shalimar) dated 17-12-2020. As a matter of fact the complainant is a widow who has applied for the possession of property under the Enforcement of Women’s Property Rights Act, 2020. The predecessor in interest i.e. Mr. Behzad Elahi Sethi of the complainant and her three daughters namely Rafia Behzad, Samia Behzad and Fiza Behzad owned a piece of land approximately measuring 15 Kanal in Khasra No. 1492/1223/2 Khewat No. 422, Khatooni No. 781 to 791 situation Saraye Kharboza, Tehsil & District Islamabad. Since the demise of the predecessor in interest of the complainant in 2012 the lawful rights in the said property have devolved upon the complainant and her daughters. In this regard, mutation of inheritance No. 24310 dated 31-08-2018 was also incorporated in the record of rights. These women since 2012 have suffered deprivation from occupying lawful rights in the property in question. The complainant has also provided attested copies of the order of Islamabad High Court, Islamabad in Criminal Appeal No. 220/2018 filed by one Shehzad Elahi Sethi. The Honourable Islamabad High

		Court, Islamabad vide its judgment dated 23-07-2020 has acknowledged the existence of land grabbers who have deprived the said appellant from his lawful right to the property measuring 200 Kanal situated in Khasra No. 14921/1223 Mouza Saraye Kharboza, Tehsil & District Islamabad. The said Appellant is the real brother of the predecessor in interest of the complainant. A Crl. Original No. 245/2020 titled Shehzad Elahi Sethi Vs SHO, PS Tarnol Islamabad etc was also filed before Honourable Islamabad High Court, Islamabad vide its order dated 15-03-2021 the Honourable Islamabad High Court, Islamabad transferred the said contempt petition to the Learned Session Judge West Islamabad who was directed to get the judgment dated 23-07-2020 passed in Criminal Appeal No. 220/2018 implemented in accordance with law and restored the possession to the said Shehzad Elahi Sethi after getting the report from Revenue Authority accordingly. The matter of Shehzad Elahi Sethi attempting to recover his 200 Kanal is still pending before the Learned District & Session Judge West Islamabad. The report dated 17-12-2020 transmitted by Learned Deputy Commissioner Islamabad the entitlement to the ownership and possession as to the property measuring 15 Kanal of the complainant and her daughters has been acknowledged. However, the Learned Assistant Commissioner Islamabad also mentioned that the matter pertains to illegal possession of property which can be dealt by Session Court under the Illegal Disposition Act, 2005 and it is proposed that the complainant may be asked to approach the Session Court for redressal of her grievance. This court opts to disagree with the recommendation of the Commissioner office as the basic intent of legislation i.e. Enforcement of Women's Property Rights Act, 2020 is to provide for protection of the rights of ownership and possession of properties owned by women, ensuring that such rights are not violated by means of harassment, coercion, force or fraud. At this stage if the complainant is
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		compelled to initiate proceedings under illegal dispossession Act, 2005 before the Learned Court of Session, Islamabad in terms of her lawful rights to the property in question the basic intent of the legislation of Enforcement of Women's Property Rights Act, 2020 will be defeated and this woman will be compelled to go through the rigors of the entire litigation process which is unlawful, unjust, whimsical and against the principles of natural justice. This Special legislation has superseded all enactments regarding the rights of women and it must be extended preference in this respect. In view of the record submitted by the Complainant which is corroborated by the learned Commissioner Office ICT, Islamabad as well as detailed Inquiry conducted by this Office, the Complainant has proved her stance of deprivation by means of force. It is crystal clear that the women are unable to fight the land mafia or land grabbers who have held the property of the Complainant hostage and the Ombudsman office is authorized through this special legislation to provide the deprived women with the possession or ownership which they are deprived of. As a result of the <i>raison detre'</i> SUPRA the Deputy Commissioner office is directed to ensure delivery of possession of the property of the Complainant and her daughters in their favour with immediate effect and submit a compliance report with seven days to this office in respect of the implementation of this order in letter and spirit. In this regard the SHO Shalimar is also directed to ensure peaceful delivery of possession in favour of the complainant. OMBUDSMAN
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