

OFFICE OF THE FEDERAL OMBUDSPERSON

FOR PROTECTION AGAINST HARASSMENT OF WOMEN

AT THE WORKPLACE, ISLAMABAD

FORM OF ORDER SHEET

Complaint No. FOH-HQR/0000178/2020

Date of Institution: 05-10-2020

Serial No. of Order of Proceedings	Date of order of Proceedings	THE ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT, 2020 Order of other proceedings with Signature of Federal Ombudsperson Mehroona Qasim Vs Nasir Zia Subhani & Others Property Description: House located in E-7, Islamabad
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65	24-01-2025	<p><u>Subject:</u> Final Order under Section 8 of the Enforcement of Women's Property Rights Act, 2020</p> <ol style="list-style-type: none">1. Mr. Adil, the son of the Complainant, is present along with his counsel Mr. Shehryar Gondal, Advocate. The learned counsel for the Complainant has submitted an application seeking appropriate orders.2. Respondent No.2, Mr. Shahzad Zia is present in person. On the previous date of hearing, he requested an adjournment on the grounds that he would produce his counsel at the next date of hearing. However, today, he has not produced any counsel and has addressed the arguments himself.3. Arguments have been heard, and the case record has been reviewed.

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| | | <ol style="list-style-type: none">4. The case was remanded to this forum by the order dated 10-12-2024 of the Honorable President of Pakistan, following the representation filed by the Respondent. The remands was made with the direction to determine the rent of the property after hearing the parties, with particular reference to the date of dispossession and the evidence thereof.5. According to the record, possession of the property was handed over to the Complainant in 2021. Currently, the case is pending for the determination of the rent claimed by the Complainant. Previously, the Complainant's share of the rent was determined to be Rs. 1.2 million, starting from the year of her husband's death, with the Respondents held liable to pay this amount in equal shares. Aggrieved by this order, Respondent No. 2 filed a representation, which was subsequently decided by the Honorable President of Pakistan via an order dated 10-12-2024. Upon remand, arguments were heard again, and the record was reviewed.6. The Complainant's counsel stated that they have no objection to the rent rate of Rs. 360,000 determined by this forum. However, they argued that the Complainant and her minor children were deprived of their rightful share. Therefore, the rent share of the Complainant's children should also be granted to her.7. On the other hand, Respondent No. 2, contended that he never rented out the property nor received any rent from it. He asserted that he is in possession of his own share of the property and, therefore, is not liable to pay any rent.8. A review of the case record indicates that the parties have been involved in litigation for a considerable period. On 01-02-2012, Respondent No. 1 filed a suit for declaration against the Complainant and her children, claiming ownership and possession of the first floor of the suit property. He asserted that the |
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Complainant and her children exchanged their share of the house with Respondent No. 2, Shahzad Zia, in return for a petrol pump situated at G.T Road, District Attock. Respondent No. 1 sought a declaration of ownership and possession, requesting that the defendants, including Shahzad Zia (Respondent No. 2 in this complaint), be restrained from interfering with his possession.

9. Respondent No. 2 admitted the claim of the plaintiff in that suit, while the Complainant contested the alleged exchange agreement in her written statement. However, she was subsequently proceeded against ex parte. After recording ex parte evidence, the civil court dismissed the suit on 29-02-2015, on the grounds that the Respondents failed to prove the existence of any exchange deed.

10. This sequence of events establishes that Respondent Shahzad Zia actively colluded with Respondent No. 1, Nasir Zia, to deprive the Complainant and her children of their rightful share in the property. Consequently, Respondent No. 2 cannot now claim that he had no involvement in the dispossession of the Complainant.

11. As per the directions of the Honorable President, it is essential to determine the period of dispossession. The available evidence includes the plaint for declaration and possession through partition, filed by the Complainant and her children in the civil court on 22-02-2016. Paragraph No. 7 of the plaint states that the cause of action arose in September 2015 and further materialized a few days prior to filing the suit when the Respondents refused to acknowledge the Complainant's request. Based on this, the dispossession is determined to have started in September 2015.

12. Under Section 8 of the Enforcement of Women's Property Rights Act, 2020 (EWPRA 2020), the Ombudsperson is empowered to direct the person depriving the Complainant of the use of her

property to pay an amount equivalent to the market rental value of the property for the entire duration of the dispossession.

13. In the previous order, the Complainant was deemed entitled to recover rent solely for her share, starting from the date of her husband's death. This determination was not set aside in the representation. Considering the Complainant's own stance in the earlier plaint, she is entitled to receive rent from October 2015 until the date she regained possession, i.e., 06-07-2021.

14. The total rent amount payable to the Complainant and her children shall be calculated based on the rental value of Rs. 360,000 in 2021 with 10% annual reduction till October 2015. The husband of the Complainant held a 1/3rd share in the property and the Complainant is entitled to a 1/8th share of the estate left by the deceased. Consequently, the total rent corresponding to her husband's share in the property for the specified period amounts to approximately Rs. 5.5 million. The Complainant's share of this rent is calculated to be approximately Rs. 0.7 million (7 lac). Both Respondents are jointly and severally liable to pay this amount in equal shares. They are directed to remit the specified amount within one month of this order. In the event of non-compliance, the Complainant may approach this forum for the implementation of the order.

15. File be consigned.

FEDERAL OMBUDSPERSON