

# OFFICE OF THE FEDERAL OMBUDSMAN

## FOR PROTECTION AGAINST HARASSMENT OF WOMEN

### AT THE WORKPLACE, ISLAMABAD

#### FORM OF ORDER SHEET

Complaint No. FOH-HQR/0000002/2022

Serial No. of Order of Proceedings	Date of order of Proceedings	<b>THE ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT 2020</b> Order of other proceedings with Signature of Federal Ombudsman <b>ZAIB-UN-NISA VS MUHAMMAD SARFARAZ</b>
1	2	3
	27-06-2022	<p>Complaint No. <u>FOH-HQR/0000002/2022</u></p> <p>Arguments already heard and record also perused.</p> <p>This complaint pertains to the built up portion of the house No. ZA-1307. The Complainant claims to be an owner of 2 ½ marla out of the suit house which she has purchased from her father Muhammad Nazir through registered sale deed No. 5817 behi No. Jild No. 292 page No. 344 dated 16<sup>th</sup> September, 2014 for a sum of Rs. 6 lac.</p> <p>This registered deed has been witnessed by Khawar Bilal S/o Muhammad Nazir and Muhammad Safraz S/o Muhammad Nazir (respondent). Both the witnesses are the real brothers of the Complainant Ms. Zaib un Nisa D/o Muhammad Nazir. The Complainant has got dispute with her brother Muhammad Sarfraz who is working as Assistant Sub Inspector Police, ICT Islamabad. According to the Complainant the share purchased by her out of suit house has been illegally occupied by her brother Muhammad Sarfraz and he is not ready to restore her possession of the property because he is in active service</p>

of police department and uses his position and influence for her exploitation.

Ms. Zaib un Nisa, has therefore, approached this forum in terms of the Enforcement of Women's Property Rights Act 2020 for recovery of possession of her property from the respondent Muhammad Sarfraz. She has also prayed for the recovery of rent since 2014 received by her brother Muhammad Sarfraz.

Respondent Muhammad Sarfraz denies the claim of the Complainant and takes the stance that he is occupying that portion of the house which has been transferred to him by his father where he has been living for the last 21 years.

Both the parties have produced oral and documentary evidence in support of their respective stances and claims.

Although the matter is not that complicated, yet, the parties particularly respondent has made it more confusing, producing many witnesses and other irrelevant documents etc. It is perhaps due to the influence of the respondent, who is serving in police, that many persons have appeared from his side.

Admitted position of the case is that vide above mentioned registered sale deed, 2 ½ marla house has been transferred in favor of the Complainant Ms. Zaib un Nisa. Since it is a registered sale deed in favor of the Complainant, presumption of correctness is attached there to unless the said presumption is rebutted by the other side through cogent evidence. The registered deed in favor of the Complainant has been witnessed by the respondent himself who has not denied his signature on the deed as a witness. In cross examination respondent has admitted that in the registered deed in favor of Complainant he was cited as a witness and his picture was also made. After such admission on the part of the respondent, he is now estopped to challenge the authenticity of that document. Subsequently, during the proceedings respondent has

tried to change his version but that is not correct appreciation of the documentary proof on the record.

Admittedly, the respondent has also been transferred equal area out of the suit house by his father through the registered deed No. 5818 behi No. Jild No. 292 page No. 344 dated 16<sup>th</sup> September, 2014. Father of the parties Muhammad Nazir has also transferred equal areas to other descendent through registered deeds placed on the file. It appears that Muhammad Nazir during his life time has transferred to his descendent the property to save them from future litigation. it is to be noted that in every register deed full boundaries of the property transferred to the concerned persons have specifically been given. The boundaries of the share of Mst. Zaib un Nisa in the deed are given below:-

In East-House of Mst. Asma Nazir, In West-Road, In North-House of Jehangir and in South Plot of Khawar Bilal.

The above mentioned boundaries make the Complainant entitled to that portion of 2 ½ marla house which is bounded by the said boundaries. There is no rocket science in the matter. The simple thing is that the transfer of 2 ½ marla in favour of Complainant within the boundaries given in the sale deed stand established. Hence she is entitled to delivery of possession of that part out of the subject house.

Her complaint is, therefore, disposed of in the above terms. As already mentioned above respondent Muhammad Sarfraz is also entitled to 2 1/2 marla as per register deed in his favour but that portion will be out of within the boundaries given in his register sale deed. He cannot claim his share from some other part of the subject house.

Disposed off.

**FEDERAL OMBUDSMAN**

