

## JUDGMENT SHEET

**PESHAWAR HIGH COURT, PESHAWAR**  
*(Judicial Department)*

**RFA No. 327-P of 2024.**  
**CM No. 553-P/2024.**

**Ali Asghar s/o Hajji Akhtar Mohammad**  
**Versus**  
**Mst. Farkhanda Rani and another.**

| <b>Present</b>              |                                   |
|-----------------------------|-----------------------------------|
| <b>For Appellants.</b>      | <b>Mr. Taimur Khan, Advocate.</b> |
| <b>For Respondents.</b>     | <b>Ms. Sabiha Iqbal, Advocate</b> |
| <b>Date of hearing</b>      | <b>19.05.2025 and 30.06.2025.</b> |
| <b>Date of announcement</b> | <b>31.10.2025.</b>                |

### **JUDGMENT**

**MUHAMMAD NAEEM ANWAR J:-** This appeal, along with the connected appeals, the particular of which have not only been given in this judgment, but a tabulated schedule is to be appended at the end of this judgment, has been filed against the judgments and orders passed by the Ombudsperson, Khyber Pakhtunkhwa, appointed under Section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (Act IV of 2010), hereinafter referred to as “**the Act, 2010**”. The impugned judgments and orders were passed on various dates on complaints filed by different complainants under the Khyber Pakhtunkhwa Enforcement of Women’s Property Rights Act, 2019 (Khyber Pakhtunkhwa act No. XLIV of 2019), hereinafter referred to as “**the Act of 2019**”. Since common questions of law and facts are involved in all the appeals, they are being disposed of through this single judgment.

2. Since various legal and factual pleas have been raised in all the appeals, so, keeping in view the factual divergence and multiplicity of issues asserted by the respective parties, it has been considered appropriate to classify the appeals into four distinct categories to ensure focused consideration and effective adjudication.

**Category (A)** comprises cases in which the complaints were filed against a person who has no title or interest in the property, and with

respect to whom no determination has been made by a court of competent jurisdiction.

**Category (B)** includes cases where, prior to the filing of the complaints, disputes concerning immovable or movable property were either *sub judice* before, or had already been adjudicated by, a civil or family court.

**Category (C)** consists of cases wherein the complainant seeks possession of her inherited share from other co-owners.

**Category (D)** encompasses all the remaining disputes not falling within Categories (A), (B), or (C).

**3.** A brief summary of the instant appeal and the connected appeals falling under Category “A” is as follows:

- (i) **RFA No. 327/2024 (Ali Asghar versus Mst. Farkhanda Rani).**

The respondent/complainant, namely, Farkhanda Rani, filed a complaint against the appellant, Ali Asghar, asserting her ownership over property bearing Khasra Nos. 1255/952 to 954 and 958, situated in the revenue estate of Dhaki, Tehsil Tangi, District Charsadda, which, according to her, had been illegally occupied by the appellant. The appellant, in his reply, contended that his possession was lawful, being based on a deed executed on 20.12.2018, under which he paid a consideration of Rs. 6,00,00,000/- (six crores), leaving a balance of Rs. 1,10,00,000/- outstanding. He further asserted that the respondent deliberately avoided and, subsequently, refused to execute the requisite mutation to complete the transfer. According to him, his possession is legitimate and the complainant's proper remedy lies before the competent civil court. The learned Ombudsperson, vide the impugned judgment dated 16.08.2024, accepted the complaint and directed the Deputy Commissioner, Charsadda, to recover possession of the property, measuring 01 Jarib 80 marlas, and hand the same over to the complainant within forty-five (45)

days, along with accrued interest arising out of the remaining property as her statutory entitlement, hence, the instant appeal.

(ii) **FAO No. 143-P/2022 Haji Parvez Khan vs. Mst. Najan Parveen etc.**

The respondents filed a complaint against the appellant and another, seeking recovery of possession of a house allegedly unlawfully occupied by them. They claimed to be the legal heirs of Jenab Gul, upon whose death the disputed house, situated in Miskin Abad, devolved upon them. The appellant, however, denied their status as legal heirs and asserted that he lawfully occupies the premises, having purchased it from Ameen Ullah for Rs. 2,70,000/- He further maintained that he has been in possession since 1993 and that the electricity meter stands in his name, and that he has incurred substantial expenses in maintaining the house. The learned Ombudsperson, vide order dated 07.06.2022, accepted the complaint and directed the Deputy Commissioner to sell the house through public auction, recover the Shari share of the complainants, and hand over the same to them.

(iii) **RFA No. 366-P/2022 (Amin Ullah vs Mst. Najma Parveen).**

Respondents No. 1 to 5 and 7 to 9 filed a complaint before the learned Ombudsperson against the appellant and another, alleging that they are the lawful owners of the property, which they have never sold either to the appellant or to Haji Parvez Khan, son of Haji Yaseen. They further alleged that the property had been illegally occupied by Haji Parvez Khan, who claimed to have purchased it from the brothers of the complainants. During the proceedings, Haji Parvez Khan asserted that he had paid a total sum of Rs. 9,66,000/- to Amin (brother of the complainants) towards the alleged purchase. Upon consideration of the parties' respective contentions, the learned Ombudsperson directed the Deputy Commissioner, Peshawar, to sell the house in question through public auction and to distribute the sale proceeds among all the legal heirs of

Janab Gul within 30 days. The said order has now been assailed through the instant appeal by the brother of the complainants.

(iv) **FAO No. 93-P/2025 ( Kamran Khan etc vs Mehnaz Gul etc.**

Respondents No. 1 to 3 filed a complaint under Section 4 of the Khyber Pakhtunkhwa Enforcement of Women's Property Act, 2019, before the learned Ombudsperson against the appellants, alleging that they are the lawful owners of property measuring 96 marlas, situated in Zarinabad Palosa No. 181, being the legal heirs of Muhammad (their predecessor-in-interest) and Sartaj Begum (their mother). They alleged that the said property had been illegally occupied by the appellants, who are the sons of their maternal uncle. Upon receipt of the complaint, the learned Ombudsperson summoned the appellants and, thereafter, through the impugned order dated 04.03.2025, directed the Deputy Commissioner, Charsadda, to initiate proceedings in accordance with law, separate the complainants' respective shares, and deliver possession thereof to them within forty-five (45) days, with intimation to the Tribunal upon execution. Hence, the instant appeal.

(v) **FAO No.73-P/2025( Muhammad Zaka ul Wahid Khan)**

The appellant has assailed the order dated 12.03.2025 passed by the Ombudsperson, whereby the Deputy Commissioner, Abbottabad was directed to initiate proceedings for separation of shares. The appellant resisted the complaint on the ground that a civil suit titled "Muhammad Zaka Wahid Khan v. Waheeda Kausar and others" is pending adjudication before the Senior Civil Judge, Rawalpindi. It was further contended that the appellant has filed an application for initiating an inquiry regarding the cancellation of Power of Attorney No.2015/4 dated 26.09.2023, pertaining to property bearing Khasra No.775/1 measuring 10 Kanals 01 Marla,

situated in the Revenue Estate of Dhamtor, Abbottabad. Hence, the instant appeal.

**4.** Brief facts of the appeals falling under Category “B”, which pertain to matters already decided by the civil or family courts or presently pending adjudication before them, are as follows:

(i) **RFA No.212-P/2024 (Muhammad Ishraq vs. Mst. Qaziban etc.**

Through the instant appeal, the order dated 13.05.2024 passed by the learned Ombudsperson has been impugned, whereby the complaint of respondents No.1 to 7 was allowed and the Deputy Commissioner, Peshawar was directed to initiate proceedings for separation of the complainants’ shares and to hand over physical possession of the property to them. The complainants, in their complaint, alleged that they had inherited the property from their predecessor who passed away six years ago. The property described in paragraph No.4 of the complaint pertains to House No. 47-B, Block Tower Chowk, Almasa Model Town, Warsak Road, Peshawar, measuring 81 marlas, in respect of which the Civil Court had already decreed their claim to the extent of 51 marlas (2 kanals 11 marlas). It was further alleged that the appellant had established a real estate company near Almasa Model Town over the disputed land, asserting that the property had been purchased from respondent No.1. The appellant resisted the complaint, contending that the disputed property had been validly purchased from the predecessor-in-interest of the complainants, whose suit had already been dismissed by the Civil Court. The appellant further maintained that he is the lawful owner of 2 kanals 11 marlas through mutation No.873 dated 08.09.1993, and 1 kanal 1 marla through mutation No.930 dated 16.08.1997, situated at Patwar Payan, both acquired from the complainants’ predecessor-in-interest. It was also asserted that the suit filed by the complainants had earlier been decreed, against which an application under Section

12(2), C.P.C. was moved, which was allowed, and the decree obtained through fraud was consequently set aside. After setting aside the decree, the appellant filed a written statement and contested the suit, where after issues were framed, evidence was recorded, and, ultimately, the suit was dismissed with special compensatory costs. The appeal filed thereagainst also met the same fate. The appellant has contended that the order of the learned Ombudsperson, impugned through this appeal, is contrary to law, without jurisdiction, unjust, and unwarranted, hence liable to be set aside.

(ii) **FAO No.20-P/2025 (Shabbir Khan vs. Government.**

Respondents No.3 and 4 filed a complaint under Section 4 of the Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019 against the appellant and others, asserting that Complainant No.1 is the widow of late Jan Muhammad Khan, while Complainant No.2 is his real daughter. The appellant, Mst. Maryam, and Mst. Sakeena are siblings, sons and daughters of the deceased Jan Muhammad Khan. The predecessor-in-interest died on 13.12.2006, leaving behind constructed as well as agricultural properties situated in Village Mahal Sahlu, Zarin Abad, Maira Prang, and Larama. These properties devolved upon all legal heirs. The grievance of the complainants is that the appellant has remained in possession of the properties and has also alienated portions thereof without determination of their respective shares, thereby depriving them of their valuable rights. During the pendency of the complaint, an interim order was passed by the Ombudsperson, which was assailed before this Court through Writ Petition No.4940-P/2022. This Court directed the Ombudsperson to first decide the question of jurisdiction and maintainability of the complaint as a preliminary issue after affording an opportunity of hearing to all concerned. Upon remand, the appellant requested that paragraphs No.4 to 10 of the writ petition be treated as the written statement to the

complaint. Pursuant to directions, the Deputy Commissioner, Charsadda submitted an inquiry report, according to which Mst. Laila is the owner of 187 Kanals and 08 Marlas in 19 khatas of Mauza Zarin Abad, and 39 Kanals and 01 Marla in 05 khatas of Mauza Prang. The Additional Deputy Commissioner (Relief and Human Rights), Peshawar, also submitted an inquiry report confirming that inheritance mutation No.14151 of late Jan Muhammad Khan has been duly attested, and that the complainants are co-owners of the property bearing Khata No.328, Khasra Nos.1151 and 1149. During the proceedings, the appellant contended that the property situated at Mauza Larama, Peshawar had already been sold on the basis of a General Power of Attorney dated 19.04.2021 executed by Mst. Zahida and Mst. Laila in his favour. It was further argued that since the said property is no longer available, if the complainants have any grievance, their appropriate remedy lies before the Civil Court. After hearing the parties, vide order dated 16.06.2024, the learned Ombudsperson directed the Deputy Commissioner, Charsadda to initiate proceedings for separation of the properties. The District Police Officer, Charsadda was also directed to assist the Deputy Commissioner and ensure security to the Revenue Staff during the process, keeping in view the undisputed nature of the properties situated at Zarin Abad and Prang, District Charsadda. Hence, the present appeal.

(iii) **RFA No.123-P/2025 (Mst. Aneela Begum vs Mst Inayat Begum etc.**

The appellants, Mst. Aneela, along with three others, had challenged the order passed in a complaint titled “Inayat Begum vs. Lal Faqir” bearing No. 06-207 of 2021 dated 12.07.2024 with the contention that the impugned order is the result of fraud, misrepresentation, and collusion between the parties, and is, therefore, illegal and without lawful authority.

They asserted that the order was obtained through misrepresentation of facts, as the property in question was not the exclusive ownership of Lal Faqir but was in their possession pursuant to a private partition. It was further alleged that Mst. Inayat Begum based her claim on a deed which is already under challenge before the Civil Court in Suit No.218/1. The application was contested by Mst. Inayat Begum on various legal and factual grounds. The learned Ombudsperson, after hearing both sides, dismissed the application filed under Section 12(2) CPC. The impugned order also reflects that the final order passed in the complaint dated 12.07.2024 had earlier been upheld by this Court through judgment dated 04.10.2024, whereby RFA No.394-P/2024 against the order dated 18.07.2024 was dismissed. The appellants have now assailed the order of dismissal of their application through the instant appeal.

(iv) **FAO No.66-P/2025( Syed Sajad Ali Shah vs. Mst Rabia Bibi.**

Respondent No.1 filed a complaint against Syed Sajjad Ali Shah, seeking recovery of possession of a property measuring 3½ marlas, situated at Chan Agha Bacha Street No.5, Bairoon Yakatoot, Hadbast No.193, Tokra-5, Peshawar. The complainant alleged that her husband, Tahir Shah, passed away on 17.04.2022, after which she, along with her son Yasir Shah, continued to reside in the house. However, they were subsequently ousted from the property by the appellant, whose possession was alleged to be illegal, unjustified and without lawful authority. She further stated that despite approaching the local police, no action was taken on her application. The appellant contested the complaint on multiple legal and factual grounds. One of the objections raised was that Suit No.294/1 is pending adjudication before the Civil Court, wherein the appellant has sought a declaration that the disputed house was purchased by Muhammad Tahir Shah through Mutation

No.22886 dated 26.02.2013. It was further contended that during his lifetime, Muhammad Tahir Shah had borrowed a sum of money from Mst. Zojan (his mother), and a Jirga was convened in 2013. It was decided therein that in the event of Muhammad Tahir Shah's death prior to that of Mst. Zojan, ownership of the property would vest in her. It was also brought on record that Muhammad Tahir Shah passed away on 28.04.2022, whereas an Iqrar Nama dated 23.09.2013 was executed thereafter, acknowledging that each legal heir of Muhammad Tahir Shah would be entitled to his or her exclusive legal share in the property. The learned Ombudsperson, through order dated 14.02.2025, directed the Deputy Commissioner, Peshawar, to initiate partition proceedings in respect of the property. Hence, the instant appeal.

(v) **FAO No.74-P/2025( Arshad Nazeer Chishti etc vs. Mst. Sadaf Shaheen etc.**

The petitioners have assailed the order of the learned Ombudsperson dated 10.03.2025, whereby the Deputy Commissioner and Sub-Registrar, Peshawar were directed to incorporate the requisite entries in the revenue record with respect to House No.3005, Mohallah Serai Kala Khan, Umar Farooq Street, Jahangir Pura, Peshawar, and to recover and hand over its physical possession to the complainant. The record reflects that respondent No.1 filed a complaint against the present appellants, seeking recovery of actual possession of House No.3005, claiming to be the legal heir of Rehmatullah Chisti (deceased), her father. It further appears that respondent No.1, Mst. Sadaf Shaheen, has instituted a civil suit seeking declaration of her legal and Shari share in the said property on the basis of registered deeds bearing Nos. 1329, 851, 852, 853 and 854 dated 20.12.1966. She has also alleged that a portion of the house was transferred by her father in favour of her mother, Mst. Naseem Akhtar, in lieu of dower. The said civil

suit, filed in the year 2023, is still pending adjudication before the competent civil court, hence, this appeal.

(vi) **RFA No. 204-P/2025 (Wilayat Hussain etc vs. Nadia Naz etc.**

The appellants have called into question the order dated 14.04.2025 passed by the learned Ombudsperson on the complaint filed by respondent No.1, Mst. Nadia Naz, whereby the Sub-Registrar, Peshawar was directed to assist and facilitate the Deputy Commissioner, Peshawar in the incorporation of inheritance mutation and allied matters. Furthermore, the SSP Operations, Peshawar was directed to provide full security to the revenue staff and the Deputy Commissioner for maintaining peace and tranquility at the time of execution of the final order. A perusal of the record reveals that the complainant based her claim on Mutation No.20684 dated 11.10.2003. She filed the complaint on 20.09.2022, and subsequently instituted Suit No.70/1 of 2023 seeking a declaration to the effect that, being a legal heir of her deceased father Liaqat Ali, she is entitled to ownership to the extent of her legal and *shari* share. She further sought recovery of possession through partition, asserting that the denial of her rights by the defendants/appellants was ineffective. The complaint was contested by the appellants (respondents No.3 to 9) on various legal and factual grounds. They contended that an inter se private settlement had already taken place between the parties, and in the event the complainant does not accept the said settlement, then all the properties shall be subjected to official partition proceedings.

(vii) **RFA No. 216-P/2025 (Khalid Ali and others vs Mst. Nadia Naz and others.**

This RFA has also been filed against the same order dated 14.04.2025 as in challenged in RFA No. 204/2025, supra. The present appellants are respondents being the legal heirs of the predecessor-in-interest of the complainant.

(viii) **FAO No.228-P/2022 (Badshah Hussain vs. Mst. Parveen.**

The appellants have assailed the order of the learned Ombudsperson dated 02.11.2022, passed in the complaint titled “Mst. Parveen and another vs. Bacha Hussain and another,” whereby the Deputy Commissioner, Charsadda was directed to separate the shares of the complainants and hand over physical possession to her. The record reveals that a Civil Suit titled “Mst. Hafiza and others vs. Gul Hussain and others” remained pending adjudication and was decided on 27.05.2013. The said order was upheld by the learned Additional District Judge, Shabqadar, through judgment and order dated 29.01.2014. It further appears from the record that Civil Revisions No.295-P/2014 and 345-P/2014, arising out of the judgments of the learned courts below are still pending adjudication before this Court. Hence, the present appeal.

(ix) **FAO No.177-P/2020 (Mst. Saeeda Begum vs. Govt.**

Mst. Saeeda Begum has challenged the order of the learned Ombudsperson dated 30.09.2020, whereby the Deputy Commissioner, D.I. Khan, was directed to restrain respondents No.1 and 2 from entering the premises of Kundal Flour Mills Limited, and the DFC Food D.I. Khan was further directed to suspend the wheat quota and related functions of the Mills. Being aggrieved by the said order, the appellant has questioned its validity and correctness. The record reflects that Civil Suit No.14/1, filed by Mst. Saeeda Begum seeking a declaration, is still pending adjudication. Likewise, Writ Petition No.1215-P/2019 titled “Zill-e-Huma vs. Saeeda Begum” is also pending before this Court. Copies of the order sheets from the Court of the learned District Judge, D.I. Khan, have been placed on record.

(x) **FAO No.125-P/2020 (Saeeda Begum vs. Govt)**

Mst. Saeeda Begum, the appellant in the above referred FAO No. 177/2020, has also filed this appeal, which too is pending adjudication before this Court against the order of the learned Ombudsperson on the ground that, at the time of filing of the complaint before the Ombudsperson, the suit for declaration instituted by Mst. Saeeda Begum was already pending adjudication and this fact being admitted by learned counsel for the respondents, hence, this appeal.

(xi) **FAO No.107-P/2024 (Mst. Fozia Khanam etc vs. Ghulam Rasool etc.**

The appellants through this appeal has challenged the order dated 17.04.2024 passed by the learned Ombudsperson whereby respondent No.6 was directed to make payment of Rs. 3,97,86,500/-either in cash or through bank cheques to respondents. They contended that the payment of Rs. 10,10,00,000/- to the legal heirs of deceased Muhammad Sadiq is yet to be adjudicated by a court of competent jurisdiction, and until such determination, no order of partition could legally be passed. Respondent No.4 asserted that under an agreement dated 07.09.2020, certain rights were created in favour of Respondent No.6, Minhajul Islam, with whom a contract was executed for a total consideration of Rs. 28,19,50,000/-Out of the said amount, Rs. 10,10,00,000/- were allegedly paid to Muhammad Sadiq, and some shares were also transferred to Minhajul Islam. Through the impugned order, the Deputy Commissioner, Peshawar, was directed to appoint the concerned revenue staff to carry out demarcation and hand over possession of the property in accordance with the terms and conditions of the deed of compromise. Furthermore, Minhajul Islam was directed to make the payment either in cash or through bank cheque to Ghulam Rasool, Muhammad Raziq, Muhammad Qasim, and Shukria Bano (legal heirs) along with the widow, Mrs. Shabana Sadiq. hence, this appeal.

(xii) **FAO No.90-P/2024 (Mst. Gul Pari etc vs. Mst. Musarat etc.**

Mst. Gul Pari and others, the appellants, have assailed the order of the learned Ombudsperson dated 18.03.2024, whereby through an interim order they were restrained from alienating the suit property and raising any construction thereon, with a further direction to the SHO concerned for implementation of the said order in consequence of the complaint filed by Mst. Musarrat Bibi, respondent No.1, along with others before the Ombudsperson alleging that both the complainants and respondents are legal heirs of Hassan Gul s/o Ajab Gul and are entitled to their respective shares in the legacy of the deceased. It was asserted that certain properties were privately partitioned, under which an area measuring 21 Kanals 03 Marlas was handed over to the complainants. Upon the death of their predecessor, all legal heirs became co-owners of the property. An application was filed earlier and disposed of in terms of a compromise, wherein it was agreed that the complainants' due share would be delivered to them. However, they alleged that through a concocted and fictitious compromise deed, they were unlawfully deprived of their rights. The record reveals that Mst. Musarrat Bibi and others instituted a suit for declaration in respect of certain properties and plots (as detailed in headnote "Alif" of the plaint), coupled with a prayer for mandatory injunction. This suit was decided through a summary judgment by the learned Civil Judge-V, Peshawar, on 31.03.2023. The complainants also relied upon an Iqrar Nama and a power of attorney to substantiate their claim. The impugned interim order of the Ombudsperson has been questioned on the grounds that without determination of the respective rights of the parties, particularly when intricate questions of law involving *benami* transactions, *res judicata*, applicability of Order II Rule 2 of the Code of Civil Procedure, award, and specific performance of the agreement

are involved, no restraining order could have been passed, hence, this appeal.

(xiii) **RFA No.47-P/2024 (Asma Hamayun vs. Mst. Bibi Zahida.**

Respondent No.1, Mst. Bibi Zahida, had filed an application before the learned Ombudsperson seeking separation of her share from Khasra Nos. 160, 159, and 158 situated in the Revenue Estate of Miankhel Mir Ahmad Khel, District Kohat, to the extent of 05 marlas and 03 sarsai, which had been transferred to her through her husband vide Mutation No.17355. She alleged that she was divorced by her husband in 2016 and that possession of the property was handed over to her after the divorce. She further stated that subsequently, an agreement was executed and shops were constructed over the plot, however, her ex-husband, Zulfiqar Hussain Shah, unlawfully occupied the shops and neither handed over possession nor paid any rent. The complaint was filed by Mst. Zahida Bibi in 2022. Prior to this, she had instituted a civil suit for declaration and perpetual injunction on 18.07.2022, seeking a declaration that Ajmal Shah, Ikram Shah, and Mst. Asma Hamayun had no concern whatsoever with the property bearing Khasra Nos. 158, 159, and 160 of Miankhel Mir Ahmad Khel. Additionally, Mst. Asma Hamayun filed a separate civil suit against Zulfiqar Hussain Shah, the ex-husband of the complainant, seeking declaration and perpetual injunction, asserting ownership of 08 marlas of land from Khasra Nos. 159 and 160 and claiming to have constructed shops thereon at considerable expense. This suit was also instituted in 2022. The record further reflects that Mst. Zahida Bibi filed Family Suit No.61/FC against her husband, which resulted in the dissolution of the marriage through khula by a competent court. Mst. Asma, the appellant, appeared before the Ombudsperson and contested the complaint, contending that since the marriage had been

dissolved through khula, the complainant had no concern with the disputed property. However, the learned Ombudsperson directed the Deputy Commissioner, Kohat, to transfer physical possession of the property to the complainant within 45 days, hence, the present appeal.

(xiv) **COC No.410-P/2024 in RFA No.47-P/2024)**

The appellant, Mst. Asma Hamayun, has filed the present application seeking initiation of contempt of court proceedings in view of this Court's order dated 06.03.2024, whereby the parties were directed to maintain *status quo*. CM No.597-P/2024 has been moved by respondent No.2, Zulfiqar Hussain, for deletion of his name from the array of respondents. Since the matter arises out of *RFA No.47-P/2024* referred to above, the present applications shall be decided in light of the order passed in the said appeal.

(xv) **FAO No.44-P/2024 (Zulfiqar Hussain vs. Bibi Zahida etc.)**

The fate of this appeal shall be decided with RFA No.47-P/2024.

(xvi) **RFA No.218-P/2024 (Gul Riaz Khan vs. Uzma Nadeem)**

Respondent No.1, Mst. Uzma Nadeem, filed a complaint before the Ombudsperson alleging that the appellant, along-with others, had unlawfully occupied the property situated in *Adil Mobile Centre* and refused to hand over possession of the same to her. The complaint was contested on the ground that a civil suit concerning the same subject matter was already pending adjudication before the Civil Judge, Peshawar. The record reveals that in 2022, Gulrez Khan instituted Civil Suit No.604/1 against the complainant and others, seeking a declaration that he is the lawful owner and in possession of the disputed property on the basis of an agreement dated 08.06.2011. As per the agreement, the property was purchased for a total consideration of Rs.19,00,000/-, out of which Rs.13,00,000/- was paid, while Rs.6,00,000/- remained

outstanding, which he was ready and willing to pay. The suit was duly contested by all defendants, including the complainant. Additionally, the record reflects that the complainant filed an ejectment petition bearing No.12/RC against Akbar Ali, and another application bearing No.41/RC was also instituted. Be that as it may, the Ombudsperson allowed the complaint by holding that the documents relied upon by the appellant could not be taken into consideration. Consequently, the Deputy Commissioner, Peshawar, was directed to evict the appellant and hand over physical possession of the property to the complainant. Hence, this appeal.

(xvii) **RFA No.241-P/2024 (Rahat Nawaz etc vs. Rafia Naz.**

Respondent, Mst. Rafia Naz, filed an application seeking separation and delivery of her inherited share in the property comprising 11 khasras, devolved upon her through Mutation No.6948. The complaint was instituted on 22.11.2023 and was contested by the appellants on multiple grounds, including the pendency of a civil suit involving the same subject matter. It was further contended that an agreement dated 04.01.2021 was executed between the parties for exchange of their respective possessions, and that the respondent is in possession of property in excess of her share, which she subsequently sold for a consideration of Rs. 2,38,00,000/- . It was also stated that a suit for specific performance of the said agreement, filed by the appellants against Mst. Rafia Naz, is still pending adjudication before the competent court. Hence, the instant appeal.

(xviii) **RFA No.328-P/2024 (Hadia Mehr vs. Mehr Ali Shah etc).**

The appellant, Mst. Hadia Mehr, filed an application under Section 4 of the Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019, seeking separation of her share in the property situated at Achini Bala Hadaf College, Peshawar. She alleged that she is running a school on the said

property in partnership with two other individuals and that the partnership has since been rescinded. The complaint was resisted by Respondent No.1 on the ground that Civil Suit No.314/1, relating to the declaration of rights in the same property, is already pending adjudication before the Civil Court. Upon hearing both sides, the learned Ombudsperson directed the complainant to approach the court of competent jurisdiction for redressal of her grievance. Feeling aggrieved by the said order, the appellant has filed the instant appeal. During pendency **CM No.35-P/2025** was filed by respondents No.1 and 2 seeking permission to place on record the documents appended with it, including: a copy of the suit filed by the appellant for grant of decree; copies of written statements on behalf of defendants No.1 and 4; copies of order sheets; a copy of Suit No.314/1; a copy of the written statement of defendant No.1; further copies of order sheets; and a copy of the complaint under Sections 3 and 4 of the Illegal Dispossession Act, 2005 filed by the appellant along with copies of the relevant order sheets. Since the application has not been contested, and in view of its contents duly supported by the affidavit, the same is allowed. The annexed documents are read as part and parcel of the record of the appeal.

(xix) **RFA No.394-P/2024 (Zarar Hussain vs Mst. Irum Israr etc**

Respondent No.1 filed a complaint alleging that her husband, Israr Hussain, had transferred a 1/6th share in a shop and the constructed property thereon, which was subsequently transferred to her on 14.12.2020. The said shop was rented out to Zarar Hussain, who initiated proceedings before the Consumer Court, resulting in an ex parte order passed against her. The shop was transferred in his name but the said transfer was later cancelled. The appellant contested the complaint on various legal and factual grounds, including the pendency of a civil suit titled "*Zarar Hussain vs. Israr Hussain*", wherein Mst. Irum Israr was arrayed as defendant No.9. Through the

impugned order, the learned Ombudsperson appointed the Deputy Commissioner, Kohat as Receiver with the direction to maintain proper records of all monetary income and expenditures related to the disputed shop. He was further directed to collect monthly rent at the rate of Rs.130,000/- from shop No.17/2, situated at Main Bazar, inside Shah Faisal Gate, Kohat. Lastly, through the impugned order dated 31.10.2024, the Deputy Commissioner, Kohat was directed to hand over possession of the property along with all outstanding rent to Respondent No.1. Hence, the instant appeal.

(xx) **RFA No.114-P/2025 (Nusrat Ali etc vs Anar Begum etc.**

Respondent No. 1, Mst. Anar Begum, through her complaint, sought recovery of possession of the property devolved upon her through Zarqand Khan, situated in Katlang Bazar. The complaint was resisted by the appellants on the ground that Civil Suit No.167/1 of 2020 is pending adjudication, and proceedings in that suit were stayed due to the pendency of the present complaint. Vide order dated 12.02.2025, the Deputy Commissioner, Mardan, was directed to initiate proceedings for separation of shares and to hand over possession of the property to respondent No.1. Feeling aggrieved by the said order, the appellants have preferred the instant appeal. During pendency of the appeal, **C.M No.234-P/2025** was filed through which the appellants sought permission to place on record the inquiry report conducted by the Deputy Commissioner, Mardan, in compliance with the direction of this Court vide order dated 13.03.2025. As the application has not been opposed, and in view of its contents supported by affidavit, the same is allowed. Consequently, the documents appended with the application are read as part and parcel of the appeal record.

(xxi) **FAO No.17-P/2025 (Abdur Rehman etc vs. Shahmir etc.**

Respondents No.1 to 4, through their application/

complaint, sought recovery of possession of the property described in paragraph No.15 of the complaint. The appellant resisted the complaint on the ground that a civil suit regarding the same subject matter is pending adjudication before the Civil Court. However, the Ombudsperson, vide order dated 11.11.2024, directed the Deputy Commissioner, Mardan, to incorporate the inheritance mutation, initiate proceedings, and separate the shares of the parties. Hence, this appeal.

(xxii) **FAO No.31-P/2025(Raees Khan vs. Mst Parveen Bibi).**

Respondents No.1 to 7, through their complaint, sought recovery of possession of the property situated in the Revenue Estate of Gugar Garhi, Mardan, as described in paragraph No.2 of the complaint. It was contended that a civil suit concerning the said property is already pending adjudication before the Civil Court. However, vide order dated 27.11.2024, the Deputy Commissioner, Mardan, was directed to initiate proceedings in accordance with law, separate the shares of the complainants, and hand over possession to them. Hence, this appeal.

(xxiii) **FAO No.68-P/2025 (Farid Ullah vs. Mst Khadija etc)**

Faridullah, the appellant, has assailed the order dated 14.03.2025 whereby the learned Ombudsperson directed the separation of shares in the property and delivery of possession to respondents No.1, 2 and 3. Through their complaint, the respondents were seeking possession of the property situated in the Revenue Estate of Timber Pura, Peshawar, on the basis of mutation Nos. 573 and 1983, along with inheritance mutation No.1290 dated 18.12.2020. The said complaint was resisted by the appellant on various legal and factual grounds, asserting that a civil suit titled "*Malik Muhammad Saqib Khan vs. Faridullah etc.*" for declaration was already pending adjudication before the Civil Court. Despite the pendency of the said civil proceedings, the learned Ombudsperson, through the impugned order, directed the Deputy Commissioner,

Peshawar, to initiate proceedings, separate the shares, and hand over possession to the complainants. Hence, this appeal.

(xxiv) **FAO No.98-P/2025 (Shah Jehan vs. Mst. Asiya)**

The appellant, Shah Jehan, has assailed the order dated 14.03.2025 passed by the Ombudsperson, whereby the complaint filed by Mst. Asiya Noor was allowed and the Deputy Commissioner was directed to separate the shares from the plot as described in the complaint. The complaint was contested on the ground that Mst. Asiya had already instituted a family suit in which an ex parte decree was passed, and a family appeal against the said decree is presently pending adjudication before the learned District Judge/Appeal Court. Furthermore, an execution petition bearing No.18/10 arising out of the said decree is pending before the Family Court. Hence, this appeal.

(xxv) **FAO No.111-P/2025 (Sher Muhammad etc vs. Mst. Rabina etc and RFA No.161-P/2025 (Mst. Robina etc vs. Sher Muhammad etc)**

Sher Muhammad, the appellant, has assailed the order dated 14.03.2025 passed by the Ombudsperson, whereby the Deputy Commissioner, Dir Lower was directed to initiate proceedings and separate the respective shares in the property situated at *Loya Shah Patay*, measuring 30 Kanals and 08 Marlas. The appellant resisted the complaint on the ground that a civil suit titled "*Mst. Ulfat Jehan and others vs. Syed Hamid Ali Shah*" bearing No.59/1 of 2019 was already pending adjudication and had been decided on 14.05.2019. An application under Section 12(2) filed by Shah Zaman in the said matter is still sub judice. The connected appeal was filed by Mst. Robina and others, wherein their complaint was partially dismissed with a direction to resolve their dispute regarding the properties described in paragraph No.6 of the judgment before the court of competent jurisdiction. Hence, both these appeals have been preferred.

(xxvi) **FAO No. 241-P/2022 (Major Rtd Naeem Iqbal etc vs Govt.**

Major (Rtd.) Naeem Iqbal and others, the appellants, have assailed the order dated 01.11.2022 passed by the Ombudsperson, whereby the Deputy Commissioner, Mansehra was directed to attest the inheritance mutation, initiate proceedings for the separation of the complainants' shares, and deliver vacant possession to them within two months. However, the complaint, to the extent of property bearing House No. 36-A and 36-A-1 situated in Defence Officers Colony, Peshawar, was terminated owing to the pendency of civil litigation regarding the said property. The MEO, Peshawar, was further directed to seal House No. 36-B and 36-B-1 in Defence Officers Colony, Peshawar, and to act as Receiver for collecting rent from the said premises until final adjudication of the dispute among the legal heirs of Malik Aman Khan. The appellants contested the complaint by raising various legal and factual objections, including the pendency and adjudication of civil suits before the competent civil court. Through the present appeal, the appellants seek a declaration that the impugned order of the Ombudsperson is illegal, without lawful authority, and liable to be set aside.

5. Brief facts of the appeals falling under **Category "C"**, which pertain to cases where complainants were seeking possession based on their right of inheritance against other co-owners, are as follows:

(i) **RFA No.49-P/2024 (Muhammad Tahir Awan vs Mst. Nasrat Aman etc.**

Respondents No.1 to 4 filed a complaint against the appellants along with two others, seeking recovery of possession of the properties (i) House No. 737-D, measuring 09 marlas, situated at Mohallah Abaseen, Dalazak Road, Peshawar, alleging that they are recorded owners of 01 marla, whereas their mother is the owner of 08 marlas;

(i) their inherited share in property bearing Khasra No. 2942 of the revenue estate of Budhni, Tehsil and District Peshawar, devolved upon them through their father, Mir Ahmad Khan; and

(ii) their inherited share in the property situated at the revenue estate Jabba Daudzai, Akbar Pura, Tehsil Pabbi, District Nowshera. It was asserted in the complaint that the complainants and appellants are siblings, and after the demise of their predecessors, the appellants are allegedly attempting to sell their shares in the joint properties. The appellants appeared before the Ombudsperson and filed their written reply, questioning the validity of **Mutation No. 4296** and seeking its cancellation. They further contended that Civil Suit No. 277/1 had earlier been instituted before the civil court, which culminated in a compromise, now being disputed through the present complaint. Upon hearing both parties, the learned Ombudsperson directed the concerned Deputy Commissioners to initiate proceedings for separation of the complainants' shares to the extent of 03 kanals 02 marlas and 03 sarsai, and to hand over possession to them within 45 days. The Deputy Commissioner was further directed to recover the inheritance shares of Ms. Nasrat Aman, Ms. Noor Jehan, and Ms. Nazakat within 45 days from the property situated at Mauza Budhni, Hadbast No. 125, measuring 09 marlas 07 sarsai, in accordance with Mutation No. 3897 dated 19.06.2015, along with their share of 03 sarsai each in House No. 737-T, Mauza Mahal Terai, hence, the instant appeal.

**(ii) Cross Objection No.04-P/2025( Nasrat Naseem vs. Tahir Awan).**

The complainants have filed the present cross objection before this Court, wherein they have also assailed the impugned order, seeking proper determination of their respective shares in the house in question.

(iii) **FAO No.72-P/2024 (Muhammad Anwar vs. Naeema)**

Respondents No.1 and 2 filed a complaint before the Ombudsperson seeking recovery of possession of their respective shares in a constructed house measuring 28 marlas along with shops, as well as mesne profits in respect thereof. They also sought recovery of their shares in 100 marlas of agricultural land situated in Sheikhan Budhber, Peshawar, in addition to their shares in 105 marlas of land located at the same place. The subject properties were owned by their deceased father and mother and, upon their demise, devolved upon the legal heirs, including the complainants. Muhammad Anwar, the appellant, was stated to be their brother, who allegedly took illegal possession of the entire property. After hearing the parties, the learned Ombudsperson directed that the house constructed on 28 marlas be partitioned. In case the property is not capable of partition, the parties shall be directed to purchase the share of the other, failing which, the house shall be sold and the sale proceeds distributed among the parties according to their respective shares, within 45 days. It is pertinent to mention that the remaining co-owners were not arrayed as parties before the Ombudsperson.

(iv) **FAO No.79-P/2024 (Nasrullahg vs. Mst. Shouata etc)**

Nasrullah, the appellant, was arrayed as a respondent in the complaint filed by respondents No.1 and 2 against him and Javed (respondent in the present appeal) seeking recovery of their shares in the constructed house and four shops, which were rented out by the appellant without paying any rent to the extent of the complainants' shares. It was further alleged that two ancestral quarters were also rented out by their brothers, the appellants. The complaint was filed in the year 2001, whereas civil suit No.315/1 filed by complainants for recovery of possession through partition titled "Mst. Shaukata Vs. Nasrullah etc" was pending adjudication (filed on 23.09.2020). Subsequently, the Ombudsperson, vide order dated

21.09.2024, directed the Deputy Commissioner, Peshawar to initiate proceedings, separate the shares of the complainants, and transfer the same to them. The civil suit was, later on, dismissed as withdrawn.

(v) **RFA No.312-P/2023 (Arshad Ali etc vs. Ulfat Begum)**

Respondent, Ulfat Begum, filed a complaint against the appellants before the Ombudsperson, alleging that her civil suit is pending adjudication before the Civil Court, Takhtbhai, wherein an injunction has already been issued. She asserted that she is the owner of 24 kanals of land situated in the revenue estate of Shambat Khel, Tehsil Mardan. She further stated that she had submitted an application for girdawari, which has not yet been decided by the Deputy Commissioner. It was alleged that her brothers, the appellants, are in possession of the said property. The appellants resisted the complaint on the ground that the civil suit regarding the same property is still sub judice. However, through the impugned order, the learned Ombudsperson directed the Deputy Commissioner, Mardan, to initiate proceedings, separate the shares of the complainant, and transfer possession to the respondents within 45 days. The fact of pendency of the civil suit has been admitted by the complainant/respondents.

(vi) **FAO No.130-P/2024 (Tariq Masood vs. Mst. Mst. Guli Laila)**

Respondents No.1 and 2 filed a complaint against the appellants, alleging that they are four sisters and five brothers, and that their father passed away on 21.10.2021. During his lifetime, their father had transferred a 10-marla plot in favour of respondent No.1, along with a 6-marla constructed house situated at Adeena Village, Mohallah Dawat Khel, District Swabi. It was alleged that after the death of their father, the brothers unlawfully dispossessed respondent No.1 from the said property and forcibly obtained her thumb impression on a stamp paper. The respondents sought determination and

delivery of their legal and Shari shares in the property. The learned Ombudsperson appointed a commission, who submitted report regarding the 10-marla plot, 6-marla constructed house, and market situated at Village Adeena, District Swabi. Thereafter, the Deputy Commissioner, Swabi was directed to partition the property, separate the shares of the parties, and transfer the same to the respondents. It was further brought on record that a civil suit titled "*Sher Afsar and others vs. Patwari Halqa and others*" is pending adjudication before the Civil Court, in which Mst. Riffat and Mst. Munfighat, daughters of Saifur Rehman and sisters of respondents No.1 and 2, are also party, while respondents No.1 and 2 are arrayed as respondents. The said civil suit was instituted in the year 2022. The complainants/respondents had relied upon two documents dated 05.03.2000 and another document in support of their claim. However, before this Court, respondents No.1 and 2 did not press their complaint to the extent of determination of their proprietorship based on those documents.

(vii) **FAO No.235-P/2023 ( Muhammad Ikram and another vs Mst. Robina and others.**

Respondent No.1, Mst. Robina, filed a complaint against the appellants and 34 others under Section 7 of the Act of 2019, alleging that their father, Imdadullah Khan alias Qalaq-Wal-Khan, was the owner of agricultural, commercial, non-agricultural, and residential properties. Upon his death, the said properties devolved upon all the legal heirs. The appellants have rented out the shops to various tenants and have been receiving the rent but have not paid the respondents their due share. It was further alleged that a portion of the inherited property was acquired by the Government of Khyber Pakhtunkhwa for the construction of the Koto Hydro Project, yet the respondents were deprived of their share in the compensation. They approached the Assistant Commissioner

Revenue, Lower Dir, Timergara, in November 2019 for partition of the property, which is still pending adjudication. According to the complaint, the respondents have been unlawfully deprived of their shares through fraudulent, collusive, and illegal means. A list of the properties along with the partition application was annexed with the complaint. The learned Ombudsperson directed an inquiry, and a report was submitted. During the proceedings, an *Iqrar Nama* dated 24.03.2011 was produced, the authenticity of which was disputed by the complainant. After considering the record, the Ombudsperson held that the matter involves questions requiring adjudication by a Civil Court and accordingly referred the case to the Civil Court through order dated 22.03.2023. Subsequently, a review application was filed, after which the Deputy Commissioner was directed to submit a revised report. The appellants have challenged this direction and sought that the matter be referred to the Civil Court for determination. Hence, this appeal.

(viii) **FAO No.252-P/2023 (Ghulam Rasool vs. Mst. Iqbal Begum)**

Respondents No.1, 2 and 3 filed a complaint against the appellants seeking determination of their alleged legacy left by Muhammad Saqib in view of the *Fitwah* issued by Dar-ul-Ifta Jamia Dar-ul-Uloom Peshawar Cantt, alleging therein that they and the appellants are real brothers and sisters. Their predecessor-in-interest, Muhammad Saqib, passed away on 17.03.2021, leaving behind the properties described in paragraph No.2 of the complaint. It was further alleged that the appellants, in connivance with their mother Mst. Shabana Saqib, took possession of the said properties. The complaint was accepted, and the Deputy Commissioner, Peshawar, was directed to separate the respondents' shares in accordance with inheritance mutation No.759 dated 03.09.2021. However, to the extent of issues relating to Sadiq Flour Mills (Pvt.) Ltd., the

Ombudsperson held that he had no jurisdiction to entertain and adjudicate the matter. The Deputy Commissioner, Peshawar, was further directed to Recover an amount of Rs.11,19,50,000/- from Minhaj-ul-Islam and distribute the same among the legal heirs within 30 days. Decide the fate of the *iqrar nama* dated 07.09.2021 by ensuring fulfillment of its terms and conditions. Appoint a receiver to collect all profits generated from the properties, namely Khyber Weight Bridge (Kanta) and Midway CNG, and disburse the amount among all legal heirs. The Registrar of Firms was directed to resolve the matter pertaining to Continental CNG, situated at Khyber Road, opposite Defence Colony, Peshawar. The Military Estate Officer, Peshawar, was directed to address issues relating to Continental CNG and the issuance of a fresh lease in light of the succession certificate issued by the Court of Senior Civil Judge, Peshawar, dated 04.11.2021. The State Bank of Pakistan was also directed to appoint an officer to determine and disburse the amount standing in the name of the deceased, in consonance with the succession certificate. It was further brought on record through this appeal that civil suit No. 3/1 is pending adjudication before the District Judge, Peshawar, seeking partnership rendition, accounts, declaration of properties, partnership in the firm, recovery of Rs.100 million as profit, possession of 25% share in the property, 20 kanals of agricultural land, and permanent injunction. Earlier, this matter was brought before this Court through FAO No.207-P/2022, where it was remanded back for fresh decision after determination of the application for deletion of the name of Mst. Iqbal Begum, and thereafter for a decision on the complaint on merits within a fortnight from the date of receipt of the order, by applying an independent mind without being influenced by any prior order of this Court. Through the present appeal, the appellants have questioned the orders dated 15.11.2023 and 30.11.2023, whereby a receiver was

appointed to maintain proper records of the monetary income and expenditure of the following properties Midway CNG (Nasir Pur GT Road near Fruit Market/Mandi, Peshawar), Sadiq Flour Mills Khyber Weight Bridge (Kanta), Continental CNG. Through order dated 30.11.2023, the Deputy Commissioner, Peshawar, was appointed as receiver with the task of maintaining proper records of all monetary income and outgoing of the Midway CNG at Nasir Pur GT Road near fruit market/mandi, Peshawar.

(ix) **FAO No.132-P/2024 (Waheed Khan and another vs. Mst. Bibi Aftab and others**

Legal heirs of Mst. Bibi Aftab, namely Mst. Talat Bibi and Mst. Azmat Bibi, through their complaint filed against the appellants, sought recovery of possession of the property devolved upon them through inheritance Mutation No. 6858 dated 09.07.2008 and Mutation No. 8275 dated 18.05.2012, situated at Landi Yarghajo. The appellants submitted their reply contending that the disputed property is not inherited by the complainants, as they are claiming shares in the property of Taj Muhammad and Zarjana, with whom the complainants have no concern. It was further asserted that the respondents/complainants had already sold their inherited property received from their predecessor, Tawakal Shah, and not from Taj Muhammad and Zarjana. The complaint was filed on 17.08.2023, whereas a civil suit was instituted by the appellants against Ibrarullah and others on 18.04.2025, wherein it was alleged that the suit property was originally owned by Tawakal Shah and had devolved upon all his legal heirs in accordance with law. In paragraph No. 4 of the complaint, the complainants alleged that Mst. Talat Bibi and Mst. Bibi Aftab, their predecessors-in-interest, were the owners of the property in question. However, in the prayer clause, they sought devolution and physical possession of the property of Taj Muhammad and Zarjana, which is inconsistent with the

contents of their own plaint. Through the impugned order dated 05.06.2024, the Ombudsperson directed the Deputy Commissioner, Peshawar, to initiate proceedings in accordance with law, separate the shares of the complainants, and transfer the same to them. The appellants contend that through Mutation Nos. 11432, 11416, 11881, 11614 and Registered Deed No. 3048 dated 14.07.2020, the respondents/complainants have already transferred more than their due shares from the legacy of Tawakal Shah.

(x) **FAO No.154-P/2024 (Muhammad Shoaib vs. Mst. Bakht Tari)**

Muhammad Shoaib, the appellant, has assailed the order of the learned Ombudsperson dated 15.05.2024, whereby the complaint of Mst. Bakht Tari along with three others was entertained regarding the property described in the headnote of the complaint, situated in the revenue estate of Katlang, District Mardan. The complaint was based on the entries of the periodical record for the year 2022. The complainants alleged that their father, who passed away in 1986, was the owner of the suit property, which had devolved upon all legal heirs. They contended that their due and *shari* shares had not been transferred in their favour. The appellants contested the complaint on the ground that the matter was already sub judice before the competent civil court. They asserted that the complainants had filed a civil suit, during which the civil court issued a status quo order. The stay was also granted in a writ petition bearing No. 6327, arising out of the order of the Board of Revenue, which was ultimately decided in favour of the appellants. It was argued that despite the pendency of civil proceedings, the complainants filed the present complaint before the Ombudsperson, which could not be adjudicated upon in view of the bar of jurisdiction. The appellants further produced a copy of the judgment in Civil Suit No. 627/1, filed on 28.07.2012 and decided on 23.12.2014, whereby the

appellant Muhammad Shoaib was granted a decree for declaration along with perpetual injunction. The appellant contends that, in the presence of civil litigation and partition proceedings between the parties, the Ombudsperson lacked the jurisdiction to decide the matter, hence this appeal.

(xi) **RFA No.171-P/2024 (Ali Khan vs. Mst. Abida)**

The order dated 21.05.2024 passed by the learned Ombudsperson has been assailed by the appellants through this appeal, whereby the Deputy Commissioner, Charsadda was directed to incorporate the inheritance mutation, partition the disputed property, and transfer its physical possession to the respondents/complainants. During pendency **CM No.544-P/2025** was filed by the respondents No.1 to 5, seeking permission to place on record the documents appended therewith, namely: (i) Jamabandi for the year 2012-13, (ii) copy of inheritance mutation No.1701 dated 21.07.2022, (iii) copy of the order of the Deputy Commissioner dated 16.06.2023, and (iv) copy of the report of the local commission dated 15.12.2023. Since the application remained un-resisted, it is allowed in view of its contents and the supporting affidavit. Accordingly, the documents appended therewith are read as part and parcel of the appeal.

The complainants, in their complaint, asserted that they are *parda nasheen* ladies, except for complainant No.5, who is a minor. They contended that the disputed agricultural property, situated at Moza Najim Abad, Charsadda, measuring 222 kanals and 15½ marlas, was owned by their predecessor, Asad Khan. Upon his death, the property devolved upon all legal heirs. However, it was allegedly taken into illegal possession by their brothers (the appellants). The complaint was contested by the appellants on various legal and factual grounds. The record reveals that a local commission was appointed with specific terms of reference, and a

comprehensive report was submitted. The complaint was instituted in 2023, followed by a civil suit, which was subsequently rejected on 23.05.2025. The local commission's findings indicate that approximately 35 jirabs of agricultural land, along with a house in a dilapidated condition, was handed over to the complainants. However, about 80 kanals of land remained in the illegal and unauthorized possession of respondent No.1, necessitating its transfer to the complainants to safeguard their lawful rights. The commission further observed that the validity of the *Iqrar Nama* dated 15.12.2022 and *Mehar Nama* dated 22.01.2019 can only be determined by a court of competent jurisdiction. It was also noted that a wall had been constructed outside the corner of the *Hujra* under the appellants' possession, and for the convenience of the complainants, a portion of the outer wall had been demolished to provide a shorter access route to their house. The learned Ombudsperson relied upon this report of the local commission while determining the rights of the parties. The appellants have challenged these findings, leading to the filing of the present appeal.

(xii) **FAO No.175-P/2024 (Manzoor Elahi vs. Muhammad Ayub and others).**

Respondent No.2, Mst. Saeeda, filed a complaint before the Ombudsperson against the appellants, alleging that she, the appellants, and others are the legal heirs of Usman Ghani, whose widow, Zaitoon Begum, has also passed away. Although the inheritance mutation has been duly attested, she claimed that she has been deprived of her legal and Shari share. A Local Commission was appointed, which visited the spot, conducted proceedings, and submitted a report confirming that a civil suit filed by the appellants is pending adjudication before the Civil Court. Based on the record, the Ombudsperson directed the Deputy Commissioner to initiate partition proceedings, separate the respective shares, and transfer the

share of respondent No. 2 accordingly. It further appears from the record that the complaint was filed on 16.01.2023, while subsequently, on 18.03.2024, the appellants instituted a civil suit for specific performance of a deed bearing No.3777 dated 08.11.2000, seeking a direction for attestation of mutation in their favour, along with recovery of possession through partition and perpetual injunction. Respondent No.2 of this appeal was arrayed as a defendant in that suit. It was also alleged that through a deed dated 16.05.2000, Mst. Saeeda had already transferred her share in favour of the appellants. The learned counsel for respondent No.2 contended during the hearing that the said civil suit was dismissed in default on 09.12.2024.

(xiii) **FAO No.177-P/2024 ( Naeem Asghar Khan and others vs. Mst. Nigar Begum and others.**

The order dated 30.07.2024 passed by the learned Ombudsperson, whereby the complaint of the respondents was accepted, has been assailed by the appellants through the instant appeal. The respondents, through their complaint, asserted that being the legal heirs of Muhammad Umar Khan, they are co-owners of the property situated at Jalal Umar Abad Qasmi Londkhwar Abazai, but have been unlawfully deprived of their respective shares by the appellants. The appellants contested the complaint by raising various legal and factual objections. They contended that Suit No.55/1, instituted on 30.09.1967 against Muhammad Umar Khan, was decreed on 14.10.1967 and implemented through Mutation No.2361 dated 15.04.1967. However, a portion of the property was not incorporated in the revenue record, for the rectification of which a civil suit titled "*Ali Asghar Khan vs. Ibrar*" is pending adjudication before the Civil Court at Takht Bhai. According to the appellants, the existence of a dispute regarding ownership/title necessitates proper judicial determination. During the pendency of proceedings, Mutation No.2926 dated

16.11.2022 pertaining to 59 Kanals 02 Marlas and 0 Sarsai from the revenue estate of Shahmbat Khel was attested in favour of Mst. Neelam, Mst. Laila, Mst. Zainab, Mst. Fatima and Mst. Ayesha from one Ali Asghar. The learned Ombudsperson, through the impugned order, declared Mutation No.2926 to be illegal and void *ab initio*, directing the Deputy Commissioner, Mardan to initiate necessary proceedings for separation of shares and transfer of possession to the complainants. Hence, the present appeal.

(xiv) **FAO No.183-P/2024 (Meer Akbar Khan and others vs. Mst. Nigar Begum and others.**

The order of the learned Ombudsperson dated 30.07.2024 in Complaint No. 6-632/2022 has been assailed by the appellants through the instant appeal. It is pertinent to mention that FAO No.177-P/2024 titled "*Naeem Asghar Khan vs. Nigar Begum*" arising out of the same order is also pending adjudication. Learned counsel for the appellants contended that Civil Suit No.54/1 was decreed on 08.11.1967, and the matter is still sub judice before the competent civil court, which ought to have been duly considered. However, the learned Ombudsperson, in disregard of the legal position, proceeded to pass the impugned order, which necessitates interference and rectification through the present appeal.

(xv) **FAO No.220-P/2024 (Arshad Ali vs. Ashraf Ali Khan.**

Through this appeal the order of the Ombudsperson dated 23.10.2024 has been assailed by the appellant, Arshad Ali Khan, whereby directions were issued on an application/complaint filed under Section 4 of the *Enforcement of Women's Property Rights Act, 2019*. The complainant/respondent alleged that she is a legal heir of Mst. Sardar Begum, who passed away on 11.08.2008, and that the appellant and other respondents are her siblings. She further asserted that Bungalow No. 32-B(IV), measuring 1.85 kanals, situated at *Chinar Lane, University Town, Peshawar*; was

owned by their deceased mother, Mst. Sardar Begum. On her death, the property devolved upon all legal heirs, and she is entitled to possession to the extent of her *shari* share. Through the impugned order, the Deputy Commissioner was directed to effect separation of the respective shares. The appellant contends that Mst. Razia Begum was not the actual owner of the bungalow but merely a *benamidar*, whereas the sale consideration was paid by him. He further asserted that Mst. Razia Begum had no independent source to pay the sale consideration, that the property remained in his possession, and that a civil suit was already pending adjudication when the complaint was filed. He also submitted that no opportunity was afforded to him for filing a reply or being heard before the Ombudsperson. Conversely, learned counsel for the respondent argued that Mst. Sardar Begum, the mother of both parties, was the lawful owner of the property, which devolved upon all legal heirs upon her death. He denied the appellant's assertion of any prior suit or claim of benami ownership and stated that the civil suit was filed only after submission of the complaint before the Ombudsperson. During the hearing, a copy of the plaint filed by Arshad Ali Khan was produced, showing that the appellant seeks a declaration to the effect that he is the sole owner of House No. 32-B, Chinar Lane, University Town, Peshawar, measuring 1.85 kanals (37 marlas). He claims that the entry in the name of his deceased mother, Mst. Sardar Begum, in the ownership column of the record of rights in respect of defendants No. 9 to 12, was merely benami, and that they have no concern with the ownership of the house. This suit is presently pending adjudication before the Civil Court. A copy of another plaint titled "*Arshad Ali Khan vs. Muhammad Ashraf Khan etc.*" was also produced, which likewise pertains to a declaration against all defendants, including Mst. Razia Begum. Learned counsel

for the complainant/respondent supported the impugned order.

(xvi) **FAO No.253-P/2024 (Mst. Ruqiyya and others vs. Mir Muhammad.)**

The order dated 05.11.2024 passed by the learned Ombudsperson has been challenged by the appellants, whereby their complaint was partially dismissed to the extent of the second shop, which had been leased out to Mir Ahmad. It was held that none of the legal heirs of late Yar Muhammad had any concern with the said second shop. The appellants, through their complaint, contended that Yar Muhammad, their predecessor-in-interest, was the owner of a house and two shops which, upon his death, devolved upon all legal heirs. However, their respective shares were allegedly wrongfully possessed by Mir Ahmad. Through the impugned order dated 05.11.2024, the learned Ombudsperson directed the Deputy Commissioner to incorporate the requisite entry in the revenue record with respect to House No. 2920, Mohallah Mohtasiban, Tehsil Gorghatry, Peshawar City, in order to separate the appellants' shares. It was further directed that if the house is not capable of partition, its sale proceeds be distributed/disbursed among all legal heirs. The Director, Metropolitan East Zone, TMA Peshawar was also directed to initiate necessary proceedings and incorporate the requisite entries in respect of one shop to reflect the shares of the complainants as legal heirs of late Yar Muhammad. However, the complaint was dismissed to the extent of the second shop, leading to the filing of the present appeal.

(xvii) **FAO No.23-P/2025 (Mir Arhmad vs. Mst Ruqayya and others.)**

The appellant, Mir Ahmad, through the instant appeal has also challenged the order of the Ombudsperson dated 05.11.2024. In his reply to the complaint, he admitted that Yar Muhammad was the predecessor-in-interest of the parties and

was survived by three sons, namely Mir Ahmad, Ghulam Muhammad, and Bashir Ahmad and six daughters namely Mst. Ruqiya, Mst. Jehan Ara, Mst. Sherbano, Mst. Rabia Tabassum, Mst. Naseem, and Mst. Hussan Ara. It was stated that Ghulam Muhammad died issueless, and his share devolved upon Mir Ahmad and Bashir Ahmad. Further, Bashir Ahmad is residing in America, and all sisters have transferred their shares in his favour. It was also alleged that the daughters are receiving Rs. 1600/- per day and that the shops in question belong to the Auqaf Department. In compliance with the Ombudsperson's directions, the Additional Assistant Commissioner (City), Peshawar submitted a report stating that one house and one shop situated in Tehsil Gorghatry are municipal property leased out to Yar Muhammad, while the second shop was transferred to the respondent. The appellants of FAO No.253-P/2024 were found entitled to their shares in the house and one shop. Accordingly, the learned Ombudsperson allowed the complaint to the extent of the house and one shop, and dismissed it regarding the second shop. Hence, the present appeal and the connected appeal have been filed.

**(xviii) FAO No.194-P/2024 (Tasbeehullah vs. Mst. Khushnood and others)**

Mst. Khushnood, Mst. Shadab, and Mst. Farrah Deeba (respondents No.1, 2, and 3), through their complaint, alleged that they are owners of the property described in Para No.2 of the complaint, situated in the revenue estate of Bughdada and comprising four constructed houses and a market known as "Nisar Market" on Gujar Garhi Road. They asserted their ownership as legal heirs of Mst. Anjuman alias Ulfat, to the extent of their legal shares, and claimed that the appellants have illegally and unjustly occupied the property, thereby depriving them of their lawful rights. The complaint was filed on 08.06.2020. The appellants contested the complaint,

asserting in their written reply that the complainants had already sold their property, received the sale consideration, and thus no longer had any concern or right over the property in question. The learned Ombudsperson, however, allowed the complaint and directed the Deputy Commissioner, Mardan to recover possession of 13 kanals, 11 marlas, and 6 sarsai of land in the revenue estate of Bughdada on the basis of Mutation No.1638 and hand over physical possession to the complainants, recover possession of 1 kanal, 4 marlas, and 119 sq. ft. on the basis of Mutation No.3899 and transfer the same to the complainants and recover possession of 6 kanals, 4 marlas, and 35 sq. ft. of land in the revenue estate of Mardan on the strength of Mutation No.2860 and hand over possession to the complainants. It further appears from the record that Mst. Khushnood and three others filed a suit for declaration before the civil court, asserting their ownership rights in the property described in the head note “الف” of the plaint as legal heirs of Mst. Anjuman. They contended that the alleged sale of the property through stamp papers is ineffective against their rights and is collusive and mala fide. They also sought a decree for perpetual injunction and recovery of possession through partition. Earlier, the order of the Ombudsperson dated 18.06.2021 was challenged before this Court in case titled *“Falak Shahnaz and others vs. Farah Deeba and others”*, which was disposed of with certain observations. The learned Ombudsperson, vide the impugned order accepted the complaint and directed the Deputy Comissioner for recovery of possession of the property within 45 days, hence, the instant appeal. During pendency of the appeal, CM No.715-P/2024 was filed by the appellant seeking permission to place on record the complaint of Mst. Khushnood Advocate and others, daughters of Zakirullah Khan, along with an application for transfer of the complaint/reference to the civil court, written reply, and an

application for deletion of the name of Ghulam Qadir. Another application i.e. CM No.704-P/2024, was also filed by the appellant to place on record a copy of Mutation No.1638, extracts from the Jamabandies, and a copy of the civil court order dated 05.03.2024 passed in the suit titled "*Khushnood vs. Shahnaz Begum.*" Keeping in view the documents annexed with the applications, the contents thereof, and the supporting affidavits, both applications are allowed. The documents annexed therewith are treated as part and parcel of the appeal record.

(xix) RFA No.139-P/2025 (Feroz Khan and others vs. Bakht Roeedara.

Impugned through the instant appeal is the order of the learned Ombudsperson dated **11.03.2025**, whereby the Deputy Commissioner, Peshawar was directed to initiate proceedings for separation of shares and transfer of physical possession to the complainant. The complainant, Bakht Rowaida, through her complaint asserted that her father was the owner of 111 marlas of land, which has allegedly been unlawfully occupied by her brothers, the present appellants. The description of the property provided by her includes 19 marlas constructed house situated at Tehkal Payan, Peshawar; A constructed school building; two houses situated at Abshar Colony, Street No. 2, Warsak Road, Peshawar, Abshar Colony Street No. 1, Warsak Road, Peshawar and a double-storey constructed house at Kababyan, Warsak Road, Peshawar. The complaint was filed on 24.09.2024, whereas Civil Suit No.100/1, titled "*Mst. Goshai and others vs. Bakht Rowaida and two others*", was instituted against the complainant seeking a declaration to question Mutation No.18830, as well as a declaration based on a deed dated 09.10.2023. The said suit is presently pending adjudication before the competent civil court. The learned Ombudsperson, after directing the appellants to submit their reply, who resisted the complaint on

various legal and factual grounds, accepted the complaint and directed the Deputy Commissioner, Peshawar to initiate proceedings for separation of shares and to transfer possession of the property to the complainant. Hence, the present appeal.

(xx) **RFA No.190-P/2025 (Muhammad Raza and others vs. Sabiqa Begum**

Muhammad Raza and others, the appellants, have challenged the legality and correctness of the order of the Ombudsperson dated 14.03.2025, whereby the complaint filed by the respondents was allowed, directing the Deputy Commissioner, Peshawar to recover and hand over physical possession of the property mentioned in the report within 45 days. After filing of the complaint, the appellants appeared before the learned Ombudsperson and submitted a comprehensive reply, asserting that a civil suit regarding the same subject matter is already pending adjudication before the competent civil court. The record reveals that the complaint was filed sometime in the year 2023, whereas Muhammad Raza and others had earlier instituted Civil Suit No.68/1 for grant of a decree for partition before the civil court of competent jurisdiction. The record further reflects that Mst. Sabiqa Begum, one of the complainants, based her claim on Deed No.3958 (Goshwar-e-Mulkiyat) pertaining to the revenue estate of Jhagra, Tehsil Saddar, Circle Chamkani. According to the said Goshwar-e-Mulkiyat placed on record by the local commission, Mst. Najeeba is reflected as owner of 01 marla 02 sarsai, and Mst. Seema is also reflected as owner of 01 marla 02 sarsai. The local commission reported that Muhammad Raza, the appellant, had admitted a private partition in respect of a portion of the property situated in Shinwari Town and had illegally occupied 63 marlas of the property by constructing a wall, including 27 marlas reflected at Serial No.9 of the report. Although the appellants filed strong objections to the report of the local commission, the impugned order does not reflect any

finding on the fate of those objections and instead proceeds to allow the complaint. The learned Ombudsperson, while addressing the issue of the pending civil suit, observed that the suit was dismissed in the year 2021. However, the record on file clearly shows that the suit was still pending adjudication in the year 2024. Hence, the instant appeal.

(xi) **RFA No.221-P/2025 (Sabqa Begum vs. Ombudsperson.**

The appellants, being the original complainants before the Tribunal, have assailed the impugned order with the prayer that the monthly rent of Rs.25,000/- being paid since January 2016 be enhanced until the final decision of the case regarding the property/shop bearing Survey No.455/A/1 (Cantonment Board Peshawar), situated outside Dabgari Gate, Peshawar, from respondent No.8. The facts and background of the case have already been detailed in RFA No.190-P/2025.

(xii) **RFA No.117-P/2025 (Wazir Zada and others vs. Mst. Jamila and others.**

The appellants, Wazir Zada and others, were respondents in a complaint filed by Mst. Jameela regarding property devolved upon them through Mutation No.5143 dated 24.10.1985, pertaining to the revenue estate of Chak Shahbaz Garhi, District Mardan. The complainant alleged that the shares of the owners were incorrectly recorded in the mutation and sought its rectification. The application was allowed, and the Deputy Commissioner, Mardan, was directed to initiate proceedings, separate the complainant's share within two months, and hand over vacant possession of the property. The appellants have challenged the legality and correctness of the impugned judgment of the Ombudsperson on the ground that no opportunity of hearing was provided to them. They contend that the impugned order is a nullity in the eyes of law.

(xiii) **RFA No.21-P/2024 ( Muhammad Masood etc vs. Razia Khatoon.**

The appellants have called into question the order of the learned Ombudsperson dated 04.12.2023, whereby the Deputy Commissioner, Mardan was directed to recover the actual possession of the inherited property of the complainant measuring 02 kanals 11 marlas 8 feet and 15 kanals 16 marlas 91 feet, as described in paragraph No.3 of the impugned judgment. The Director General PDA was further directed to obtain the redemption documents from Bank Alfalah and to offer the appellants the option to purchase the property to the extent of the complainant's share. In case of their refusal, the property was to be sold through auction, and the sale proceeds corresponding to the complainant's share were to be paid to him. Learned counsel for the appellants argued that the legality and correctness of mutation Nos. 4850 and 4949 has been questioned by the appellants, which, according to him, does not fall within the domain of the Ombudsperson. He further submitted that the allegations leveled in the complaint have been denied by the appellants and that the matter requires recording of pro and contra evidence, without which no conclusive finding can be drawn. He pointed out that two applications for partition of agricultural property are still pending adjudication before the Revenue Officer, Mardan. The present complaint, he contended, pertains only to two constructed properties situated at Hayatabad and University Town, Peshawar, to the extent of declaration of a 1/3rd share in both houses, which has already been decreed in favour of respondent No.1. While the learned counsel questioned the mode of partition, he nevertheless supported the impugned order to the extent of the admitted facts. The pendency of the civil suit and its adjudication, as well as the application for setting aside the ex-parte decree, has been admitted by both parties, hence, this appeal. During pendency of the appeal **CM No.721-P/2024** was filed by the complainant/respondent seeking permission to place on record the reply of the

appellant, Fard-e-Badar, the application for partition, the ex-parte decree dated 27.11.2020 passed in the civil suit, and the application for setting aside the said ex-parte decree. Since the documents annexed with the application have not been disputed and are directly related to the property in question, therefore, in view of the contents of the application, the supporting affidavit of the applicant, and there being no objection from the appellant, the application is allowed. The documents appended thereto shall be treated as part and parcel of the appeal.

(xxiv) **FAO No.128-P/2023 (Malik Ashraf Khan vs. Mst. Gul Shan Bibi).**

Predecessor-in-interest of the respondents, Mst. Gulshan Bibi, filed an application before the Ombudsperson alleging that her property had been acquired but compensation had not been paid to her. She further claimed that her exact share in the inherited property had not been given, particularly in respect of the *hujra*, shop, and constructed houses. She also stated that one of her brothers had been murdered, and she was entitled to her *Shari* share in his property as well. The appellants resisted the complaint, contending that through mutation entries Nos. 5515, 5516, 5525, 5598, 5860, 5861, and 5919, the predecessor-in-interest of the respondents had already sold her property; therefore, she was no longer entitled to any inheritance from the estate of her deceased father. The report of the Patwari Halqa reflects that mutation No. 5515 pertains to 5 marlas, No. 5516 to 8 marlas, No. 5525 to 5 marlas, No. 5598 to 4 marlas, No. 5860 to 4 marlas, No. 5861 to 4 marlas, and No. 5919 to 4 kanals 5 marlas and 2 sarsai. Through these mutations, the complainant had alienated the property in question. The learned Ombudsperson, after considering the matter, allowed the complaint and directed the Deputy Commissioner, Peshawar to conduct proper measurements of the *hujra* and the adjacent shop through an

appropriate inquiry and thereafter separate the share of the complainant. This order has been questioned through the present appeal.

(xxv) **RFA No.20-P/2023 (Arbab Muhammad Jamil Khan vs. Mst. Shahida Begum.**

Impugned through this appeal is the order of the learned Ombudsperson dated 28.11.2022, whereby the complaint of respondent Mst. Shahida Begum (now deceased) was allowed, directing the Deputy Commissioner, Peshawar to separate the shares and hand over physical possession of the property to the complainant/respondent No.1. Mst. Shahida Begum (deceased), through her complaint filed under Section 4 of the *Khyber Pakhtunkhwa Women's Property Rights Act, 2019*, sought recovery of possession of her inherited property from the appellant in respect of the Revenue Estate of Isa Khel Hameed and Mauza Garhi Gula, District Peshawar, as detailed in the headnote of the complaint. She asserted that being the daughter of Arbab Muhammad Saeed (owner of the property), the property devolved upon all legal heirs after his death – i.e., the appellant, the complainant, and other legal heirs. The legal heirs include four daughters, namely Mst. Nisar Begum, Mst. Shahida Begum, Mst. Shaheen Begum, and Mst. Omayya Begum, and one son, Arbab Muhammad Jamil Khan. The appellant contested the complaint, asserting that the property had been gifted to him, which later resulted in its alienation to his sisters, and that the matter is currently sub judice before the Civil Court. It was further alleged that the complainant had received Rs. 5,000,000/- from her late father as compensation for the property, which is also one of the grounds raised in the civil suit. It was claimed that a portion of the property was alienated in 2009 in lieu of Rs. 5,000,000/. The learned Ombudsperson, while discussing the matter, noted that the property had been gifted in 1973 through Mutation No.1486 of the Revenue Estate of Bunyadi, and in 1975 through

Mutation No.1539 attested in favour of the daughters. In 1982, the widow of the deceased along with all daughters, including the complainant, sold the property through Mutation No.1666. Despite these facts, the Ombudsperson directed the Deputy Commissioner to incorporate the inheritance mutation, to collect the complainant's share of interest/profits arising from the property, and to transfer the same to the complainant/respondent. The civil suit titled "*Arbab Muhammad Jameel vs. Mst. Shahida and 02 others*" has not been disputed by the complainant/respondent. Hence, this appeal.

(xxvi) RFA No.94-P/2023 (Muhammad Tariq and others vs. Mst. Naheed Asif and others.

Impugned through the instant appeal is the order of the learned Ombudsperson dated 31.01.2023, whereby the complaint of respondents No.1 to 10 was allowed with the direction to the Deputy Commissioner to initiate proceedings for separation of shares and transfer of possession of the property to respondents No.1 to 10. The case of the complainants was that Haji Muhammad Ayub was the owner of the property in question, and upon his death, the same devolved upon all his legal heirs, including the complainants, who are entitled to their respective shares. It was alleged that possession of the property has been unlawfully occupied by the appellants, respondents No.1 and 2. During the pendency of the complaint before the Ombudsperson, a local commission was appointed to inspect the spot and submit a report. Objections were raised to the first commission's report, whereupon a second commission was appointed, who also inspected the site and submitted his report. After receipt of the reports, the parties were directed to file their respective objections. The learned Ombudsperson, upon consideration of the objections, ultimately relied upon the report of the first commission, which had earlier been set aside. Learned counsel

for the complainants/respondents No.1 to 10 argued that the Ombudsperson was competent to rely upon either of the local commission's reports. It was further contended that since the shares of each co-owner were not disputed even by the appellants, the direction for separation of shares and delivery of possession was lawful and proper. Hence, no illegality was committed by the Ombudsperson warranting interference. Accordingly, this appeal has been preferred.

**(xxvii) FAO No.116-P/2023 (Jamal Khan vs. Zarsanga)**

The appellant has assailed the validity and correctness of the order dated 01.06.2023 passed by the learned Ombudsperson, whereby the complaint filed by respondent No.1 was allowed. The case of respondent No.1/complainant was that late Muhammad Ishaq was the owner of the property situated in Nahqi, measuring 6½ kanals, including a constructed house, which had devolved upon all the legal heirs. It was alleged that the complainant's due share in the property has not been handed over to her. The appellant resisted the complaint by asserting that the house in which the complainant is currently residing was purchased by their predecessor from one Naik Muhammad s/o Amir Muhammad. It was further contended that the complainant has been residing in the said house since long, and that their predecessor was the owner of this house as well as two other houses. In the reply, the appellant also submitted that their predecessor had contracted two marriages, one with Mst. Rehmat (mother of the parties) and the other with Mahal Bibi, who is alive and entitled to her legal and Shari share in all the properties. The *Iqrar Nama* relied upon by the complainant was denied as being false, concocted, against the facts, and ineffective against the rights of the legal owners. Learned counsel for the appellant argued that until the shares of all legal heirs, including the stepmother, are duly determined, the property cannot be separated or partitioned. Hence, the instant appeal.

(xxviii) **FAO No.198-P/2023 (Fayaz Khan vs. Mst Nazmeena and others.**

The appellant has called into question the order of the learned Ombudsperson dated 15.02.2023. There were two complainants, namely Mahjabeen (widow of Muqaddar) and Mst. Nazneena (daughter of Muqaddar), who contended in their complaint that Muqaddar was the owner of the property which devolved upon all the legal heirs. However, they have been deprived of their respective shares in the property situated at Regi Lalma, Peshawar, bearing Khasra Nos. 786, 794, 779, 778, 797, 472, 473, 474/2, and 972/2/2. It was further averred that their predecessor, Muqaddar, had died during the lifetime of his mother, Mst. Rekhmena. Therefore, in terms of the provisions of the Muslim Family Laws Ordinance, 1961, the complainants claimed entitlement to a share in the property of Mst. Rekhmena as the daughter and widow of the predeceased son. The appellant has, however, challenged this entitlement on the ground that although Section 4 of the Ordinance could be invoked in favour of Mst. Nazneena, being the daughter, said provision does not extend to Mahjabeen, the widow of Muqaddar. The benefit of Section 4 is limited to the sons and daughters of a predeceased child and cannot be claimed by a widow or widower. It is contended that the learned Ombudsperson decided the complaint without properly addressing this legal aspect, rendering the impugned order a nullity in the eyes of law. Hence, this appeal.

(xxix) **FAO No.78-P/2025 ( Muhammad Usman etc vs. Mst. Jehan Ara and others.**

Respondent No.1, Mst. Jehan Ara, through her complaint filed before the learned Ombudsperson, averred that Muhammad Suleman was the owner of various properties, including shops, markets, commercial and non-commercial units, as well as residential premises. She stated that she had already instituted a suit before the learned Civil Judge-VI, Swat, to the extent of the constructed shops and houses; however,

the proceedings in the said suit were being delayed on one pretext or another. Left with no alternative, she approached the learned Ombudsperson for final determination of the matter. The complaint was contested by the appellants on multiple legal and factual grounds. They disputed the contents of the complaint and further contended that the respondent had already received her due share in the estate of late Muhammad Suleman, along with property in lieu of her dower, which she had subsequently disposed of through a registered deed. It was also submitted that Civil Suit No.171/1 of 2023 is pending before the learned Civil Court; therefore, the complaint was not maintainable from its very inception. The order passed by the learned Ombudsperson was argued to be contrary to law and violative of the principles of natural justice. Hence, this appeal.

(xxx) **FAO No.103-P/2025 (Naik Amal Shah and others vs. Mst. Janat Bibi and others.**

The subject matter of the present appeal pertains to Khasra Nos. 1527 and 2131, measuring 02 Kanals 01 Marla, Qitat No. 77 comprising 169 Kanals 09 Marlas, and Qitat No. 3 measuring 11 Kanals 16 Marlas. Mutation in respect of the said properties was duly attested on 07.06.2008 in favour of Mst. Janat Bibi and others. The filing of the present appeal has been contested by the complainants/respondents on the ground of limitation, asserting that it is time-barred. Before the learned Ombudsperson, the primary question was regarding the marital history of Sher Ali, who had contracted three marriages during his lifetime. One of his wives predeceased him and was issueless. The names of his wives were Mst. Basri, Mst. Raham Bibi, and Mst. Palwasha. It is evident that not all legal heirs were impleaded as parties in the complaint, and the order passed by the learned Ombudsperson is not in accordance with law. Hence, this appeal.

(xxxi) **RFA No.56-P/2025 ( Irshad Ahmad vs. Gulnar Bibi and others.**

The appellant has assailed the order of the learned Ombudsperson on the ground that the matter required recording of evidence as it involved complex questions of law and fact. Respondent No.1, Mst. Gulnar Bibi, through her complaint sought separation of her share in House No. 4506/6/141/142 measuring approximately 6 marlas, situated at Mohallah Bajori Kalan, Illaqa Dabgari, Peshawar City. She claimed ownership through inheritance from Mst. Fuqraj Begum, to the extent of her legal and Shari share. The complaint was contested by the respondents, including the appellant, on various legal and factual objections. It was asserted that the pedigree table was incorrect and further alleged that Mst. Fuqraj Begum had died issueless. The appellant also contended that the disputed house originally belonged to his aunt, Mst. Sarwar Taj, and that a dispute between the parties had earlier been resolved through arbitration. It was further stated that Mst. Sarwar Taj, as the owner, had alienated her 1/3rd share of the property in favour of Khurshed Ahmad vide Deed No. 1243 dated 31.03.1996, who was already the owner of 2/3rd share and thereby became the owner of the entire house. It is contended that the impugned order passed by the learned Ombudsperson without recording evidence was without jurisdiction, unlawful and unjustified, and therefore warrants interference. Hence, this appeal.

(xxxii) **RFA No.415-P/2025 (Masood vs. Tajamul Begum)**

Mst. Tajamul Begum, daughter of Malak Niaz, and Mst. Nausheen, daughter of Maqboola, through their separate applications filed before the learned Ombudsperson, sought recovery of possession of their respective shares in the property as detailed in their complaints. The Ombudsperson, after directing an inquiry, issued directions to the Deputy

Commissioner, Charsadda to initiate proceedings and effect separation of the complainants' shares. Masood, the appellant, has assailed the order of the Ombudsperson on the grounds that no notice was ever served upon him, nor was he afforded an opportunity to participate in the proceedings. He further contended that he had purchased a plot through an unregistered deed dated 06.05.2019 from one of the co-sharers, and that the entire proceedings were conducted in violation of the principles of natural justice, thereby depriving him of his property. It was also brought on record that partition proceedings had already been pending adjudication between the co-owners, during which even a warrant of dakhla was issued, and Mst. Tajamul Begum along with others were party to those proceedings. Hence, this appeal.

(xxxiii) **RFA No.119-P/2025 (Ajab Gul vs. Shamim Ara and others.**

The appellant, Ajab Gul, has assailed the order dated 23.12.2024 passed by the learned Ombudsperson, whereby the complaint of Mst. Shamim Ara (respondent No.1) seeking separation of her share in the property, as detailed in paragraph No.4 of the complaint, was allowed. The appellant contested the complaint on the ground that the complainant is already a recorded owner, and her name stands incorporated in the relevant revenue record. It also came on record during the proceedings that a civil suit titled "Ajab Gul vs. Mst. Shamim Akhtar and others" is pending adjudication before the Civil Court, Peshawar. However, without awaiting the outcome of the said civil proceedings, the learned Ombudsperson proceeded to allow the complaint and directed the appellant and others to purchase the complainant's share in the house in case the same is not partitionable. Hence, this appeal.

(xxxiv) **RFA No.130-P/2025(Tariq Masood vs. Mst. Gul Laila)**

Impugned through this appeal is the order dated 14.01.2025 passed by the learned Ombudsperson, whereby the complaint of Mst. Gul Laila was allowed. In her complaint, she alleged that the appellant (her brother) had illegally occupied the house owned by their predecessor-in-interest, Masood-ur-Rehman, along with a property situated at Ghari Kapura and a constructed shop, all of which were under his unlawful possession. She prayed for separation of her share in the property and delivery of its possession. The appellant contested the complaint by asserting that he is not in possession of the ancestral property; rather, the property in his possession belongs to Colonel Aziz. He further stated that his uncle had filed a civil suit regarding the matter, which was dismissed. The Ombudsperson, after considering the matter, directed the Deputy Commissioner, Mardan to initiate proceedings for incorporating the inheritance mutation, separating the respective shares, and handing over possession to the complainant. Hence, this appeal.

(xxxv) **FAO No.102-P/2025 (Rafique etc vs. Guli Laila)**

Through the instant appeal, the appellants have also assailed the order of the learned Ombudsperson, which has likewise been challenged by the appellant in RFA No.130-P/2025, supra. The appellants contend that the house in question was not owned by Mst. Gul Laila, but constitutes the dower property of appellant No.1. They further assert that they were neither served with notice nor afforded an opportunity of hearing, and as such, the impugned order is illegal and void *ab initio*.

(xxxvi) **RFA No.110-P/2025 (Muhammad Iqbal vs. Mst. Faseen and others.**

The order of the learned Ombudsperson has been assailed by the appellant, who was the respondent before the Ombudsperson. The appellant had raised an objection regarding the maintainability of the complaint through a written

application. The record reflects that the complaint of Mst. Faseen Begum (respondent No.1) was pending adjudication, during which ex-parte proceedings were initiated against the appellant. Though the appellant moved an application for setting aside the ex-parte order, no decision was rendered on it, and the complaint was eventually allowed. In her complaint, Mst. Faseen Begum had arrayed Muhammad Iqbal Bacha (the present appellant) and another individual as respondents, while the remaining co-owners were not impleaded as parties. Nevertheless, the learned Ombudsperson, through the impugned order, allowed the complaint and directed the Deputy Commissioner, Mardan, to initiate proceedings for separation of the complainant's share and to hand over its physical possession to her. This order has been challenged on the ground that the Ombudsperson acted illegally and without due consideration of the relevant legal provisions governing the determination of the parties' rights, hence, this appeal. During pendency of the appeal, CM No.715-P/2025 seeking permission to place on record certain documents. Since the documents appended with the application comprise extracts from the Jamabandi for the year 2024-25, inheritance mutation No.1181 dated 10.11.1992, and the *Goshwar-e-Mulkijat* of the parties, and as these documents pertain to the disputed property, they are considered essential for the just and proper adjudication of the main appeal. Accordingly, this application is allowed.

(xxxvii) RFA No.41-P/2025 (Sikandar Hayat Khan vs. Mst. Zahida Begum and others.

Sikandar Hayat, the appellant, has assailed the order of the learned Ombudsperson dated 17.12.2024, whereby the complaint of respondent No.1 regarding the property owned by Dost Muhammad Khan, their predecessor-in-interest, was ordered to be partitioned. It appears that Civil Suit No.154/1 was instituted by Mst. Zahida Begum, being one of the legal

heirs of Dost Muhammad, in respect of the same property situated in the revenue estates of Chowa Gujar, Maira Kachori, Rasheeda, Chamkani, and Shamshatoo Babuzai, District Peshawar. Another suit bearing No.161/1 was also filed by the complainant concerning the same subject matter. Ex parte proceedings were conducted therein, against which the appellant filed an application for setting aside the ex parte order. The present appeal has been resisted by the respondent/complainant on the ground that it is barred by limitation and, therefore, liable to be dismissed.

(xxxviii) **RFA No.42-P/2025 (Azhar Ali and others vs Mst. Hazrat Begum and others.**

Azhar Ali and ten others have assailed the order dated 11.12.2024 passed by the learned Ombudsperson, whereby the complaint of respondent No.1 was allowed. The record reveals that Civil Suit No.84/1 titled "*Hazrat Begum v. Azhar Ali and others*" was already pending adjudication before the learned Civil Judge, Peshawar. The appellants contend that the actual owners of the property were not impleaded as parties and that the question regarding alienation of the property reflected in the column of cultivation was not duly considered. It is further alleged that the proceedings before the learned Ombudsperson were conducted in violation of the law and the principles of natural justice, as no opportunity of hearing was afforded to them. Hence, this appeal.

(xxxix) **RFA No.57-P/2025 (Asghar Hussain vs. Mzst. Samina Azam Khan**

Impugned through this appeal is the order dated 20.11.2024 passed by the learned Ombudsperson on the complaint of respondents No.1 to 4, wherein they sought separation of their respective shares in the ancestral property situated in the revenue estate of Dagai, Pashtoon Garhi, Azakhel, District Nowshera. The complaint was contested by the appellant on the ground that the property had already been

partitioned privately, and each legal heir had received and taken possession of his or her respective share. It was further contended that their predecessor-in-interest, during his lifetime, had transferred certain portions of the property in favour of the complainants through mutation No.754 dated 29.07.1991, mutation No.5238 dated 29.05.1991, mutation No.5287 dated 16.12.1991, mutation No.661 dated 20.11.1984, and mutation No.765 dated 16.12.1991, which transfers were liable to be adjusted against their total entitlement. The appellant also submitted that an application for partition had been filed, whereupon a Commission was appointed and the matter was amicably resolved through the Dispute Resolution Council (DRC) proceedings dated 09.04.2019. It was alleged that the dispute between the parties stood settled; however, on the legal side, the parties have been litigating up to the Apex Court, where the matter is still pending adjudication in Civil Appeal No.35-P/2021. Hence, the impugned order of the learned Ombudsperson is without lawful authority, being contrary to the substantive and procedural law, and therefore liable to be set aside.

(xl) **RFA No.76-P/2025 (Asif Gul and others vs. Shamim Ara and others).**

Mst. Shamim Ara, the complainant, through her complaint sought her due and *shari* share in the property left behind by her deceased husband, Sharif Gul. It is undisputed that Sharif Gul had contracted two marriages — first with Mst. Memshahi and thereafter with the complainant. From his first wife, Memshahi, he had two sons and five daughters, whereas the complainant was issueless. The appellants contended that Mst. Shannaz, Mst. Ayesha Bibi, Mst. Shazia Latif, Mst. Salma Sharif, and Mst. Bibi Khalida are the daughters, while Arif Gul is the son of the deceased. These legal heirs were impleaded as parties before the learned Ombudsperson on their own application. They acknowledged that the complainant is

entitled to her due *shari* share; however, they asserted that the controversy regarding their respective rights must first be adjudicated. It was further alleged that the complainant's name has already been incorporated in the relevant revenue record. The record also reveals that the deceased left behind a house measuring 10 marlas situated in Ferozabad Colony, Dalazak Road, Peshawar, which remains vacant. Details of other movable properties were specified in paragraph No.4 of the reply, including the joint accounts of Sharif Gul and Mst. Shamim Ara, as well as individual accounts maintained in Allied Bank and Askari Bank. The order of the learned Ombudsperson has been assailed in the present appeal on the ground that the matter involved intricate questions of law and fact, which could not have been competently adjudicated by the Ombudsperson. Hence, this appeal.

(xli) **RFA No.07-P/2025 (Muhammad Faisal vs. Mst Roohi Parveen and others**

The appellant has assailed the order of the learned Ombudsperson dated 05.12.2024, passed on the complaint of Mst. Rabia Khalid (respondent No.2), whereby the Deputy Commissioner, Peshawar was directed to sell House No.6, Qasr-e-Sultan, Shah Qabool Colony, and distribute the sale proceeds among all the legal sharers. During the proceedings, a local commission was appointed, the validity of which was challenged by the appellant. It is alleged that neither specific Terms of Reference (TORs) were framed for the commission nor was its report in accordance with law, particularly when objections were duly raised against it. The appellant contends that without deciding those objections, the Ombudsperson could not have passed a final order. The impugned order, therefore, calls for interference and rectification through the present appeal.

(xlii) **FAO No.37-P/2025 (Shah Faisal Afridi etc vs. Mst. Ayesha and others.**

The appellants have assailed the orders of the learned Ombudsperson dated 15.07.2024 and 31.12.2024. Through the former order, their application under Section 12(2) CPC was allowed; however, subsequently, by the latter order dated 31.12.2024, the complaint of respondents was allowed. The appellants contend that the complaint of respondents No.1 and 2 remained pending adjudication and was finally decided on 31.05.2023. They assert that they are bona fide purchasers of the property for valuable consideration, and upon acquiring knowledge of the impugned order, they submitted an application under Section 12(2) CPC on the ground that the Ombudsperson's earlier order was obtained through fraud and misrepresentation of facts. Although their application was entertained, it was thereafter dismissed in haste without following the due procedure. Vide order dated 17.12.2024, the application under Section 12(2) CPC was rejected, and the Deputy Commissioner, Peshawar was directed to execute the order dated 31.05.2023. Hence, this appeal.

(xlivi) **FAO No.04-P/2025 (Muhammad Arif vs. Sidra Tariq)**

The order of the learned Ombudsperson has been assailed on the ground that Mrs. Sidra Tariq, widow of Muhammad Tariq, claimed her due share in the property against Muhammad Akram, brother of the deceased Muhammad Tariq. During the proceedings, an application was moved by Muhammad Arif, the present appellant, seeking his impleadment on the plea that he is the real owner of the property, having purchased it through valuable consideration paid to Alhaj Ghulam Ghaus. It was asserted that at the time of execution of registered deed No.3098 dated 07.09.1988, Muhammad Tariq was only 12 years of age, and the sale deed was therefore attested in his name merely as a *benamidar*, whereas the appellant was the actual owner. It was further contended that the determination of *benami* ownership involves intricate questions of law and fact, which fall outside

the jurisdiction of the Ombudsperson and can only be adjudicated upon by a court of competent jurisdiction. Hence, the impugned order is without lawful authority and is a nullity in the eye of law. Hence, this appeal.

(xliv) **RFA No.397-P/2024 ( Aman Ullah Khan vs. Shavana Qader and others.**

The order of the learned Ombudsperson has been questioned on the ground that the appellant had already instituted a civil suit, which is still pending adjudication before the competent Civil Court, based on a deed dated 28.03.2014. The said deed reflects the adjustment of properties devolved upon all the legal heirs of Fazle Qadir, the predecessor-in-interest of the parties. From the available record, it appears that the properties of Fazle Qadir situated in England were allocated to the respondents, whereas the property located in Pakistan was held to be the ownership of the appellant. The matter thus involves complex questions requiring detailed inquiry and evidence, which fall within the exclusive domain of the competent Civil Court. Consequently, the Ombudsperson lacked jurisdiction to adjudicate upon such intricate issues, rendering the impugned order illegal and without lawful authority. Hence, this appeal.

(xlv) **RFA No.03-P/2025 ( Nisar Ullah and others vs. Mst. Razia Begum and others.**

The order of the learned Ombudsperson regarding the appointment of a receiver has been challenged. The said order was passed during the pendency of the complaint filed by respondents No.1 to 5, who were seeking recovery of possession of their respective shares devolved upon them from their predecessor-in-interest, Yaqoob Khan. It is evident from the record that a civil suit titled “*Nawabzada Muhammad Karim Khan vs. Ihsanullah and others*” remained pending adjudication, and presently Civil Revision No.236-M/2021 is sub judice before this Court at Darul Qaza. It was contended

that the subject matter of the complaint originally pertained to the ownership of the Nawab of Dir, from whom the predecessor-in-interest of the parties admittedly purchased the property. The ongoing civil litigation has been initiated on behalf of the Nawab of Dir, seeking a declaration against both parties. The impugned order of the Ombudsperson has been assailed on the ground that, until the determination of proprietorship by the civil court, the Ombudsperson lacked jurisdiction to pass such an order. Hence, this appeal.

(xlvi) **RFA No.449-P/2024 ( Aftab Ahmad and others vs. Nosheen Tabassum and others.**

The present dispute concerns the legacy of Abdul Hanan among his brothers and sisters. The property at Serial No.1 originally belonged to Abdul Hanan, and the appellants contended that litigation regarding the said property is pending adjudication before a court of competent jurisdiction. It was further brought on record that five civil suits between the parties are still pending before the Civil Court. The matter had previously been placed before this Court, which directed that it be decided within one month. A report was submitted by the Local Commission in compliance with the direction of the Ombudsperson; however, the appellants objected to the report, alleging that neither the statement of the Local Commission was recorded nor their objections were decided in any manner. It was also alleged that the complainant, Mst. Nausheen Tabassum, had alienated property beyond her due share. The complainant/respondent, on the other hand, asserted that the properties at Serial Nos. A, E, F, G, H, and I were ordered either to be partitioned or sold, with the sale proceeds distributed among the co-owners, whereas the properties at Serial Nos. B and C were sub judice before the Civil Court, and she was directed to seek resolution of those disputes through the said forum. The core question that arises for determination is whether, in light of the inter se dispute

between the parties regarding ownership and title, the learned Ombudsperson was competent to adjudicate upon the matter. Hence, this appeal.

6. Brief facts of the appeals falling under Category “D”, wherein the entries of the revenue papers have been questioned, are as follows:-

(i) RFA No.189-P/2023 ( Ghafoor Shah and others vs Mst. Badri Jamala.

Mst. Badri Jamala, the complainant, alleged that a property measuring 04 kanals devolved upon her but was recorded in the revenue papers in the names of her cousins—the appellants, who subsequently transferred it to Ghuncha Gul and Taza Gul, while 02 kanals and 2½ marlas were entered in the name of Ghafoor. The appellants resisted the complaint, contending that they are the complainant's first cousins and that her brother is alive; therefore, any claim she may have lies against her brothers. It was further asserted that the father of the complainant and the predecessor-in-interest of the appellants had privately partitioned the properties, and each was in separate possession of his respective share. The learned Ombudsperson, after considering the parties' respective contentions, allowed the complaint. The appellants have assailed the said order through the present appeal on the grounds that no direction could have been issued against them, nor could their property be declared as ownership of the complainant's predecessor-in-interest. They contend that the order of the Ombudsperson is contrary to law and facts. Hence, this appeal.

(ii) RFA No.211-P/2025( Alamgir Khan vs. Mst. Iffat Naeem)

Respondent No.1, the complainant, in her complaint contended that her *nikah* was solemnized with Muhammad Naeem in 1995, which was subsequently registered on 05.11.2014. She asserted that 05 kanals of land comprising

Khasra Nos. 209, 1488, and 1042 was gifted to her by her husband, Muhammad Naeem, and possession thereof was handed over to her after marriage. She further alleged that in 2019, the appellants unlawfully dispossessed her from the said property. The complainant maintained that her husband Muhammad Naeem and his brothers were joint owners of the property through registered deed No.1628 dated 16.09.1952, and with their consent, her husband had transferred possession of the land to her. She also disclosed that she had instituted a complaint under Sections 3 and 4 of the Illegal Dispossession Act, which remained pending adjudication. The complaint was resisted by the appellants, who contended that the property mentioned in the *nikah nama* was a joint holding of Muhammad Naeem and the appellants, and the complainant had no independent right or connection with it. The authenticity of the *nikah nama* was categorically denied. The appellants alleged that the complainant and her husband, in collusion, fabricated a false narrative contrary to the record and factual position. It was further submitted that Muhammad Naeem has since passed away, and that the complaint filed by Muhammad Naeem and Muhammad Saleem under Sections 3 and 4 of the Illegal Dispossession Act against the present appellants was dismissed by the learned Additional Sessions Judge, Peshawar, on 20.02.2025. The appellants also argued that correction of revenue entries does not fall within the jurisdiction of the Ombudsperson, as such matters lie exclusively within the domain of the civil court. Accordingly, the impugned order dated 10.02.2025 passed by the learned Ombudsperson is illegal, unjustified, and without lawful authority. Hence, this appeal.

(iii) **FAO No.205-P/2023 (Raza Khan qand others vs Mst. Naseem Akhtar)**

The appellants have assailed the order of the learned Ombudsperson dated 25.09.2023, whereby the complaint of

Mst. Naseem Akhtar was allowed. Through the said complaint, the complainant had sought incorporation of her name in the revenue record, recovery of possession, grant of perpetual injunction, and restraint against the appellants from alienating the property to any third party. The complainant alleged that at the time of her *nikah*, her mother-in-law had gifted her 10 marlas of property through a deed executed on stamp paper. After the demise of her mother-in-law, the said property devolved upon her husband. She further contended that she had also purchased 5 marlas of property from her sister-in-law, Mst. Shireen Taj, which had been duly mutated in her name; however, possession thereof remains with the appellants. The appellants contested the complaint, asserting that the complainant's husband had already sold the 10 marlas property through mutation No. 3566 dated 19.12.2015, and that they are in lawful possession of their own property, to which the complainant has no claim or concern. They have further challenged the impugned order on the ground that the learned Ombudsperson exceeded their jurisdiction by delving into disputed questions of fact and matters relating to correction of the revenue record. Hence, the present appeal.

(iv) **RFA No.158-P/2025 (Arbab Muhammad Usman Khan and others vs. Mst. Maimona Haroon and others.**

The appellants have assailed the order of the learned Ombudsperson dated 14.03.2025, whereby the complaint of respondent No.1 was allowed. In her complaint, the respondent alleged that Arbab Atta Muhammad was the owner of the property described in mutation No.739 of the Revenue Estate of Kandi Hayat, Peshawar. She stated that her marriage was solemnized with the said Atta Muhammad, who had promised to transfer the properties, including those mentioned in mutation No.739, in her name. The possession of the property was also handed over to her. However, the appellants allegedly started raising construction over the said property,

although their ownership extended only to 16 marlas, whereas she claimed ownership over 6 marlas. The appellants contested the complaint, asserting that any dispute between the complainant and her husband regarding her dower had no relevance to them. They further contended that an earlier complaint No.6-1651/2024, based on mutations No.1355 and 2332, had already been decided vide order dated 09.07.2024, against which RFA No.274-P/2024 is pending before this Court. According to the appellants, as per the *nikah nama*, the dower was *moajjal* (prompt) and had already been paid and delivered. They alleged that the present complaint was a concealment of facts and a result of connivance between the complainant and her husband (respondent No.5). The appellants also reiterated that their mother was the original owner of the property, and upon her death, inheritance mutation No.774 was duly attested in favour of all legal heirs. The complainant's husband had subsequently submitted *cognovits* in her favour, leading the learned Ombudsperson to allow the complaint. The appellants contend that the matter involves intricate questions of law and fact, which could not have been adjudicated by the Ombudsperson without recording evidence from both sides. Therefore, the impugned order is contrary to law, giving rise to the present appeal.

(v) **RFA No.274-P/2024 (Arbab Muhammad Usman Khan and others vs. Mst. Maimoona Haroon etc.**

The present appeal has been filed against the order dated 09.07.2024 passed by the learned Ombudsperson, whereby the complaint of respondent No.1 was allowed with directions to the Deputy Commissioner to initiate proceedings in accordance with law, demarcate the property, and separate the complainant's share. The said order has also been challenged through RFA No.158-P/2025. The appellants contend that the impugned order was passed in haste, without affording them an

opportunity of being heard, and is repugnant to the law and the Constitution, being unjust and illegal. Hence, this appeal.

(vi) **FAO No.105-P/2025 ( Saif Ullah Muhib vs. Ombudsperson.**

The appellant has assailed the order of the learned Ombudsperson dated 05.03.2025, whereby his plea regarding the maintainability of the complaint was rejected, and the complaint was allowed to the extent of directing him to pay the dower to the complainant, consisting of 6½ tolas of gold and a 5-marla plot at Peshawar Valley. The complainant, Mst. Maryam Qasim, had filed a complaint seeking recovery of 25 tolas of gold and a 5-marla plot or its market value, asserting that her *nikah* was solemnized with the appellant on 24.06.2022, in lieu of the said dower amount, which remained unpaid. She further alleged that she was subjected to cruel treatment by the appellant, which led to the dissolution of marriage through divorce dated 28.08.2023, and hence sought redressal of her grievance before the Ombudsperson. The appellant resisted the complaint contending that 46.1 tolas of gold had already been handed over to respondent No.1, which exceeded the stipulated 25 tolas, and therefore no amount remained outstanding. He also denied the remaining allegations contained in the complaint and primarily challenged the proceedings on the ground of lack of jurisdiction. Through the instant appeal, the appellant has questioned the impugned order of the learned Ombudsperson mainly on the ground that it was passed without lawful authority and in contravention of Section 5 of the Family Courts Act, read with Sections 5 and 7 of the Women's Property Rights Act, 2019. Hence, this appeal.

(vii) **RFA No.390-P/2024 (Siraj Mahmood and another vs. Mst. Wahida Begum.**

The appellants have assailed the order of the learned Ombudsperson dated 22.10.2024, whereby the complaint of

the respondent was allowed. As per the record, the complainant sought recovery of possession of a constructed house situated at Kandi Bala, Achini Payan, Peshawar, alleging that around 15 to 16 years ago a private partition took place between her husband and his brothers. Pursuant to that partition, possession of the subject property was handed over to her husband, who subsequently transferred it to her as part of her prompt dower (comprising 05 tola gold and the said property), for which a deed was duly executed. It was further alleged that she and her husband had been in possession of the property based on the said private partition, and the house was rented out with her consent, authorizing her husband to manage related matters. However, the appellants allegedly dispossessed the tenant and unlawfully occupied the property, with an intention to alienate it to third parties. The appellants contested the complaint on the ground that the complainant and her husband had fraudulently prepared a deed dated 11.03.2016, purporting it to be a *Nikahnama*, whereas their marriage had been solemnized in 1984 when no dower was fixed. They asserted that Kausar Mehmood was in possession of a 60-marla constructed house including a *hujra* and another portion housing the New Iqra Children Academy. It was also contended that any claim of the complainant lies against her husband rather than the appellants. Furthermore, it was pleaded that the husband of the complainant had already sold his share through mutation No.5035 dated 06.12.2014, mutation No.5641 dated 21.06.2017, and mutation No.5643 dated 29.06.2017, while Kausar Mehmood had sold 19 marlas to one Zahibullah through a registered sale deed. In these circumstances, where serious disputed questions of fact were involved requiring recording of evidence, the acceptance of the complaint by directing the Deputy Commissioner, Peshawar, to recover possession and hand it over to the complainant was

without lawful authority and amounts to a nullity in the eye of law. Hence, this appeal.

(viii) **FAO No.193-P/2024 ( Sameed Gul vs. Mst. Shafqat Saeed.**

The present appeal is directed against the order dated 22.07.2024 passed by the learned Ombudsperson, whereby the complaint of the respondent was allowed. The respondent/complainant alleged that her marriage was solemnized in the year 2002 and her husband passed away in 2004. It was further alleged that her deceased husband was the owner of property measuring approximately 04 kanals and 05 marlas, situated opposite Government Girls Model School, Sardar Killi Ghundai, out of which she remained in possession of 10 marlas. After the demise of her husband, the appellant allegedly deprived her of the possession and use of the said property. The complaint was contested by the appellant, who moved an application for summary rejection, which was dismissed. Against the said dismissal, Writ Petition No.951-P/2024 was filed, wherein directions were issued to the learned Ombudsperson to decide the pending application of the appellant. Subsequently, another FAO No.95-P/2024 was filed, in which similar directions were issued to decide the objections raised by the appellant after affording an opportunity of hearing. The record further reveals that the appellant repeatedly sought adjournments on various pretexts, which ultimately led to the passing of the impugned order. Along with the civil miscellaneous application, a copy of Civil Suit No.51/1 of 2023 was produced, showing that the appellant, Sameed Gul, had instituted a suit seeking declaration that he is the owner in possession of the ancestral property described in Head Note-A of the complaint and had challenged the order of the Deputy Commissioner, Khyber, regarding demolition of the said property. The complainant of the present appeal, Mst. Shafqat Saeed, was arrayed as defendant No.1 in that suit,

wherein an application under Order VII Rule 11, CPC, was filed on the ground that the matter was already sub judice before the Ombudsperson. The suit was rejected under Order VII Rule 11 CPC vide order dated 10.07.2024, which was upheld by dismissal of Civil Appeal No.38/13 of 2025 on 09.01.2025. Through the instant appeal, the appellant has questioned the legality, validity, and propriety of the order passed by the learned Ombudsperson, contending that the same was passed without lawful authority, in violation of the principles of natural justice, and without affording him a fair opportunity of being heard. Hence, this appeal. During pendency of the appeal, **CM No.350-P/2025**, was filed by the applicant/respondent for placing on record the following documents: application for certified copy by Sameed Gul dated 23.07.2024, copy of Writ Petition No.951-P/2024, copy of Civil Appeal No.38/13 Neem of 2024, copy of judgment dated 03.02.2025, copy of Civil Suit No.51/1 of 2023, copy of judgment dated 11.07.2024, and Wakalatnama. Keeping in view the nature of the documents annexed with the application, the contents thereof, and the supporting affidavit, the application is allowed. The documents appended therewith are read as part and parcel of the appeal.

(ix) **FAO No.176-P/2024 (Atif Hussain vs. Mazhar Hussain)**

The appellant has assailed the order of the learned Ombudsperson dated 11.07.2024, whereby the complaint of Mst. Noshaba (respondent No.1) was allowed. Mst. Noshaba, through her complaint filed under Section 4 of the Act of 2019, alleged that her *nikah* was solemnized with Muhammad Hussain on 28.04.1982, with *dower* fixed as  $\frac{1}{4}$  share in a house measuring  $2\frac{1}{2}$  marlas, situated at Mohallah Mukarrab Khan, House No.1549, Yakatoot, Peshawar. She asserted that the said house was originally owned by her father-in-law, Ashiq Hussain, and upon his death, it devolved upon all his legal heirs. It was further averred that out of the total  $2\frac{1}{2}$  marlas,  $1\frac{1}{2}$

marlas were purchased by her brother-in-law, Iltaf Hussain, while the remaining 1½ marlas were mutated in the names of the legal heirs of Ashiq Hussain. Accordingly, each legal heir became entitled to a ¼ share. Since the ¼ share of Muhammad Hussain was fixed as *dower* for the complainant, she claimed entitlement to possession of that portion. However, she alleged that Iltaf Hussain, the adopted son of the appellant, is unlawfully occupying the said property. She, therefore, sought delivery of possession of her rightful share. The complaint was filed in the year 2023. Meanwhile, a civil suit titled "*Atif Hussain vs. Mst. Noshaba*" (Suit No.632/1) for declaration was also instituted. The learned Ombudsperson, however, allowed the complaint on the ground that the suit had been filed subsequently on 23.11.2023, whereas the complaint had been instituted earlier on 06.03.2023. Consequently, the Ombudsperson directed the Deputy Commissioner, Peshawar, to visit the spot for partition of the property, or if found indivisible, to offer the appellant the option to purchase the complainant's share. The appellant has challenged the said order as being illegal, unjust, and without lawful authority. Hence, this appeal.

(x) **FAO No.243-P/2024 ( Asima vs Mst. Ulfat and others.**

Respondent No.1, Mst. Ulfat Bibi, through her complaint sought a direction against the appellant for vacating and handing over peaceful possession of the property, along with mesne profits for the last eight years, in respect of the constructed house situated in the Revenue Estate of Malogo, Tehsil and District Peshawar. The learned Ombudsperson, through the impugned order dated 04.12.2024, allowed the complaint. The appellant, Mst. Asma, along with others, had already instituted a civil suit for declaration before the Civil Court regarding the same property, as described in Head Note "Alif" of the plaint pertaining to the Revenue Estate of Mologo Jhagra, asserting ownership in their favour and contending that

the complainant, Mst. Ulfat Bibi, has no concern whatsoever with the said property. The said civil suit, filed in the year 2024, is still pending adjudication before the Civil Court. It was further alleged by the appellant that all co-owners were not impleaded as parties to the proceedings before the learned Ombudsperson, who also lacked jurisdiction to adjudicate upon intricate questions of law and fact, hence, this appeal.

**7.** Keeping in view the controversies raised in the appeals filed against the orders of the Ombudsperson, and considering the identical issues involved therein, this Court deem it appropriate to frame the following questions for determination and adjudication.

- 1.** Since in the Act Khyber Pakhtunkhwa Enforcement of Women Property Act, 2019, the word "possession" has been used without any reference of symbolic or actual (physical), thus, whether in the cases of joint possession the possession would be simply interpreted as symbolic possession, if so, whether the complainant would be required to seek the possession through partition from the court of competent jurisdiction?
- 2.** Whether physical possession from the joint ownership could be directed/granted without partition?
- 3.** Whether intricate question of law and facts could be determined/decided (adjudicated) by the Ombudsperson while deciding the complaint by the "aggrieved person" as defined under the Act of 2019?
- 4.** Whether without impleading all the co-owners (co-shares) the complainant could request for actual possession of immovable property?
- 5.** Whether the Ombudsperson could exercise the jurisdiction in a matter which has been decided by the civil court or pending before the court, for determination of the plea of complainant as defined under section 2(a) of the Act of 2019?
- 8.** Arguments of the learned counsel for the parties and worthy Advocate General, Additional Advocate General, and Assistant Advocate General heard and record of the cases perused.

**9.** These appeals have been filed under section 8 of the Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019, against the orders of the Ombudsperson rendered in the complaints filed under the Act, 2019. The Act of 2019 is a statute enacted to

safeguard women's rights of ownership and possession of property. The object of the Act is to protect and secure women's rights to ownership and possession of property, and to provide a speedy and effective redressal mechanism for women, who are illegally deprived of such rights through fraud, coercion, or illegal means and to ensure that such rights are not violated through harassment, coercion, force, or fraud, and to provide an effective legal remedy in matters connected or incidental thereto. Its significance is to provide fast, inexpensive, province-wide redress mechanism outside the formal court system, aimed at delivering swift justice for women's property grievances. However, under the Act, the Ombudsperson has limited jurisdiction to handle only summary, uncontested matters, whereas, for all complicated, disputed, or legal ownership questions, a civil court is the proper forum. After promulgation the Act, its vires were challenged before this court through WP No.2169-P/2021 WP No.3042-P/2021, WP No.3125-P/2021, WP No.3228-P/2021, WP No.3402-P/2021, WP No.4127-P/2021 & WP No.4995-P/2021 which were dismissed by this Court on 09.03.3022 through consolidated judgment.

10. The definition of "Ombudsperson" has been provided under section 2 (c) of Act, 2019, which means the Ombudsperson appointed under section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010). The Act, 2019 was promulgated with an object to provide a secure, dignified, and harassment-free working environment. Section 3 of the Act of 2019 delineates the powers of the Ombudsperson which, in addition to the powers, such as, summoning witnesses, compelling evidence, taking affidavits, issuing commissions, inspecting premises, and punishing for contempt, delivery of possession or title of the property to the complainant, if the complainant has been illegally deprived of ownership or possession of her property. The intention of the legislature from the provisions of section 4 of the Act of 2019 is to avoid long, technical, and expensive through summary, flexible and quick mechanism bypassing procedural formalities with time bound

relief with the aim to create a quick, accessible, summary remedy allowing the Ombudsperson to restore women's property rights without requiring formal litigation, ensuring proactive protection, swift inquiries, and effective relief, especially, where no court proceedings exist and the woman's rights have been violated through coercion, fraud, force, or harassment but with two conditions, firstly, if the matter does not require detailed probe and, secondly, if the proceedings are not pending before the court of competent jurisdiction.

**11.** Furthermore, within the scope of Section 4, and in consonance with the provisions of section 5 of the Act, if the Ombudsperson concludes that a woman has been unlawfully deprived of her property, he may direct the restoration of her property rights, both possession and ownership, through the Deputy Commissioner, the police, or any other responsible person, while ensuring prompt compliance within the prescribed timeframe. Section 5 is the operative and enforcement-oriented provision of the Act of 2019. Its legal impact is profound and transformative for women's property rights in Khyber Pakhtunkhwa. Section 6 is triggered when the Ombudsperson finds that the case involves questions that cannot be resolved without detailed judicial inquiry. These include:

(a). An intricate question of law i.e.,

- (i) Determination of competing titles.
- (ii) Interpretation of inheritance or succession law.
- (iii) Questions involving Islamic law, personal law, or customary law.
- (iv) Validity of registered instruments (gift deeds, sales, waqf, settlements).
- (v) Legality of past mutations, declarations, or partition proceedings.
- (vi) Fraud or misrepresentation requiring strict legal scrutiny.
- (vii) Jurisdictional disputes over estate or ownership.

(b). Complicated questions of fact, i.e.,

- (i) Conflicting claims among heirs or co-owners.

- (ii) Disputed factual possession spanning decades.
- (iii) Long-standing illegal occupation involving multiple parties.
- (iv) Disputed revenue record reflecting multiple entries.
- (v) Claims requiring oral testimony, cross-examination, and documentary proof
- (vi) Allegations of coercion, forged signatures, or fraudulent transfers.

(c). when the situation demands full trial. Section 6 applies where the Ombudsperson determines that:

- (i) Summary disposal may prejudice any party.
- (ii) The matter requires recording of evidence.
- (iii) The issue cannot be conclusively decided without a full civil trial.

Thus, the Ombudsperson must refer such matters to the Civil Court, which will then treat the reference as a regular civil suit under the Code of Civil Procedure, 1908. The **Act of 2019** was specifically promulgated to protect the property rights of women. Where a woman's rights are violated through harassment, coercion, or force, the intention of the legislature was to provide a speedy, accessible, and specialized remedy through the forum of the Ombudsperson. The Act ensures that women can access, retain, and enjoy their legally owned property without facing cultural, familial, or systemic barriers, but with limited jurisdiction.

**12** It is significant to dilate upon section 7 of the Act of 2019 which sets out the powers and functions of the Ombudsperson relating to women's immovable property rights. Its structural limits may be summarized as follows:

- Jurisdiction limited to restoration of possession and enjoyment of property, where the Ombudsperson is authorized to:
  - ascertain whether a woman has been illegally deprived of her ownership, possession, or rights in immovable property;

- issue directions for restoration of possession, access, or enjoyment of the property.

However, the Ombudsperson's jurisdiction is not plenary and does not extend to adjudicating complicated civil rights, including: declaration of title, partition of joint property, determination of fractional shares, rectification of revenue entries where title is disputed, adjudication of rival claims between co-sharers.

➤ The Act does not empower the Ombudsperson to partition joint property or deliver exclusive possession out of unpartitioned land nor does it provide any mechanism for partitioning joint property or to:

- conduct demarcation proceedings,
- carve out a specific portion from joint land, or
- deliver exclusive, actual physical possession from joint property without prior lawful partition.

Moreover, the Ombudsperson may issue directions only to the extent of restoring the complainant's lawful co-ownership rights, but cannot dispossess a co-sharer, disturb the joint status of the property, allocate or earmark any specific portion to the complainant based upon the query as to whether a co-sharer can be dispossessed by the order of the Ombudsperson (being a quasi-judicial authority/not a court) without due course of law? The principles governing co-ownership and co-sharing in Pakistan have been reaffirmed in recent jurisprudence. In **FAIZ ULLAH Vs. DILAWAR HUSSAIN** (2022 SCMR 1647), the Hon'ble Supreme Court reiterated that each co-sharer is presumed to be in possession of every part of the joint property unless partition has been effected. This presumption safeguards the rights of all co-sharers. The proper and lawful remedy for resolving disputes among co-owners is **partition**, which results in separation of shares through preparation of TATIMA and delineation of independent holdings. Only after such partition can questions of exclusive possession, excess area, or shortfall be legally determined and possession adjusted accordingly. IN the case of **Syed Shabbier Hussain Shah and others vs. Asghar**

*Hussain Shah and others (2007 SCMR 1884)* it was held by the Hon'ble Supreme Court that:

The evidence showed that there being joint Khata and in absence of any mention of specific Khasra numbers how the physical possession of land in dispute admeasuring 48 Kanal could have been passed to the petitioners/defendants when the property was joint and not partitioned, therefore, the question of delivery of possession as alleged to be in the exclusive possession of the petitioners/defendants cannot be believed, considering that every co-owner/co-sharer would be considered to be in possession of each inch of un-partitioned land according to his share.

In the case of *GHULAM SARWAR (DECEASED) through LRs and others Versus GHULAM SAKINA (2019 SCMR 567)* the apex Court held that every joint owner in the property is deemed to be in possession of property, the operative part of the judgement reads as:

It has also come on the record that Respondent being only female child left the house of her father along with her mother on the demise of her father somewhere in 1954 and shifted to the house of her maternal grandfather who brought her up. The Petitioners being her real uncles also inherited the property of her father (their, real brother). The fact that they being in possession of the land can easily be understood but at the same time Respondent was also a co-sharer with them. So the principle that possession of one co-sharer is considered as possession of all the co-sharers would apply and the law of the land is very much settled that there would be no question of limitation against a co-sharer and every co-sharer is presumed 'to be in possession of every inch of the joint property.

It is an admitted fact that the complainants before the learned Ombudsperson were not in possession of the property despite their joint status and for seeking possession they have filed their respective complainants, however, those against whom the complaints were filed were in possession of the property being joint owners which legal aspect shall be discussed in view of the status of a co-sharer in possession and the remedy for an aggrieved person against him. In the case of *MUHAMMAD SHAMIM through Legal Heirs Versus Mst. NISAR FATIMA through Legal Heirs and others (2010 SCMR 18)* it was enunciated that each co-sharer is deemed to be owner in the joint property and any one of them cannot act in a manner which may constitute an invasion on the rights of the other co-sharers. Reference may also be made to the case of *Ali Gohar Khan v. Sher Ayaz (1989 SCMR 130)*. The

Hon'ble Supreme Court in the case of ZAFAR IQBAL and others Versus MUHAMMAD RAFIQ and others (2024 SCMR 1791) it was held that “According to the settled principles, the vendee of a co-sharer who owns an undivided Khata in common with others, is clothed with the same rights as the vendor has in the property no more and no less. If the vendor was in exclusive possession of a certain portion of the joint land and transfers its possession to his vendee, so long as there is no partition between the co-sharers, the vendee must be regarded as stepping into the shoes of his transferor qua his ownership rights in the joint property, to the extent of the area purchased by him, provided that the area in question does not exceed the share which the transferor owns in the whole property”. Likewise, in the case titled Mst. SANOBAR SULTAN and others Versus OBAIDULLAH KHAN and others (PLD 2009 SC 71), it was ruled that “A co-sharer is entitled to retain the possession of the joint property till partition and cannot be ejected in execution of the ejectment order which cannot be passed by learned Rent Controller under the provisions of Urban Rent Restriction Ordinance”. In case of Muhammad Muzaffar Khan v. Muhammad Yusuf Khan (PLD 1959 SC 9) it has been held as under:

“The vendee of a co-sharer who owns an undivided khata in common with another, is clothed with the same rights as the vendor has in the property no more and no less. If the vendor was in exclusive possession of a certain portion of the joint land and transfers its possession to his vendee, so long as there is no partition between the co-sharers, the vendee must be regarded as stepping into the shoes of his transferor qua his ownership rights in the joint property, to the extent of the area purchased by him, provided that the area in question does not exceed the share which the transferor owns in the whole property. Alienation of specific plots transferred to the vendee would only entitle the latter to retain possession of them till such time as an actual partition by metes and bounds takes place between the co-sharers. It is difficult to see in these circumstances why the vendee of specific plots acquired from a co-owner in an undivided khata, does not become a co-sharer in that khata.”

The grievance of the complainants of the cases before the learned Ombudsman was almost one and the same that they are the owners either through inheritance or transfer from their husband but being the female they have been deprived of from the possession

of their respective shares in the joint property and they opted to file complainant before the Ombudsperson. In the case of *Mst. Resham Bibi and others v. Lal Din and others* (1999 SCMR 2325) Hon'ble Supreme Court has held that if a co-sharer is dispossessed by another co-sharer his remedy is for partition of the joint property or a suit under section 9 of the Specific Relief Act for possession but a regular suit under section 8 is not maintainable. Reference may be made to the cases of *Muhammad Riaz and another Versus Mumtaz Ali through Legal Heirs and others* (2006 YLR 1071), *Muhammad Sareer Khan and 10 others Versus Arbab Sultan Muhammad and 6 others* (2016 CLC 1255), *Asim Aziz and another Versus Rehmat Shah and others* (2016 YLR N 28) *Muhammad Shafi and 2 Others Versus Munshi and 3 Others* (1079 CLC 230), *Fazal Karim and 2 others Versus Mehboob Khan (Deceased) through his Legal Heirs* (2024 CLC 699). In view of the principle laid down in the referred to above cases of the Hon'ble Supreme Court and High Court and that of the first question is answered that a co-sharer in possession of joint property could not be evicted unless the property is portioned by the competent forum and the directions of the learned Ombudsperson to the respective Deputy Commissioners for initiation of process of partition and to separate the shares from the joint property is without jurisdiction.

**13.** The second question for determination and resolution through these appeals is that whether the Ombudsperson could direct the Deputy Commissioner for partition under the provision of **the Act of 2019**, there are two forums for partition of joint property, for agriculture property, Khyber Pakhtunkhwa Partition Act 1967 with Rules of 1968 and before the civil court for partition of constructed property or other than agriculture property. Law has provided complete mechanism for partition of joint properties amongst the owners which includes, appearance, submission of reply, examination of witnesses and cross examination thereof, evaluation of evidence, determination of objections against the documents before Revenue Officer. Likewise, before the civil court, for the purpose for partition,

complete trial is conducted with the application of procedural law, application of the provisions of Qanoon-e-Shahadat Order 1984, examination of witnesses and cross examination, resolution of objections during the course of evidence and evaluation of evidence of the parties and thereafter the decision thereof through speaking orders. The aforesaid procedural requirements and the application of substantive law could not be observed by the Ombudsperson. In most of the cases the legal question regarding status of party, authenticity of the documents, pleas raised by the parties involves intricate question of law and fact which do require complete trial and decision thereon in accordance with law but the court of competent jurisdiction. Even the Revenue Officers while dealing with the matter of partition under section 135 of Land Revenue Act 1967 cannot entertain the intricate question of law and facts and in such matters, the parties may resort to the civil court. It is indisputable that the proceedings before the Ombudsperson are summary in nature and the courts have always subscribed that through summary nature proceedings the intricate questions of law and facts could not be adjudicated upon. Section 6 of the Act of 2019 envisages that where the determination of a complaint requires an in-depth inquiry into complex or disputed questions of fact, the Ombudsperson shall refer the matter to the civil court. This statutory scheme reflects the limited jurisdiction conferred upon the Ombudsperson, who is empowered to provide *expeditious relief* in cases where the complainant has been illegally deprived of possession or enjoyment of her property or share therein. However, the Ombudsperson is not authorized to adjudicate upon intricate factual controversies that traditionally fall within the domain of civil courts. It is settled judicial principle that the special tribunals or statutory forums can only exercise the jurisdiction expressly conferred on them by statute. They have no inherent jurisdiction to resolve disputed title, complex property rights, or issues requiring detailed evidence such as examination of witnesses, demarcation, partition, or verification of competing claims. Where such contested matters arise, the competent forum is the civil court under Sections 9 and 42 of the Code of Civil

Procedure. Consistent with this framework, Section 6 of the Act of 2019 serves as a jurisdictional safeguard: once the Ombudsperson concludes that the matter involves factual controversies requiring a full-fledged trial, such as determination of title, co-sharer rights, boundaries, or validity of mutations, the Ombudsperson must refrain from adjudicating and instead refer the parties to the civil court, where proper evidence can be recorded and the issues conclusively determined. This approach not only aligns with the statutory limits of the Ombudsperson's authority but also upholds the principle that no statutory forum may decide complex, intricate and complicated question of facts and law which can only be decided by recording evidence and holding an elaborate inquiry which can more appropriately be done in regular proceedings before the Civil Court which is a Court of plenary jurisdiction. This view may be fortified from the cases of Ayub Khan and others vs. Mst. Imrania and others (2025 CLC 691), Syed Sardar Shah v. Qazi Masood Alam (2003 CLC 857), Mst. Gul Pari alias Gubaro v. Zarin Khan (PLD 1994 Peshawar 249) and Jan Muhammad through Mubarik Ali and others v. Nazir Ahmad and others (2004 SCMR 612), Moula Bakhsh and others Versus Government of Sindh through Secretary Revenue Department and 4 others (2016 CLC N 5), Shamim Akhtar Khan Versus Muhammad Yaqoob Zafar and 8 others (1999 YLR 224), Muhammad Abdullah and 5 others Versus Shehzad Hussain and 8 others (2002 YLE 2294).

**14.** Another legal flaw in the proceedings conducted before the Ombudsperson through complaints that in most of the cases all the co-sharers were not impleaded in the complaint. During arguments learned counsel while defending and supporting the impugned orders contended that since the directions were issued to the deputy commissioners for conducting proceedings and he (the DC) could exercise the power under the Land Revenue Act 1967 by summoning the owners for the purpose of partition, however, these submissions are misconceived and against the norms of justice. If this concept is accepted, then even in partition proceedings initiated under the Land

Revenue Act, the scheme of the Act of 1967 would become redundant, particularly with respect to the issuance of summons, filing of written replies, recording of parties' statements, and the determination of disputes through an order of partition. Impleading all the owners in the partition application is essential without which the not only the principle of natural justice was defeated but the concept of necessary/property has also been vanished. This court in the case of *Mst. Kausar Bibi versus Muhammad Mushtaq and 6 others* (1990 CLC 1205) where it was observed that "It is now a settled law that any person claiming a share in a suit for partition of immovable property based on the claim of co-sharership is entitled to be joined as necessary party". *Barkat Ali and another v. Sultan Mehmood and 18 others* (2009 CLC 899), *Mohammad Bashir Khan and another Versus Mohammad Azam Khan and 21 others* (PLD 2022 AJK 72) and *Khalique Ahmed Versus Abdul Grant and another* (PLD 1973 SC 214) wherein it was observed that "A suit for possession can be brought by all the co-owners jointly. It is open, however, to one of them also to sue for possession, but he must join the other co-owners as defendants and the decree will be for joint possession and not in favour of the plaintiff only."

**15.** In addition, the Ombudsperson's functions are supplementary and remedial, not a substitute for civil courts. Where rights require adjudication through partition of property, title suits, declaratory or possessory claims, wherein Ombudsperson cannot assume jurisdiction. The analysis of section 7, its structural boundaries, reflects that it must be read harmoniously with the Act as a whole. The Ombudsperson may refer the complainant to civil court in the following situations i.e., the complainant's title, validity of mutation and nature of inheritance or gift, the Ombudsperson cannot conduct a trial on title. The complainant must seek a declaration and confirmation of title from a civil court.

➤ Where the property is joint and un-partitioned.

If the complainant seeks actual physical possession of a specific portion of joint property, the Ombudsperson cannot partition of joint

property, direct to conduct the partition of property and determine entitlement to exclusive possession. In such cases, the proper remedy is a suit for partition before a civil court or revenue court, as the case may be.

➤ **Where survey, demarcation, or measurement is required.**

If determining the complainant's entitlement requires; (i) demarcation by revenue authorities and (ii) assessment of encroachment, the matter must be taken to a forum competent to undertake these inquiries.

➤ **Where multiple competing claims exist.**

If more than one person claims ownership or co-ownership and the matter requires adjudication of: (a) wills (b) oral gifts (*hiba*) and (iii) the inheritance shares, the Ombudsperson must refrain and direct the parties to civil court. And,

➤ **Lastly, where the complaint requires coercive relief not provided by the Act,**

The cancellation of mutation, correction of revenue record, declaration that a transfer is void, setting aside a sale deed. These remedies fall exclusively within civil jurisdiction. Where Section 7 reaches its structural limits, the Ombudsperson is expected to: record findings on whether *prima facie* illegal deprivation is made out; restore the complainant's right of access or share as co-owner, if possible within joint ownership status; where actual exclusive possession or title adjudication is sought, refer the complainant to the competent civil court, with an observation that she may pursue appropriate remedies under the law. The impugned orders reflect that upon receipt of complaints, respondents were generally issued notices, who filed replies raising various legal and factual objections, including intricate questions of fact and law, nonetheless, the Ombudsperson often decided the matters by directing Deputy Commissioners to initiate proceedings, separate the complainants' shares, and transfer the property to them, which directions may be made but in limited circumstances falling within its jurisdiction. **The impugned orders reflect that upon receipt of complaints, respondents**

were generally issued notices and filed replies raising various legal and factual objections, including intricate questions of fact and law. Nonetheless, the Ombudsperson often decided the matters by directing Deputy Commissioners to initiate proceedings, separate the complainants' shares, and transfer the property to them.

**16.** Since there are several judgements of this Court rendered in appeals filed under section 8 of Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019, and in the case of Mst. Falak Shehnaz and another vs. Mst. Farah Deeba and others (PLJ 2023 Peshawar 94) this court while dilating upon the facts and circumstances of the cases in Para No. 39 of the judgement observed that:

“38. Before parting with this judgment we hold that it is the high time that the issue where a woman is deprived of her property more particularly in inheritance, the Provincial Government should pass an appropriate legislation to safe guard the women rights but within the sphere of the Constitution. This Court is conscious of conscious of the fact that in the present legal dispensation and in absence of appropriate legislation, the women are normally deprived of their Shari share in their Inherited property and this fact has been noticed by the Apes Court in the case of "Ghulam Qasim vs. Mst. Razia Begum and others" (PLD 2021 SC 812).”

This court has also issued notice to the worthy Advocate General, who, at the very outset, assisted the Court and candidly acknowledged that certain anomalies exist in the Act, particularly, the absence of any prescribed mechanism for the delivery of actual possession of joint property among co-sharers without prior partition, even where the Ombudsperson concludes that the complainant has been unlawfully deprived of her property or share therein. This Court appreciates the fair and forthright assistance rendered by the learned Advocate General. However, as the power to amend, repeal, or enact legislation lies exclusively within the domain of the legislature, these appeals shall be decided strictly within the parameters of the Act and the prevailing law. For clarity, the appeals have been categorized as follows:

**Category “A”** are the cases falling within this category involve complaints filed against persons who possess no valid title or interest in the property, and where no determination regarding ownership has been made or is pending before a civil court. In such matters, respondents typically contend that they have instituted a civil suit after the filing of the complaint or assert ownership on the basis of an unregistered deed. However, where no title is reflected in the revenue record or supported by a registered instrument, the respondent is legally obliged to surrender possession pursuant to the Ombudsperson’s summary determination and may thereafter approach the competent civil court for adjudication of any asserted ownership claim.

Any claim based on an unregistered deed or verbal sale transaction must also be adjudicated by the civil court. Until such determination is made, the possession of the respondent cannot be legally justified. Given the protracted nature of civil litigation, the Ombudsperson’s orders in Category “A” cases are in consonance with the preamble, object, and intent of the legislature, and must be executed promptly and effectively by the executing court.

**17.** Category “B” cases pertain to complaints in which civil or family court proceedings are either pending or have already been decided. Section 4 of the Act 2019 clearly provides that the Ombudsperson may exercise jurisdiction only if no proceedings are pending in respect of the property in question. Where no lis is pending, the Ombudsperson may conduct a preliminary assessment and, if necessary, direct the Deputy Commissioner to hold a summary inquiry. If no detailed probe or recording of evidence is required, the Ombudsperson may pass an appropriate order. However, where the matter involves complicated questions of fact or law, the Ombudsperson’s jurisdiction stands barred. Delivery of possession or transfer of ownership to a woman is a secondary aspect; the primary function of the Ombudsperson is to assess whether the matter can be resolved summarily. Section 6 of the Act further limits the Ombudsperson’s jurisdiction: if the matter

requires in-depth investigation, detailed evidence, or intricate adjudication, the Ombudsperson must refer the matter to the civil court along with all relevant material. Section 7 of the Act underscores the legislative intent: where civil or family court proceedings are already pending regarding ownership or possession of the property, the Ombudsperson may only conduct a summary inquiry. Subsection (2) of section 7 authorizes the Ombudsperson to refer the matter to the Deputy Commissioner for inquiry, which is restricted to simple and uncontested matters. Subsection (5) further provides that where the dispute involves complex legal or factual questions, such as, proving documents under the Qanun-e-Shahadat Order, 1984, the civil court assumes jurisdiction, and the Ombudsperson's role ends. Accordingly, in all matters where a suit is pending or decided by a competent court, the Ombudsperson cannot exercise jurisdiction beyond preliminary steps. Such cases must be concluded through the execution of decrees before the relevant court. In some instances, complainants approached the Ombudsperson despite already having decrees in their favour, merely to expedite execution due to delays in civil court proceedings. However, such recourse does not extend the Ombudsperson's jurisdiction beyond the statutory limits prescribed by the Act of 2019.

**18.** It is significant to mention that the complaints were filed against co-sharers, where both the complainants and the co-sharers had become owners upon devolution of the property. The complainants alleged that their rights had been infringed owing to the possession of the respondents, asserting that such possession was inconsistent with their lawful entitlement. In most of these cases, the complainants and the respondents were not the sole owners of the property; nonetheless, complaints were instituted only against some co-sharers to whom the inheritance had devolved.

**19** Learned counsel for the appellants contended that in most of the cases without impleadment of all co-owners, neither could the proceedings be validly conducted nor did the Ombudsperson

possess the authority to direct partition of the property. Conversely, learned counsel for the complainants/respondents argued that once the Ombudsperson issued a direction to the Deputy Commissioner to separate the shares, the Deputy Commissioner, being the competent authority, could proceed with the partition and separate the respective shares. Section 135 of the Land Revenue Act, 1967 provides a comprehensive mechanism for the separation of property among joint owners. Any co-owner may submit an application to the Revenue Officer for separation of his share; however, all interested parties must be arrayed in the proceedings. In accordance with law, and after affording all parties an opportunity of hearing, partition proceedings are conducted, and properties are divided accordingly. Even if any party fails to appear, the proceedings may continue *ex parte*. Upon acceptance of the application for partition, the Revenue Officer proceeds to the site to carve out *tatinmas*, marking the logical culmination of the partition process and the creation of new holdings.

**20.** The principle of carving out *tatinmas* may be exercised under the direction of the Revenue Officer or with the consent of all owners. However, without the participation or impleadment of a co-sharer, neither partition proceedings can be validly carried out nor *tatinmas* legally prepared. The Ombudsperson, though empowered to direct the Deputy Commissioner to execute orders regarding recovery of possession of immovable or movable property and to hand over such possession to the lawful owner (i.e. the complainant), has no jurisdiction to direct the Deputy Commissioner to conduct partition proceedings. The Deputy Commissioner, on such direction, also lacks authority to proceed without maintaining the requisite record or determining the respective stances of the parties. Even the Revenue Officer, when conducting partition proceedings, must provide both parties the right of hearing, particularly when questions of private partition, improvements, title, or other intricate factual and legal issues are raised. Such proceedings, initiated under Section 135 of the Land

Revenue Act, 1967, are judicial in nature and conducted in the presence of parties, either personally or through counsel. Conversely, on the direction of the Ombudsperson, when the Deputy Commissioner instructs the *Patwari* and *Girdawar* to separate shares at the spot, such action is not permissible under the law. Without hearing the parties, recording their stances, and obtaining their consent, *tatimmas* cannot be lawfully carved out. The Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019, nowhere authorizes the Ombudsperson to direct partition of property. The procedure adopted and directions issued in these cases are inconsistent with the provisions of the Land Revenue Act, 1967.

**21.** It has also been observed that in several cases involving agricultural and constructed properties, such as houses or shops, the Ombudsperson directed the Deputy Commissioner to initiate proceedings for separation of shares, assessment of market value, and even to compel one party to purchase the share of another, failing which the property was to be auctioned. The Deputy Commissioner, however, possesses no administrative or judicial power to evaluate the respective stances of parties, determine whether a property is partitionable, or assess market value. Such powers can only be exercised under the direction of a civil court, wherein the Deputy Commissioner or other competent authority acts under judicial supervision and control. Although the Act of 2019 has an overriding effect, the Ombudsperson does not function as a court. Matters involving partition, evaluation of title, and assessment of evidence are governed by the Partition Act, 1893, the Qanun-e-Shahadat Order, and the procedural as well as substantive laws of Pakistan. Hence, by issuing sweeping directions to Deputy Commissioners without considering the legal intricacies, sensitivity of the issues, or contentions of the parties, the Ombudsperson acted in derogation of law and procedure. All proceedings conducted pursuant to such directions are therefore inconsistent with the governing legal framework. The learned Advocate General, upon

Court's direction, appeared and submitted that certain provisions of the Act of 2019 suffer from deficiencies and require legislative amendment. He also referred to this Court's earlier judgment in FAO No.144-P/2021 dated 09.12.2022, which had already been transmitted to the Law and Justice Department of Khyber Pakhtunkhwa for consideration, though no amendment has yet been introduced. He further submitted that the Ombudsperson lacks jurisdiction to direct the Deputy Commissioner to partition property or determine proportionate compensation between co-owners. According to the learned Advocate General, unless all co-sharers are impleaded, no proceedings can be validly undertaken, as this would offend the centuries-old principle of natural justice, *audi alteram partem*, no one should be condemned unheard. When questioned about the separation through *tatimma* and the creation of separate holdings, he referred to the Land Record Manual, Douse Settlement, Land Revenue Rules, and Land Revenue Act, reiterating that separation of landed property lies exclusively within the jurisdiction of the Revenue Officer, and that of constructed property rests with the Civil Court. The learned Advocate General concluded that intricate and complex factual or legal issues can only be adjudicated by a civil court, the court of ultimate jurisdiction. The Ombudsperson's jurisdiction is summary and limited. Complicated and disputed questions of ownership fall within the exclusive jurisdiction of the civil courts. It is observed that since the promulgation of the Act, women having interests in property, whether through inheritance, based on their Nikah Nama, transfer deeds, or otherwise have approached the Ombudsperson seeking redress against alleged dispossession.

**22.** Moreover, if at all the proceedings before the ombudsperson conducted upon the complaints by the co-sharer/co-owner against the co-sharers seeking possession on her conception of deprivation being out of possession of the property the provision of Order XXI rule 35 which deals with Order XXI Rule 35 of the Code of Civil

Procedure, 1908, deals with execution of a decree for delivery of immovable property. It empowers the executing court to:

1. Deliver actual physical possession to the decree-holder, by removing any person bound by the decree from the property (Rule 35(1));
2. Where possession cannot be delivered except by removing a person, the court may do so by using force, if necessary (Rule 35(3));
3. Deliver symbolic possession where only joint possession or share is decreed (Rule 35(2)).

In joint property, every co-sharer is deemed to be in possession of every inch of the land. Thus:

- Actual exclusive possession cannot be delivered to one co-sharer unless partition has taken place.
- The executing court can deliver only symbolic possession of the share, not actual exclusive possession. Courts repeatedly hold that actual possession under Rule 35(1) is not possible in joint property unless partition occurs. When Actual possession can be delivered. Actual possession may be delivered in joint property only if:
  - (a) The decree specifically grants separate possession of a demarcated share, or
  - (b) A prior partition (through court or revenue authority) already exists establishing exclusive shares. Otherwise, the court is bound to apply Rule 35(2) and give symbolic delivery.

Therefore, in view of the foregoing discussion, no order for delivery of actual possession could either be passed or executed against co-sharers until the property is lawfully partitioned among all co-sharers in accordance with law. Any direction issued by the Ombudsperson for delivery of possession among co-owners is perverse, illegal, and contrary to the settled principles of law and norms of justice. Likewise, in cases where civil or family litigation is pending or has been decided by a competent court, the matter must

be taken to its logical conclusion before such forums. The learned Ombudsperson, not being a court of competent jurisdiction, could neither stay proceedings of a suit pending before the competent civil court nor adjudicate upon questions of title.

23. Hence, for the reasons discussed above, the appeals (RFAs/FAOs) falling in category (A) are dismissed and the orders of the learned Ombudsperson are maintained. The remaining appeals categorized as (B), (C), and (D) are allowed, accordingly, the impugned orders are set aside. The parties, whose matters were already pending before the civil/family courts or in execution before the Revenue Officers (AACs), shall pursue their cases or execution petitions upon presentation of a certified copy of this judgment. The concerned civil, family, or revenue courts shall expedite the proceedings and decide them on their merits. In cases where the courts have already passed judgments but the complainants, subsequently, filed complaints before the Ombudsperson, resulting in the stay of execution proceedings, or where execution petitions were not filed, the parties may revive their earlier execution petitions or file fresh ones. Such execution petitions shall be processed by the respective courts strictly in accordance with law. So far as Cross Objection No. 04/2025 in RFA No. 49/2024 and COC No. 410/2024 in RFA No. 47/2024 are concerned, since the impugned findings have already been set aside, both the cross objection and the contempt petition have become infructuous and are hereby dismissed. The requisitioned record shall be returned to the concerned quarters forthwith. There shall be no order as to costs. The schedule containing particulars of appeals along with their respective categories is appended at the end of this judgment.

**Date of announcement: 31.10.2025**

**Date of release: 02.12.2025.**

*Asif Jan Sr. S. S*

**JUDGE**

**Schedule of appeals with category.**

“(A)”

| S. No. | Case No.            | Title   |
|--------|---------------------|---|
| 1      | RFA No.327/2024     | Ali Asghar Vs. Mst. Farkhanda Rani etc.             |
| 2      | FAO No. 143-P/ 2022 | Haji Parvez Khan Vs. Mst. Najma Parveen and others. |
| 3      | RFA No.366 P/2022   | Aminullah Vs. Mst. Najma Parveen etc.               |
| 4      | FAO No.93-P/2025    | Kamran Khan etc. vs. Mehnaz Gul etc.                |
| 5      | FAO No.73-P/2025    | Muhammad Zaka Al Wahid Vs. Mst. Waheeda Kousar.     |

“(B)”

|    |  |   |
|----|--|---|
| 1  | RFA No. 212/2024                           | Muhammad Ishraq vs. Mst. Qazaben & others             |
| 2  | FAO No.20-/2025                            | Shabbir Khan vs. The Government                       |
| 3  | RFA No.123-P/ 2025                         | Mst. Aneela Begum vs Mst Inayat Begum etc.            |
| 4  | FAO No.66-P/2025                           | Syed Sajad Ali Shah vs. Mst Rabia Bibi                |
| 5  | FAO No.74-P/2025                           | Arshad Nazeer Chishti etc vs. Mst. Sadaf Shaheen etc. |
| 6  | RFA No. 204-P/2025                         | Wilayat Hussain etc vs. Nadia Naz etc.                |
| 7  | RFA No. 216-P/2025                         | Khalid Ali and others vs Mst. Nadia Naz and others.   |
| 8  | FAO No.228-P/2022                          | Badshah Hussain vs. Mst. Parveen.                     |
| 9  | FAO No.177-P/2020.                         | Mst. Saeeda Begum vs. Government.                     |
| 10 | FAO No.125-P/2020                          | Saeeda Begum vs. Government.                          |
| 11 | FAO No.107-P/2024                          | Mst. Fozia Khanam etc vs. Ghulam Rasool etc.          |
| 12 | FAO No.90-P/2024                           | Mst. Gul Pari etc vs. Mst. Musarat etc.               |
| 13 | RFA No.47-P/2024                           | Asma Hamayun vs. Mst. Bibi Zahida.                    |
| 14 | (COC No.410-P/2024<br>in RFA No.47-P/2024) | Asma Hamayun vs. Mst. Bibi Zahida                     |
| 15 | FAO No.44-P/2024                           | Zulfiqar Hussain vs. Bibi Zahida etc.                 |
| 16 | RFA No.218-P/2024                          | Gul Riaz Khan vs. Uzma Nadeem                         |
| 17 | RFA No.241-P/2024                          | Rahat Nawaz etc vs. Rafia Naz.                        |
| 18 | RFA No.328-P/2024                          | Hadia Mehr vs. Mehr Ali Shah etc.                     |
| 19 | RFA No.394-P/2024                          | Zarar Hussain vs Mst. Irum Israr etc                  |
| 20 | RFA No.114-P/2025                          | Nusrat Ali etc vs Anar Begum etc                      |
| 21 | FAO No.17-P/2025                           | Abdur Rehman etc vs. Shahmir etc.                     |

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|----|--------------------|---------------------------------------|
| 22 | FAO No.31-P/2025   | Raees Khan vs. Mst Parveen Bibi.      |
| 23 | FAO No.68-P/2025   | Farid Ullah vs. Mst Khadija etc       |
| 24 | FAO No.98-P/2025   | Shah Jehan vs. Mst. Asiya             |
| 25 | FAO No.111-P/ 2025 | Sher Muhammad etc vs. Mst. Rabina etc |
| 26 | RFA No.161-P/2025  | Mst. Robina etc vs. Sher Muhammad etc |
| 27 | RFA No.241-P/2024  | Rahat Nawaz etc vs. Rafia Naz.        |

**Category “(C)”**

|    |                              |   |
|----|------------------------------|---|
| 1  | RFA No.49-P/2024             | Muhammad Tahir Awan vs Mst. Nasrat Aman etc.                        |
| 2  | Cross Objection No.04-P/2025 | Nasrat Naseem vs. Tahir Awan  |
| 3  | FAO No.72-P/2024             | Muhammad Anwar vs. Naeema   |
| 4  | FAO No.79-P/2024             | Nasrullah vs. Mst. Shouata etc                                      |
| 5  | RFA No.312-P/2023            | Arshad Ali etc vs. Ulfat Begum                                      |
| 6  | FAO No.130-P/ 2024           | Syed Inam etc vs. Mst. Maash Bibi etc                               |
| 7  | FAO No.235-P/ 2023           | Muhammad Ikram and another vs Mst. Robina and others.               |
| 8  | FAO No.252-P/2023            | Ghulam Rasool vs. Mst. Iqbal Begum                                  |
| 9  | FAO No.132-P/ 2024           | Waheed Khan and another vs. Mst. Bibi Aftab and others              |
| 10 | FAO No.154-P/ 2024           | Muhammad Shoaib vs. Mst. Bakht Tari                                 |
| 11 | RFA No.171-P/ 2024           | Ali Khan vs. Mst. Abida   |
| 12 | FAO No.175-P/ 2024           | Manzoor Elahi vs. Muhammad Ayub and others.                         |
| 13 | FAO No.177-P/ 2024           | <u>Naeem Asghar Khan and others vs. Mst. Nigar Begum and others</u> |
| 14 | FAO No.183-P/ 2024           | Meer Akbar Khan and others vs. Mst. Nigar Gegum and others.         |
| 15 | FAO No.220-P/2024            | Arshad Ali vs. Ashraf Ali Khan.                                     |
| 16 | FAO No.253-P/2024            | Mst. Ruqayya and others vs. Mir Muhammad.                           |
| 17 | FAO No.23-P/2025             | Mir Arhamad vs. Mst Ruqayya and others.                             |
| 18 | FAO No.194-P/ 2024           | Tasbeehullah vs. Mst. Khushnood and others.                         |
| 19 | RFA No.139-P/ 2025           | Feroz Khan and others vs. Bakht Roeedara.                           |
| 20 | RFA No.190-P/ 2025           | Muhammad Raza and others vs. Sabiqa Begum                           |
| 21 | RFA No.221-P/2025            | Sabqa Begum vs. Ombudsperson etc.                                   |

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| 22  | RFA No.117-P/<br>2025 | Wazir Zada and others vs. Mst.<br>Jamila and others.          |
| 23  | RFA No.21-P/2024      | Muhammad Masood etc vs. Razia<br>Khatoon.                     |
| 24  | FAO No.128-P/<br>2023 | Malik Ashraf Khan vs. Mst. Gul Shan<br>Bibi                   |
| 25  | RFA No.20-P/2023      | Arbab Muhammad Jamil Khan vs. Mst.<br>Shahida Begum.          |
| 26  | RFA No.94-P/2023      | Muhammad Tariq and others vs.<br>Mst. Naheed Asif and others. |
| 27  | FAO No.116-P/2023     | Jamal Khan vs. Zarsanga.                                      |
| 28  | FAO No.198-P/2023     | Fayaz Khan vs. Mst Nazmeena and others.                       |
| 29  | FAO No.78-P/2025      | Muhammad Usman etc vs. Mst.<br>Jehan Ara and others.          |
| 30  | FAO No.103-P/<br>2025 | Naik Amal Shah and others vs. Mst. Janat<br>Bibi and others.  |
| 31` | RFA No.56-P/2025      | Irshad Ahmad vs. Gulnar Bibi<br>and others.                   |
| 32  | RFA No.415-P/2025     | Masood vs. Tajamul Begum                                      |
| 33  | RFA No.119-P/<br>2025 | Ajab Gul vs. Shamim Ara and<br>others.                        |
| 34  | FAO No.130-P/2024     | Tariq Masood vs. Mst. Mst. Guli Laila                         |
| 35  | FAO No.102-P/2025     | Rafique etc vs. Guli Laila                                    |
| 36  | RFA No.110-P/2025     | Muhammad Iqbal vs. Mst.<br>Faseen and others.                 |
| 37  | RFA No.41-P/2025      | Sikandar Hayat Khan vs. Mst.<br>Zahida Begum and others.      |
| 38  | RFA No.42-P/2025      | Azhar Ali and others vs Mst.<br>Hazrat Begum and others.      |
| 39  | RFA No.57-P/2025      | Asghar Hussain vs. Mst. Samina<br>Azam Khan                   |
| 40  | RFA No.76-P/2025      | Asif Gul and others vs. Shamim Ara and<br>others              |
| 41  | RFA No.07-P/2025      | Muhammad Faisal vs. Mst Roohi<br>Parveen and others           |

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| 42 | FAO No.37-P/2025      | Shah Faisal Afridi etc vs. Mst. Ayesha and others.      |
| 43 | FAO No.04-P/2025      | Muhammad Arif vs. Sidra Tariq                           |
| 44 | RFA No.397-P/<br>2024 | Aman Ullah Khan vs. Shavana Qader and others.           |
| 45 | RFA No.03-P/2025      | Nisar Ullah and others vs. Mst. Razia Begum and others. |
| 46 | RFA No.449-P/<br>2024 | Aftab Ahmad and others vs. Nosheen Tabassum and others. |

Category "(D)"

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| 1  | <u>RFA No.189-P/2023</u> | Ghafoor Shah and others vs Mst. Badri Jamala.                        |
| 2  | <u>RFA No.211-P/2025</u> | Alamgir Khan vs. Mst. Iffat Naeem)                                   |
| 3  | <u>FAO No.205-P/2023</u> | Raza Khan & others. vs Mst. Naseem Akhtar                            |
| 4  | <u>RFA No.158-P/2025</u> | Arbab Muhammad Usman Khan & others vs. Mst. Maimona Haroon & others. |
| 5  | <u>RFA No.274-P/2024</u> | Arbab Muhammad Usman Khan & others vs. Mst. Maimoona Haroon etc.     |
| 6  | <u>FAO No.105-P/2025</u> | Saif Ullah Muhib vs. Ombudsperson.                                   |
| 7  | <u>RFA No.390-P/2024</u> | Siraj Mahmood and another vs. Mst. Wahida Begum.                     |
| 8  | <u>FAO No.193-P/2024</u> | Sameed Gul vs. Mst. Shafqat Saeed.                                   |
| 9  | <u>FAO No.176-P/2024</u> | Atif Hussain vs. Mazhar Hussain                                      |
| 10 | <u>FAO No.243-P/2024</u> | Asima vs Mst. Ulfat and others.                                      |

Date of announcement: 31.10.2025Date of release: 02.12.2025.**JUDGE***Asif Jan Sr. S. S**SB Hon'ble Mr. Justice Muhammad Naeem Anwar.*