

Passed on:- 14-02-2020

[AS PASSED BY THE SENATE]

A

BILL

to protect and secure the rights of ownership of women in the property

WHEREAS it is expedient to provide for the protection of the rights of ownership and possession of properties owned by women, ensuring that such rights are not violated by means of harassment, coercion, force or fraud;

It is hereby enacted as follows:

1. Short title, extent and commencement.— (1) This Act shall be called the Enforcement of Women's Property Rights Act, 2020.

(2) It shall extend to the whole of the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them:-

(a) 'complainant' means a woman who files a complaint or for whom proceedings are initiated in respect of the title or possession of her property;

(b) 'Government' means the Federal Government;

(c) 'Ombudsman' means the Ombudsman appointed under section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010);

(d) 'prescribed' means prescribed by rules;

(e) 'property' includes any moveable and immoveable property; and

(f) 'rules' mean rules made under this Act.

3. Powers of the Ombudsman.— In addition to the powers, functions and authority under this Act and rules made hereunder, the Ombudsman, for the purpose of this Act, shall have the same powers, functions and authority as are vested in the Ombudsman for the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

4. Complaint to the Ombudsman in case no proceedings in a court of law are pending. - (1) Any woman deprived of ownership or possession of her property, by any means, may file a complaint to the Ombudsman if no proceedings in a court of law are pending regarding that property:

Provided that the Ombudsman, on its own motion or on a complaint filed by any person including a non-governmental organization, may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, if no proceedings are pending in a court in respect of that property.

(2) The Ombudsman shall make a preliminary assessment of the complaint filed under sub-section (1) whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsman.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsman may, after calling any record, if deemed necessary, pass orders under section 5.

(4) The Ombudsman upon receiving the report under sub-section (2), may further conduct such summary enquiry and call for such record as he may deem fit.

(5) The Ombudsman after confronting the report of the concerned Deputy Commissioner and the conclusion and findings of his own enquiry, shall call upon the complainant and her adversaries to submit objections, whereafter he may conduct a hearing, and pass orders under section 5, preferably within sixty days of receipt of the complaint under sub-section (1).

5. Delivery of possession and transfer of ownership of property to women etc.— (1) On conclusion of the proceedings under section 4, if the Ombudsman finds that the complainant has been illegally deprived of ownership or possession of her property, he shall direct the Deputy Commissioner or a state functionary or any private person to take steps so as to restore or confer possession or title of the property to the complainant, including measures to perfect such title.

(2) The Ombudsman may, where deemed fit, direct the officer-in-charge of a police station for such assistance as may be required for the purposes of implementing the orders passed under sub-section (1).

(3) The concerned Deputy Commissioner shall submit a compliance report within seven days to the Ombudsman in respect of implementation of his orders.

6. Reference to court.- (1) Notwithstanding anything contained in sections 4 and 5, if upon preliminary assessment, or upon receiving the report of the Deputy Commissioner or upon conducting further summary enquiries by the Ombudsman himself, he comes to the conclusion that the matter requires in-depth enquiry, investigation or detailed recording of evidence or intricate adjudication, he shall formulate a reference along with all the reports and material collected and submit the same to the concerned Civil Court preferably within sixty days of receipt of the complaint under sub-section (1) of section 4.

(2) Notwithstanding anything contained in any other law, the Civil Court shall entertain the reference under sub-section (1), as a civil suit and proceed further in terms of the Code of Civil Procedure, 1908 (Act V of 1908) and the relevant rules.

7. Complaint to the Ombudsman in case proceedings in a court of law are pending.— (1) Where proceedings in a court of law are pending in relation to the ownership or possession of any property claimed to be owned by a woman, she may file a complaint under this sub-section to the Ombudsman:

Provided that the Ombudsman, on its own motion or on a complaint filed by any person including a non-governmental organization may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, even if proceedings are pending in a court in respect of that property.

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(2) The Ombudsman shall make a preliminary assessment of the complaint under sub-section (1), whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsman.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsman may, after calling any record, if deemed necessary, may file a report in the court of law, in which the case is pending, recommending that the proceedings in the court may be terminated or put in abeyance unconditionally or subject to any court order and the Ombudsman be permitted by the court to take further proceedings under this Act.

(4) Before filing of the report under sub-section (3), the Ombudsman shall call upon the complainant and her adversaries to submit objections, and conduct a hearing and pass orders, preferably within thirty days of the hearing, as to whether the Ombudsman will or will not file a report under sub-section (3).

(5) In case the Ombudsman passes an order of not filing a report under sub-section (3), he may advise the complainant to pursue the proceedings in the court of law and terminate the complaint.

(6) The Ombudsman upon receiving the report under sub-section (2), may further conduct such summary inquiry and call for such record as he may deem fit.

8. Loss of rent.— On culmination of proceedings under section 5, the Ombudsman may also direct the complainant to be paid by the person depriving the said complainant of the use of the property, the amount equivalent to the rent that the property would fetch at the prevalent market rate, for the duration for which the complainant was deprived of the use of such property.

9. Execution of orders.— The Ombudsman may direct any executive state functionary including the relevant Deputy Commissioner where the property of the Complainant is situated, to execute the orders in letter and spirit.

10. Appointment of officers, etc.— For carrying out the object and purpose of this Act, the Federal Government shall appoint such officers as may be required, on such terms and conditions as prescribed.

11. Bar of jurisdiction.— No court or other authority shall have jurisdiction—

- (a) to question the validity of any action taken, or intended to be taken, or order made, or anything or purporting to have been taken, made or done under this Act; or
- (b) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsman.

12. Power to make rules.— The Federal Government may make rules to carry out the purpose of this Act.

STATEMENT OF OBJECTS AND REASONS

The Constitution of the Islamic Republic of Pakistan gives due respect to the women in society and guarantees their right of ownership. However, the rights of ownership of women in inheritance are violated usually by their family members by means of coercion, fraud, fabricatin, forgery and cheating etc. It is therefore, necessary to provide for an effective and speedy redressal mechanism to protect and secure the rights of ownership of women in the property.

The Bill is designed to achieve the aforesaid object.

MINISTER-IN-CHARGE