JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 2719 of 2023

Quaid-e-Azam University
Versus
Federation of Pakistan and others.

Petitioner by	:	M/s Saad Rasool, Hassan Salman, Haider Hayat, Ali Amber Naqvi, Advocates, alongwith M. Ramzan Khan, A.R. (Legal) QAU and M. Ashraf Sheikh, Member Management Committee, QAUSHS
Respondents by	:	Mian Faisal Irfan, Deputy Attorney General for Pakistan. Mr. Ali Nawaz Kharal, Advocate for FGEHA/ Respondent No.2 Mr. Muhammad Nazir Jawad, Advocate for respondent No.3/CDA.
Dates of hearings	:	05.03.2025 and 18.03.2025.

INAAM AMEEN MINHAS, J. Through the instant Writ Petition, the petitioner seeks following relief:-

a) *"That, the impugned action of the respondents, specifically the non-adherence to the mutually agreed share ratio, be declared unconstitutional, illegal, unlawful, in violation of the process of law, as well as established jurisprudential principles of natural justice;*

b) *That, in the paramount interests of law and equity, the respondents – in particular respondent No.2 – be directed to disburse the amount owed to the petitioner University alongwith requisite markup accrued and costs incurred, immediately, without any delay; and*

c) *That, in the interregnum, appropriate injunctive order(s) may kindly be passed, in order to restrain the respondents from further auctioning, selling, transferring, encumbering, disposing or alienating, by any means whatsoever, the Commercial/ Mauve and Bazaar, and other ancillary areas, as well as restraining the respondents from using or disbursing to any third area, the proceeds of sale of the already auctioned and/or sold Commercial/mauve and Bazaar area, alongwith other ancillary areas in sub-sector G-14/4.*

d) *That, specifically, an appropriate injunctive may also be passed against the Advertising dated 20.08.2023, to restrain the respondent No.2, from further proceeding*

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to auction/sale Commercial/Mauve and Bazaar areas, against the rights and interests of the petitioner University."

2. Precisely, the facts are that in the early 1990's, Quaid-e-Azam University (**QAU**) employees proposed creating a housing society to address their residential needs. The University Syndicate supported the proposal of establishing the "Quaid-e-Azam University Staff Housing Scheme." A Committee was formed in 1993-94 to explore how University land could be used for income generation, and it recommended the development of a housing society for its employees on university land. The Syndicate of the petitioner University in its meeting held on 10.02.1994, resolved to seek approval for the allocation of 300 acres of university land for the Housing Scheme and to form a Management Committee for overseeing the project. In response, the University approached the Prime Minister, who approved the Housing Scheme on 300 acres of University land in June 1995, relaxing zoning regulations. However, development work was halted in December 1996 by the Cabinet Division without explanation, leading to strikes by University employees. In 1997, the Prime Minister formed another High-level Committee to negotiate with the employees. As a result of recommendation of that Committee, the Prime Minister ordered the relocation of the Housing Scheme to Sector G-14/4, Islamabad, and directed the Federal Government Employees Housing Foundation (**FGEHF**) to acquire land for the project. Despite initial delays, FGEHF/ respondent No.2 confirmed its role as the implementing agency for the project in July 2000, and agreed to acquire 1,456 Kanals of land for the said Scheme. In August 2000, FGEHF decided to retain the Commercial and Business plots to benefit the allottees rather than handing them over to the Capital Development Authority (CDA). Later, in September 2002, petitioner/QAU and FGEHF/respondent No.2 agreed on a proposal of 58.9% share for QAU in the Commercial and Mauve areas of the project, while FGEHF holding the remaining 41.1%. This agreement was confirmed in December 2002, and both the parties jointly managed these areas.

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3. However, FGEHF has failed to pay the petitioner/QAU its lawful share of proceeds from the sale of Commercial and Mauve areas despite QAU fulfilled all its obligations by paying Development Charges and Utility expenses. Furthermore, FGEHF/respondent No.2 sold land stipulated for Schools without sharing the proceeds with the petitioner/QAU, as agreed. Even after petitioner/QAU raised these issues repeatedly, FGEHF/respondent No.2 issued an advertisement dated 20.08.2023 for auction of more Commercial and Mauve areas without settling the outstanding payments to the petitioner/QAU. This auction was scheduled to be held on 12.09.2023, which clearly violates the petitioner/QAU's rights and remained unaddressed despite QAU's efforts to resolve the matter amicably.

4. In response to the instant Writ Petition, respondent No.2, (**FGEHA**), submitted its written comments. The respondent No.2 has categorically denied the **'mutual agreed share ratio'** as contended by the petitioner/QAU from the sale proceeds of commercial plots situated in Sector G-14/4, Islamabad; that the instant writ petition filed by the petitioner/QAU is not maintainable unless it demonstrates a clear and enforceable legal documents; that the issue raised in the instant petition, prayer sought and the whole controversy raised in the petition is purely of factual and would require extensive recording of evidence by both the parties before the court of competent jurisdiction as the disputed question of facts or question which involves dispute arising out of agreements or contractual liabilities is beyond the domain and jurisdiction of this Court; and that constitutional jurisdiction, particularly through a writ of *mandamus*, is not intended to enforce contractual obligations, which should be resolved before the Civil Courts. Additionally, FGEHA/respondent No.2 has refuted the petitioner/QAU's reliance on the doctrine of promissory estoppel, asserting that this principle cannot be invoked without any lawful representation or a binding commitment enforceable under the law.

5. It is further asserted by respondent No.2/FGEHA that the petitioner/QAU is not an "aggrieved person" under Article

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199 of the Constitution, as it did not pay for the development, maintenance, or reconstruction costs of Sector G-14/4, which were borne by FGEHA/respondent No.2. The sale proceeds were meant to offset these costs, as agreed in meetings between the parties. FGEHA/respondent No.2 also noted that the letter dated 17.12.2002, the petitioner/QAU relies on, is an internal communication and not legally binding. Furthermore, petitioner/QAU has not contributed to any of the associated costs, making its claim to the sale proceeds unjustified, and thus, the petition is not maintainable.

6. Arguments of learned counsel for the parties have been heard and perused the record with their able assistance.

7. Upon careful examination of the available record and after considering the arguments advanced by both the parties, it is evident that the petitioner has sought various reliefs based on multiple documents, agreements, and correspondences exchanged and executed between the petitioner and Respondent No. 2 at different stages. The core grievance raised by the petitioner revolves around its claim that certain rights, obligations, and entitlements, particularly relating to the commercial areas situated within the project located in sub-Sector G-14/4, Islamabad were not duly honoured or complied with by the respondents, especially respondent No. 2. The petitioner contends that despite the existence of clear terms regarding the agreed share ratio and other relevant aspects pertaining to the sale proceeds and management of these commercial plots, the respondents failed to fulfill their part of the commitments. According to the petitioner, this alleged non-compliance not only amounts to a breach of the agreed arrangements but has also resulted in substantial financial loss and legal injury to the petitioner.

8. In the present case, the petitioner has sought various reliefs through its prayer clause, primarily challenging the actions of the respondents, particularly respondent No. 2, on the ground of non-compliance with the mutually agreed share ratio pertaining to the sale proceeds of commercial plots situated in sub-sector G-14/4, Islamabad. The petitioner has

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urged the Court to declare such actions of the respondents as unconstitutional, illegal, and violative of the principles of natural justice and due process of law. Additionally, the petitioner has prayed for a direction to respondent No. 2 to immediately disburse the amount allegedly owed to the petitioner along with the accrued markup and costs incurred. The petitioner has further sought interim injunctive relief, restraining the respondents from auctioning, selling, transferring, or otherwise alienating the Commercial/Mauve and Bazaar areas in Sector G-14/4, Islamabad and from disbursing the proceeds of the already auctioned areas to any third party. Moreover, a specific restraint has been sought against the advertisement dated 20.08.2023, through which respondent No. 2 intended to auction the further commercial plots, allegedly violating the petitioner's rights.

9. To substantiate its claim, the petitioner has placed reliance on a range of documents, including minutes of meetings, official letters, notifications, proposals, PC-1 documents, and various correspondences exchanged between the parties. In contrast, respondent No. 2 has also referred to several documents in its defence, including land awards, Minutes of its Executive Committee meetings, development plans, NOCs from CDA, Cabinet summaries, and gazette notifications, all aimed at disputing the petitioner's asserted rights. Therefore, the essence of the dispute between the parties revolves around a contested question of facts, particularly relating to the validity, enforceability, and legal effect of the documents relied upon by the petitioner. The petitioner claims proprietary rights over the Commercial areas Sector G-14/4 and corresponding financial entitlements, which was vehemently denied by respondent No.2 by arguing that the petitioner's documents neither confer any proprietary rights nor create any binding financial obligation upon respondent No. 2. The dispute further extends to the manner in which the profit-sharing arrangement, if any, is to be determined and the obligations, if any, that flow from the alleged agreements between the parties. Thus, in view of the respective stands taken by the parties and the documentary evidence placed on record, the controversy essentially hinges on the existence and

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validity of the petitioner's claimed rights, the calculation of any share from the sale proceeds, and the extent of obligations, if any, of respondent No. 2 under the disputed agreements or arrangements.

10. In view of the foregoing discussion, it becomes evident that the present case gives rise to multiple contentious questions of fact, which warrant a thorough and detailed inquiry for their proper adjudication. Foremost among these issues is the petitioner's reliance upon various documents, the validity and authenticity of which have been expressly disputed by Respondent No. 2. This situation necessitates a careful examination of the legal status, execution, and enforceability of those documents, as well as any objections raised regarding their genuineness or evidentiary worth. Furthermore, how the petitioner has computed the alleged profits or monetary entitlements arising from the disputed commercial properties in sub-sector G-14/4, Islamabad, requires detailed scrutiny, particularly to ascertain whether such calculations are grounded in any legally recognized formula, agreement, or statutory provision. Additionally, it is imperative to investigate the nature and extent of the commitments and obligations claimed to have been undertaken by both the parties in relation to the subject matter of the dispute. Such an inquiry assumes significance in any agreements, written or otherwise, between the petitioner and Respondent No. 2, which may create binding legal obligations upon the parties. Accordingly, for a just and equitable resolution of the controversy, these disputed factual aspects must be subjected to comprehensive investigation and evidence-based determination to ascertain the respective rights and liabilities of the parties conclusively.

11. It is a well-settled principle of law, as enunciated by the Honourable Supreme Court of Pakistan in the landmark judgment reported as ***"Pakcom Limited & Others v. Federation of Pakistan & Others" (PLD 2011 SC 44)***, that in cases involving complex and disputed questions of fact particularly where the authenticity of documents, the existence and nature of alleged rights, and the quantification of financial entitlements are at issue the resolution of such controversies

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necessitates a thorough and comprehensive inquiry grounded in evidence. The Honourable Supreme Court, while laying down authoritative guidance in the said case, categorically held that such factual disputes cannot be adjudicated merely based on pleadings or assertions made by the parties but require a full-fledged trial where evidence is led, examined, and scrutinized. This is essential to ensure that the determination of rights and obligations is fair, just, and in accordance with the law. Applying the principles laid down in ***Pakcom Limited (supra)*** to the present case, it becomes abundantly clear that the disputed factual issues between the petitioner and respondent No.2, including but not limited to the validity and enforceability of the relied-upon documents, the alleged proprietary rights over the commercial property, and the calculation of financial entitlements can only be effectively resolved through a complete, impartial, and evidence-based inquiry. Only upon the culmination of such proceedings, supported by credible and admissible evidence from both parties, can the Court grant an appropriate and legally sustainable remedy.

12. In light of the foregoing discussion and in view of the settled principles of law governing the maintainability of such petitions, the preliminary objection raised by respondent No. 2 is sustained. As a result, the instant petition is not maintainable before this Court, therefore, same is **dismissed**. However, it is clarified that the petitioner shall remain at liberty, if so advised, to avail the appropriate remedy before the competent forum of jurisdiction provided under the relevant law, where all factual controversies and grievances raised in the present petition may properly be examined and adjudicated upon through evidence-based proceedings.

(INAAM AMEEN MINHAS)
JUDGE

A.R.ANSARI*

Announced in the open Court on **11.04.2025**.

JUDGE

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