



CWP-38095-2018 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(207)

**CWP-38095-2018 (O&M)
Date of Decision : 01.10.2025**

Sunita

...Petitioner

Versus

District Magistrate and Appellate
Tribunal, Hisar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. R.S. Kundu, Advocate and
Mr. Chirag Kundu, Advocate
for the petitioner

Mr. Bhupender Singh, Addl. AG, Haryana.

Mr. Amit Jain, Advocate
for respondent No.3.

None for respondent No.4, despite service,
as such proceeded against *ex parte*.

KULDEEP TIWARI,J.(ORAL)

1. The petitioner-Sunita (daughter-in-law), was ordered to be evicted from her matrimonial house {owned by the respondent No.3 (mother-in-law) of the petitioner}, through verdict dated 13.11.2018 (Annexure P-14), passed by the learned Appellate Authority concerned, on an appeal filed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter to be referred as 'the Act of 2007').

2. Succinctly, the respondent No.3 filed an application, stating therein, that she is the owner of the house in question, which consists of two floors. It was pleaded in the application, that she is living in village Umedpur, District Sirsa. However, the house, in question, was situated at Bishnoi



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Colony, Hisar. The pleading, as set up in the application is that though respondent No.3 resides in the village Umedpur, but she occasionally visits her house situated at Hisar. She solemnized the marriage of her son-Alok with the petitioner-Sunita, on 18.05.2008. After marriage, the petitioner was studying in Chaudhary Charan Singh Haryana Agricultural University (CCSHAU), Hisar, and all the expenses regarding her education were born by the husband of respondent No.3. Subsequently, the relationship between the son of the respondent No.3, and her daughter-in-law became strained, and the petitioner along with her family members, gave beatings to son of the respondent No.3 (Alok), and in the month of January, 2013, the petitioner along with her family members illegally broke open the door of the house, in question, and took over the possession, and since then, the respondent No.3, and her husband, is running from pillar to post, to evict the petitioner from the house in question.

3. It was also pleaded in the application that respondent No.3, is suffering from various ailments, and at present, she is living in village Umedpur, and the applicant is getting treatment from hospital situated, at Hisar. However, she is unable to travel from the village Umedpur to Hisar, for the said treatment.

4. The said application was contested by the petitioner, by filing a detailed reply. The learned Maintenance Tribunal, vide order dated 04.03.2015 (Annexure P-3), disposed of the said application with the observations that both the parties are *ad idem* to the effect that the petitioner (daughter-in-law), shall vacate the ground floor of the house, in question, for the use and occupation of the respondent No.3 (mother-in-law), within 15 days, and she will shift to the first floor of the said premises. The respondent

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No.3, fetching grievance from the said order, filed an appeal, on the ground that no such consent was ever given. However, the appeal was dismissed, vide order dated 04.08.2016 (Annexure P-5).

5. The orders (supra), were put to challenge by the respondent No.3, by filing a CWP-20022-2016. The Coordinate Bench of this Court, vide order dated 14.05.2018 (Annexure P-6), has set aside the order passed by the learned Appellate Authority concerned, and remanded the *lis*, for deciding the issue afresh, by passing a speaking order. Thereafter, the learned Appellate Authority concerned, vide impugned order dated 13.11.2018 (Annexure P-14), has passed a direction upon the petitioner, to vacate the house in question, within 30 days. Fetching grievance from the order (supra), the petitioner has filed the instant writ petition, under Article 226/227 of the Constitution of India, to throw a challenge to the impugned order.

6. Learned counsel for the petitioner submits that it is a sponsored litigation, at the behest of son of the respondent No.3, who is an estranged husband of the petitioner. He further submits that under the proceedings of Domestic Violence Act (DVA), the house in question was subsequently, declared as a shared household, therefore, the petitioner cannot be evicted from the house in question. The learned Appellate Authority concerned, has not ascertained this fact earlier, as to whether, the house in question was a shared household of the petitioner, or not.

7. He further draws the attention of this Court toward various litigation pending between the petitioner and her husband, to submit that various order were passed in the proceedings under Section 125-A of Cr.P.C., as well as under the DV Act, wherethrough, a direction was also passed upon the husband of the petitioner, to pay the maintenance of Rs.10,000/- per month



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and Rs.5,500/- as expenses. However, till date, not even a single penny has been paid by the husband of the petitioner. He also submits that a criminal FIR No.382 dated 14.05.2015, under Sections 498-A, 406, 323 read with Section 34 of IPC, 1860, has been registered at Police Station Civil Lines, Hisar, against the husband of the petitioner. Subsequently, he was declared as a 'Proclaimed Person' in the said FIR, which led to registration of FIR No.270 dated 24.07.2024, under Section 174-A of IPC, 1860. He, in addition, submits that the contents of the application, as preferred by the respondent No.3, does not qualify the learned Maintenance Tribunal, to entertain the same under the Act of 2007. He finally, submits that the respondent No.3, is living separately at village Umedupur, since beginning. This fact is very much clear from the perusal of the application and the said application has been filed at the behest of his son, to harass the petitioner. Furthermore, the petitioner has no other accommodation to reside; therefore, she cannot be left at the mercy of God.

8. He has also placed reliance upon the judgment passed by the Hon'ble Supreme Court in ***Civil Appeal No.3822 of 2020***, titled '***Smt. S. Vanitha versus The Deputy Commissioner, Bengaluru Urban District and others' 2021 AIR (Supreme Court) 177; decided on 15.12.2020***, to submit that in case, it is established that it is a shared household of the woman, then the summary proceedings under the Act of 2007, cannot be invoked seeking eviction of a woman.

9. On the other hand, learned counsel for the respondent No.3, has vociferously opposed the submissions made by the learned counsel for the petitioner, and submits that it is not a sponsored litigation, at the behest of husband of the petitioner (respondent No.4), rather the parents of the respondent No.4, have already disowned him, way back on 09.10.2014. He



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further submits that the dispute is between the petitioner and her husband (respondent No.4), and on account of this, the parents, who are senior citizens, cannot be made to suffer. He also submits that the reliance of the petitioner on the proceedings of DV Act, as well as the proceedings under Section 125-A Cr.P.C., are in fact a misplaced reliance, as these are the liabilities of their son, and they (senior citizens) cannot be held liable for the same. He, in addition, submits that son of the respondent No.3, is already absconding from the clutches of law, and he has been declared as a Proclaimed Person. Finally, he draws the attention of this Court towards the affidavit filed by the Additional Director General of Police, Hisar Range, Hisar, to submit that despite the best efforts made by the District Police, the whereabouts of husband of the petitioner (respondent No.4), could not be traced out.

10. All the above mentioned facts collectively disclose that respondent No.3, is fighting for her right to use her own property, in the last phase of her life, as she is suffering from Stage-IV Cancer, and she requires regular treatment, which is available in Hisar. However, she is unable to enter her own house, and the house in question, cannot be considered at all, as a shared household, as it is a positive case of the respondent No.3, that the petitioner has entered into the house in January, 2013. In order to lend vigour to his arguments, he has placed reliance upon the judgment passed by Hon'ble the Supreme Court in case titled '***S.R. Batra and another versus Taruna Batra (Smt.)***' (2007) 3 Supreme Court Cases 169, to submit that where it is an exclusive property of the mother-in-law, it cannot be termed as a 'shared household'.

11. He further placed reliance upon the judgment passed by Delhi High Court in case titled '***Darshna versus Govt. of NCT of Delhi and others***'



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2018 (4) R.C.R. (Civil) 693, and judgments of this High Court, passed in case titled '**Balbir Kaur versus Presiding Officer-cum-SDM of the Maintenance and Welfare of Senior Citizen Tribunal, Pehowa, District Kurukshetra and others**' 2016(1) **R.C.R. (Civil) 653**; '**Sharmila versus State of Haryana**' 2018(3) **R.C.R. (Civil) 181**; '**Feroz and another versus The District Magistrate, U.T. Chandigarh and another**' 2017(2) **Law Herald 1156**; and '**Rakesh Kumar Sood versus The District Magistrate-cum-Deputy Commissioner, Ludhiana and others**' 2017(2) **R.C.R. (Civil) 119**, to submit that eviction of the petitioner (daughter-in-law) from the house, which belongs to senior citizen, is maintainable.

12. Before this Court embark upon the lengthy submissions made by learned counsel for the parties, let us have a glimpse upon the precedent law, which would be helpful in deciding the validity of the impugned order. Hon'ble the Supreme Court in the judgment **Smt. S. Vanitha (supra)**, after examining the legislation intended to deal with salutary aspects, stressed harmonious construction between two statutes, i.e. the Senior Citizen Act of 2007 and the Prevention of Women from Domestic Violence Act (PWDVA), so as to give effect to both the protection, i.e. the elderly right to maintain and protection and woman's rights of residence in domestic relationship. It was specifically held that the property is a 'shared household' under the PWDVA, must be adjudicated by appropriate forum and cannot be defeated merely by invoking summary powers under the Act of 2007, without regard to such competing right. The learned Tribunal, under the Act of 2007, may have authority to order eviction as an incident of enforcement of right of senior citizen, but that power is not absolute and the learned Maintenance Tribunal needs to strike a balance with the competing claim, particularly, the right of



woman to reside in a shared household. The rigours of the Act of 2007, cannot be used as a tool to override the protection under the DV Act. The relevant paragraphs are extracted hereinafter :-

"21. In this case, both pieces of legislation are intended to deal with salutary aspects of public welfare and interest. The PWDV Act 2005 was intended to deal with the problems of domestic violence which, as the Statements of Objects and Reasons sets out, is widely prevalent but has remained largely invisible in the public domain. The Statements of Objects and Reasons Indicates that while Section 498A of the Indian Penal Code created a penal offence out of a woman's subjection to cruelty by her husband or relative, the civil law did not address its phenomenon in its entirety. Hence, consistent with the provisions of Articles 14, 15 and 21 of the Constitution, Parliament enacted a legislation which would "provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society". The ambit of the Bill has been explained thus:

"4. The Bill, inter alia, seeks to provide for the following:-

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

(ii) It defines the expression "domestic violence" to include actual



abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

(iii) It provides for the rights of women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.

(iv) It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.

(v) It provides for appointment of Protection Officers and registration of non-governmental organisations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter, etc."

The above extract indicates that a significant object of the legislation is to provide for and recognize the rights of women to secure housing and to recognize the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act 2005, would defeat the object and purpose which the Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens is intended to ensure that they are not left destitute, or at the mercy of their children or relatives. Equally, the purpose of the PWDV Act 2005



cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act 2007.

22. This Court is cognizant that the Senior Citizens Act 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the Civil Courts, under Section 8. The jurisdiction of the Civil Courts has been explicitly barred under Section 27 of the Senior Citizens Act 2007. However, the over-riding effect for remedies sought by the applicants under the Senior Citizens Act 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act 2005. The PWDV Act 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. in deference to the dominant purpose of both the legislations, it would be appropriate for a Tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act 2005. Section 26 of the PWDV Act empowers certain reliefs, including relief for a residence arder, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV



Act 2005 and Senior Citizens Act 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride and nullify other protections in law, particularly that of a woman's right to a shared household under Section 17 of the PWDV Act 2005. In the event that the aggrieved woman" obtains al relief from a Tribunal constituted under the Senior Citizens Act 2007, she shall duty-bound to inform the Magistrate under the PWDV Act 2005, as per Sub-section (3) of Section 26 of the PWDV Act 2005. This course of action would ensure that the common intent of the Senior Citizens Act 2007 and the PWDV Act 2005- of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realized. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realization.

24. For the above reasons, we have come to the conclusion that the claim of the appellant that the premises constitute a shared household within the meaning of the PWDV Act 2005 would have to be determined by the appropriate forum. The claim cannot simply be obviated by evicting the appellant in exercise of the summary powers entrusted by the Senior Citizens Act 2007. The Second and Third Respondents are at liberty to make a subsequent application under Section 10 of the Senior Citizens Act 2007 for alteration of the maintenance allowance, before the appropriate forum."

13. This Court has also examined the judgment and the ratio laid down by the Hon'ble Supreme Court in ***S.R. Batra and another (supra)***, and there is no wrangle with regard to same. In Paragraph 29 of the said judgment it was specifically held that wife is only entitled to claim a right to residence in a shared household, and a shared household would only mean, the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is the member. The relevant is extracted hereunder :-



29. As regards Section 17(1) of the Act, in our opinion the wife is only entitled to claim a right to residence in a shared household, and a shared household would only mean the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member. The property in question in the present case neither belongs to Amit Batra nor was it taken on rent by him nor is it a joint family property of which the husband Amit Batra is a member. It is the exclusive property of Appellant 2, mother of Amit Batra. Hence it cannot be called a "shared household".

14. On the anvil of the ratio laid down by Hon'ble Supreme Court, this Court has examined the facts of the instant case *in extenso*. It is relevant to mention that the house in question has now been declared as a 'shared household' by the competent Court, on a petition filed by the petitioner under Section 12 of the DV Act of 2005. It was specifically observed that the House No.28, Bishnoi Colony, Hisar, is a shared household, and the petitioner has a right to reside in the same on the first floor. However, that right was made subject to the outcome of the decision of the instant writ petition. Further, since the petitioner was made to contest various litigations, the competent Court awarded the compensation to the tune of Rs.1,00,000/-, to be paid to the petitioner, by her husband (respondent No.4, herein). The relevant is extracted hereunder:-

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Therefore, when it is proved that the house No.28 Bishnoi Colony is shared household the petitioner has the right to reside in the same on the 1st floor, however, it is made clear that the residence order passed by this Court is subject to final outcome of the CWP No.38095 of 2018 pending before the Hon'ble High Court.



30 In view of above discussion, the present petition is allowed in the aforesaid terms to the effect that petitioner is granted relief of residence at the 1" floor of shared household i.e. house No.28 Bishnoi Colony, Hisar, however, this order of residence shall be subject to final outcome of the CWP No.38095 of 2018 pending before the Hon'ble High Court. The petitioner is further granted relief of compensation to the tune of 1 lakh to be paid by the respondent-husband No.3. Respondent-husband is also directed to pay maintenance to the tune of ₹10,000/- per month. However, any sum awarded and paid in any other litigation shall be set off against the maintenance awarded in this petition. A protection order is also granted to the petitioner with a direction to the respondents not to commit any domestic violence upon the petitioner and the Protection Officer as well as SHO concerned are directed to comply with the order of protection if required by the petitioner. Copy of this order be given to the petitioner free of costs and a copy be sent to the SHO concerned as well as the Protection Officer."

15. From the facts mentioned above, it is clearly transpired that the first floor of the house in question was declared as a 'shared household', therefore, with the aid of the Act of 2007, the petitioner (daughter-in-law) cannot be evicted from the said house. It is important to note here that the husband of the petitioner is not appearing in any of the civil or criminal proceedings, rather he was declared as a 'Proclaimed Person'. After two years of marriage, various litigations *inter se* were filed between her husband and the respondent No.3/senior citizen. Since inception, endevours were being made to throw the petitioner out from the house in question. Even the electricity connection was got disconnected, propelling the petitioner to institute a civil suit for permanent injunction. In the said suit, she impleaded



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her husband (respondent No.4), as well as, DHBVN as a party. The said suit was decreed in favour of the petitioner, vide judgment and decree dated 25.11.2016 (Annexure P-13), wherethrough, a decree was passed in favour of the petitioner, restraining the defendants therein, from disconnecting the electricity connection installed at the house in question, subject to payment of electricity bills of the first floor, or in the alternative, passed a direction upon the defendant No.1, therein, to release a new connection, in the name of the petitioner, on the first floor of the house, in case, the petitioner files such an application.

16. It is not out of contest on record that the learned competent Court, vide order dated 10.02.2023, while deciding the application under the DV Act, has specifically observed that the husband/respondent No.4, has not paid even a single penny of maintenance to the petitioner, rather, he is evading his presence from the Court concerned. At the initial stage, learned Maintenance Tribunal, has granted the permission to senior citizen to use the ground floor of the house, in question. However, they are hell-bent to get the petitioner evicted from the first floor of the house, as well. All these facts clearly points out that this litigation is at the behest of the husband of the petitioner, with whom, the petitioner has estranged relationship. The provisions of the Act of 2007, cannot be allowed to be misused, and even, it is not the desired object of the Act.

17. In view of the above facts and circumstances, this Court is of the considered opinion that the impugned order requires interference of this Court, as such, same is accordingly **set aside**.

18. This Court also cannot turn its eyes blind towards the rights of the senior citizen. The respondent No.3/senior citizen, is stated to be suffering

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from State-IV Cancer, and she requires regular treatment, which is available in Hisar, and for that purpose, if she shifts to the house in question, she would have an easy access to the hospital. Therefore, this Court directs the petitioner to vacate the ground floor, and shift on the first floor of the house in question, specifically when only the first floor of the said house has been declared as a 'shared household'. Further, the petitioner shall remove all her articles from the ground floor of the said house, within a period of one month from the date of passing of the order and will allow the senior citizen to reside peacefully on the ground floor.

19. Before this Court seal the proceedings of the instant case, it is important to note that husband of the petitioner (respondent No.4) has been declared as a 'Proclaimed Person' in criminal proceedings initiated against him in FIR No.382 dated 14.05.2015, under Sections 498-A, 406, 323 read with Section 34 of IPC, 1860, registered at Police Station Civil Lines, Hisar. In the verdict dated 10.02.2023, rendered by the competent Court under the DV Act, it was specifically recorded that respondent No.4, is purposely avoiding his presence before the Court, which in fact, defeats the rights of the petitioner of getting maintenance from him. It is informed to this Court, that despite the respondent No.4 (husband), being declared as a 'Proclaimed Person', he is still filing various applications before different authorities/Courts. However, the concerned police authorities are not in a position to trace out his whereabouts.

20. Criminal Revision (F) No.22 of 2020, preferred by the respondent No.4, was also dismissed by Coordinate Bench of this Court, vide order dated 18.03.2024, wherethrough, he challenged the orders passed by the learned Family Court, Hisar. The Coordinate Bench of this Court, vide order dated

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25.07.2024, had directed the Superintendent of Police, Hisar, to make all possible efforts to secure the presence of respondent No.4 (Alok). Furthermore, the Coordinate Bench of this Court, earlier by drawing an interim order dated 11.09.2024, had directed the Inspector General of Police, Hisar Range, Hisar, to entrust the investigation of FIR No.382 dated 14.05.2015, under Sections 498-A, 406, 323 read with Section 34 of IPC, 1860, registered at Police Station Civil Lines, Hisar, to some senior officer, and a specific direction was given to file a status report, on the next date of hearing.

21. In deference to the directions (supra), status report by way of affidavit of Dr. M. Ravi Kiran, IPS, Additional Director General of Police, Hisar Range, Hisar, has been filed, which is on record and tagged with the case file. It is informed to this Court that all efforts have been made to arrest the respondent No.4 (Alok). However, his whereabouts are not traceable.

22. This Court has failed to understand that on one hand, respondent No.4 is able to pursue the proceedings before various Courts, and on the other hand, he is not traceable by the Haryana Police. It seems that mere paper formalities have been done by filing the affidavit (supra). Therefore, this Court is of the considered opinion that the instant matter requires attention of Director General of Police, Haryana.

23. Let the Director General of Police, Haryana, to examine the issue independently and the efforts made by the Investigating Officer concerned, in executing the warrants of arrest against the respondent No.4 (Alok), who has been declared as a 'Proclaimed Person', and pass adjudicatory directions upon the District Police concerned, to make all endeavours and take all requisite steps, to effect the warrants of arrest against the respondent No.4.



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24. The compliance report in this regard, be filed before this Court on 21.11.2025.

25. With the aforesaid observation, the instant writ petition is **disposed of**.

26. Pending applications, if any, stands disposed of accordingly.

**(KULDEEP TIWARI)
JUDGE**

October 01, 2025

Manpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No