

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49796 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

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1. Sahina Rashid @ Sabina Rashid W/O Anwar Rashid,
 2. Anwar Rashid, S/O Late Khan Sahib @ Md. Rashid, resident of Flat No.11 and 12- Amber Home Apartment, Khajpura P.O.-B. V. College Khajpura, P.S. Hawai Adda, Distt. Patna. At Present- Isfaque Alam, C/O Roomi, resident of Haroon Nagar, Sector-1, Phulwari Sharif, Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Arzoo Fatima, D/O Late S.M. Sabir Ahmad, resident of Saiydana, Phulwari Sharif, P.S.- Phulwari Sharif, District- Patna. At Present Ambar Homes Apartment, Flat No.11 and 12, Khajpura, P.O.- B.V. College, Khajpura, P.S. Hawai Adda, Distt. Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate with
Ms. Mira Kumari, Advocate

For the Opposite Party/s : APP
Ms. Kumari Jyoti, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-05-2015

The Petitioners seek quashing of the order dated 30.10.2013 by which the Judicial Magistrate, 1st class, Patna, has directed the Petitioners to permit the Opposite Party No.2 to live within the house owned by them in Domestic Violence Case No.02 of 2012.

The background facts of the case is that the Opposite Party No.2 was married with Ain Rashid on 24.03.2009 whereafter she resided with him in Dubai. Later on, some differences arose between them on account of which both the spouses returned and

started living in the flats where she has been directed to be accommodated.

The Petitioners submit that shared household has been interpreted by the Courts to mean only where the husband has interest, whereas, in the present case, husband of the Opposite Party No.2 is living in Dubai. The Petitioners are living in the two flats which are exclusively owned by them. The report of the police was also to this effect.

Considering such factual situation, the order dated 30.10.2013 passed by the Judicial Magistrate, 1st class, Patna, in Domestic Violence Case No.02 of 2012 is hereby set aside.

The application stands allowed.

(Anjana Prakash, J)

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