

CRR-1270-2012 (O&M).

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

**CRR-1270-2012 (O&M).
Decided on: December 14, 2015.**

Kamla Devi

..... Petitioner(s)

Versus

Radha Rani and another

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Mahender Singh, Advocate,
for the petitioner.**

**Mr.Sarvesh Kumar Gupta, Advocate
for the respondent No.1.**

None for respondent No.2.

M.M.S. BEDI, J.

The petitioner is mother-in-law of respondent No.1.
Vide order dated 9.7.2011, Judicial Magistrate First Class, Faridabad, had allowed the application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act') filed by respondent No.1, holding that respondent No.1 had been a victim of domestic violence. Respondent No.1 was held entitled to the protection order, residence order and monetary order. The petitioner filed an appeal under Section 29 of the Act against the order dated 9.7.2011, which has been dismissed by the learned Additional Sessions Judge, Faridabad, vide order dated 2.3.2012.

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Counsel for the petitioner, mother-in-law, has vehemently urged that she is the owner of the house as per the sale deed, a copy of which has been placed on record as Annexure P1 indicating that she had purchased this property from Bhagwati Sharma vide sale deed dated 27.9.2006 and that respondent No.1 cannot claim any right in the house of the petitioner as it does not fall under the definition of “shared household” under Section 2 (s) of the Act and that Section 17 of the Act would not permit respondent No.1 to have a legal right to stay in the shared household. He has argued that respondent No.1 has been living separately from the petitioner along with her husband and that the house which was purchased by her vide sale deed Annexure P1, cannot be claimed by the respondent-wife.

Counsel for the petitioner has placed reliance on judgment in **S.R.Batra and another Vs. Taruna Batra, (2007) SCC 169**, in support of his contention that a wife can claim a right of residence from her husband only but the property of father-in-law or mother-in-law cannot be claimed as a matter of right by the estranged wife. Counsel for the petitioner submits that in **S.R.Batra and another** (supra), the house belonged to mother-in-law of Taruna Batra but did not belong to her husband Amit Batra as such, it was held that Taruna Batra cannot claim any right to live in the said house.

The grievance of the petitioner is that respondent

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No.1 can enforce her legal rights against her husband for residence order but not against the petitioner being her mother-in-law and owner of the property in which wife cannot have a right of residence. He placed reliance on **Vijay Verma Vs. State (NCT of Delhi) and another, 2010 (4) JCC, 2377.** Relying upon the said judgment, counsel for the petitioner has submitted that when the son moves out of joint family after marriage, the wife ceases to have a domestic relationship with family members of her husband. He also placed reliance on **Adil and others Vs. State and another, 2010 (4) JCC, 2577.** In the said case, the petitioners were the brothers of the husband of the complainant. The Magistrate and the Appellate Court had held that they had domestic relationship with the complainant but the Delhi High Court had set aside the order passed by the Magistrate. He also placed reliance on **Barun Kumar Nahar Vs. Parul Nahar and another, 199 (2013) Delhi Law Times 1,** wherein it was observed that daughter-in-law has got no right to reside in property which belongs to her father-in-law as the said property is not covered by the definition of “shared household.”

I have heard the counsel for the petitioner and considered the facts and circumstances of the case in context to the legal provisions of the Act. As per the affidavit of Kamla Devi, EX.RW/A, she has stated that she has got no objection if Radha lives in her house.

As per the definition of “shared household” given in

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Section 17 (1) of the Act, a wife is entitled to have a right of residence in the “shared household.”

The shared household has been defined under Section 2 (s) of the Act which reads as follows: -

“(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.”

The respondent-wife after marriage had stayed in the house of the petitioner as such, the house which is owned by the petitioner would fall within the definition of “shared household” given in Section 2 (s) of the Act because “shared household” would mean the household where the aggrieved person (wife) lives or at any stage has lived in the domestic relationship either singly or along with the respondent. The respondent-wife has been able to show that she had lived in the house in dispute under the ownership of petitioner

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and has remained in domestic relationship with the petitioner.

The word “domestic relationship” is defined in Section 2 (f) the Act as under: -

“2 (f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.”

Respondent No.1 having stayed in the shared household having domestic relationship is entitled to the residence order.

In view of the the circumstances of the case and following the relevant provisions of law as discussed above, I do not find any infirmity in the order passed by the Courts below.

In the light of what has been stated above, the petition is dismissed.

December 14, 2015.
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(M.M.S. BEDI)
JUDGE