

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

CRR No.3026 of 2014 (O&M)

Date of decision: 8th July, 2015

Varun Aggarwal and others

... Petitioners

Versus

Pooja Aggarwal

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sandeep S. Majithia, Advocate
for the petitioners.

Mr. Madan Gupta, Advocate
for the respondent.

FATEH DEEP SINGH, J.

A marriage took place between Varun Aggarwal appellant No.1 and Pooja Aggarwal respondent on 02.06.2011 and thereafter the couple had been cohabiting at Ludhiana from where the wife gave birth to a male child namely Shauraya out of the loins of husband Varun Aggarwal. It is thereafter, bickerings erupted leading to matrimonial dispute and which led to filing of various legal recourses against each other. In one of such recourse, under Protection of Women from Domestic Violence Act, 2005 (in short 'the Act' or 'Domestic Violence Act') the wife had sought maintenance from the

husband. The Court of learned Judicial Magistrate 1st Class, Ludhiana through orders dated 26.09.2013 directed the husband to pay maintenance to the wife to the tune of ₹3,000 per month from the date of filing of the petition and restraining the husband from committing any act of violence observing that the wife had every right to stay in the shared household.

The husband and his parents preferred an appeal before the Court of learned Additional Sessions Judge (Fast Track Court), Ludhiana which through impugned judgment dated 01.09.2014 modified the orders of interim maintenance so granted reducing the same to ₹2,500 per month and dismissing rest of the prayer of the appellants.

Still aggrieved, the husband and in-laws of the respondent have again assailed these findings before this Court in the present revision petition.

Mr. Sandeep Singh Majithia, Advocate has sought to argue that the wife had already received ₹24,00,000 as permanent alimony in a petition filed by her against her first husband and subsequently against the present husband she was awarded maintenance to the tune of ₹7,000 per month in a petition under Section 24 of the Hindu Marriage Act, 1955 which has been reduced to ₹2,500 per month by this Court and thus, she needs no maintenance allowance.

It has been rightly contended on behalf of the respondent by Mr. Madan Gupta, Advocate that the present marriage has no concern about the settlement of the first marriage.

It is settled position of law that the husband is under obligation to maintain wife and the child commensurate with his status in life. The petition from which present revision petition has arisen is by the wife under the provisions of the Domestic Violence Act.

It is own stand of the husband that he is running a business of trading in blankets and though has denied claim of the wife that he was having income of ₹3,00,000 per month, the provisions of Section 20 of the Domestic Violence Act empowers the woman who is an aggrieved person to get the relief of maintenance, medical expenses etc. from the husband as well as seek an embargo against the husband and in-laws from her dislocation from the shared household. While adjudicating on the interim maintenance the trial Court has considered all these aspects and awarded interim maintenance to the tune of ₹3,000 per month to the wife alone and the learned first appellate Court has reduced it to ₹2,500 per month in the light of orders of this Court passed in another petition under different provisions between the same couple. Mr.Majithia could not convince this Court how this amount was unjust and unfair as well as unreasonable and therefore, these findings in the impugned order needs to be upheld.

The most contentious issue has been the fact of the orders passed by virtue of powers under Section 17 of the Domestic Violence Act granting stay to the wife regarding her stay in the shared household. Though with much elance Mr.Sandeep Singh Majithia has placed reliance upon '**S.R. Batra & another v. Smt. Taruna Batra**'

reported in **2007(1) RCR (Criminal) 403** to hammer home the point that the property in question is owned by parents and therefore, cannot be termed to be a shared household. However, having regard to the peculiar factual situation which is quite at variance from the cited ratio. It is a situation as has been argued where the parents and the husband have a joint family, an HUF business, the wife undisputedly since the time of her marriage had been sharing the household with the husband giving birth to a child and living in the same very household for so many years, are matters which cannot escape judicial attention. No doubt, no straitjacket formula can be applied in laying down the situations under which a wife can be granted protection from her eviction from matrimonial home which is a shared household. In the present case, there is a clear unambiguous admission by the husband which is a question of fact that it is a family house and all of them were having a joint business. The concept of domestic relationship in the Act is the 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 etc. The introduction of the remedy of right to residence in the Act which is a secular legislation is a revolutionary and path-breaking step purely with a view to advance the object of the Act. In view of the socio-economic scenario in this country and thus, as long as the parties do not lead evidence to the satisfaction of the Court, denying the wife to such a right would certainly be a travesty of justice at this juncture. If a restricted meaning is assigned to this term or a

constricted approach is taken, it would defeat the very purpose of these social provisions and would deprive an unfortunate living being a weaker sex security to her life and well-being. It would not be out of place to highlight the fact that normally in Indian households where concept of joint family is still prevalent that the properties are usually owned by the parents and go on from generation to generation and therefore such a matrimonial home of the wife and the husband cannot be plucked out of the terminology of 'shared household'. Since the son may not have a title but certainly there persists dominantly an interest or equity in this household and therefore the arguments of Mr.Sandeep Singh Majithia that the same does not fall within the definition of 'shared household' is highly untenable.

Thus, in the light of these discussions, there appears to be no illegality or perversity in the orders under assail, as such the same are upheld. Finding no merit in the instant revision petition, the same stands dismissed.

Records be sent back.

(FATEH DEEP SINGH)
JUDGE

July 8, 2015
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