

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.3120 of 2015 (O&M)

Date of Decision: August 24, 2015

Smt.Anju

...Petitioner

VERSUS

Mehtab Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Pawan Hooda, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner against the judgment dated 07.07.2015 passed by learned Addl. Sessions Judge, Bhiwani vide which appeal filed by respondent-Jaswant against the judgment dated 24.12.2014 passed by learned JMJC, Charkhi Dadri, was allowed.

The brief facts of the case are that Anju filed a petition under Section 12 of the Protection of Women from Domestic Violence Act against Mehtab Singh, Jaswant and Smt.Asha, wherein, it is mainly stated that her marriage was solemnized with Raj Singh son of Mehtab Singh on 01.03.1998 according to Hindu Rites. After the solemnization of marriage, the petitioner went to her matrimonial home at Jhajjar and lived with her husband and their marriage was consummated. After 15 months of marriage, a child namely Lahar

was born. Unfortunately, on 22.07.2003, petitioner's husband died and after his death, the respondents started torturing the petitioner mentally and physically. The respondents started aspiring that petitioner may get married to Jaswant, who was already married with one Kiran, as there was matrimonial dispute between them but later on Kiran compromised with her husband. On 09.12.2009, respondents gave severe beating to the petitioner and her daughter and oust them from matrimonial house and said that both would not get any share from the property of the deceased Raj Singh.

Learned JMIC, Charkhi Dadri accepted the petition and passed the order directing the respondents to not to alienate the residential or other properties without prior permission of the Court etc. and further directed respondent-Jaswant to pay ₹50,000/- as compensation and damages for the injuries including mental torture and emotional distress caused by the acts of domestic violence. An appeal was filed by Jaswant and learned Addl. Sessions Judge, Bhiwani vide judgment dated 07.07.2015, accepted the appeal and set aside the judgment dated 24.12.2014 passed by learned JMIC, Charkhi Dadri and petition under Section 12 of the Protection of Women from Domestic Violence Act was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that learned Addl. Sessions Judge, Bhiwani, has discussed the facts of the case and has given findings as per law. Learned Addl. Sessions Judge has held that marriage of

Anju took place with Raj Singh on 01.03.1998. Raj Singh died on 20.07.2003 and Jaswant Singh had taken Lehar, daughter of Anju, in adoption on 29.10.2003, which document is in the lower court record. Jaswant Singh had transferred land in the name of Anju when she filed a civil suit bearing No.1960 dated 01.06.1998 i.e. immediately after marriage. The property which has been transferred in her name is a house situated within Arya Nagar Ward No.15, Jhajjar, Tehsil and District Jhajjar and if the property can be transferred in the name of Anju within three months of her marriage, then in that situation, there cannot be any domestic violence or demand of dowry by the present respondents. It is also in the finding of learned Addl. Sessions Judge that no property was left by Raj Singh which is being inherited by the present respondents. They are only liable if they have inherited any property which belongs to Raj Singh. Anju is residing at Gurgaon and there is no proof on the record to show that her husband had any share in the property now owned by Jaswant or Mehtab Singh or Asha. It is also discussed by learned Addl. Sessions Judge correctly that Anju is already living separately and has been given a residential house by the present respondents, therefore, she is not entitled to any relief from the Court.

At the time of arguments, learned counsel for the revision petitioner before this Court admitted that Lehar was adopted by Jaswant but the counsel challenged the adoption deed by saying that it is illegal. When the specific query was put to the counsel as to whether any petition has been filed or any proceedings to get the

adoption treated as null and void, the answer was in negative, which means that adoption has taken place on 29.10.2003 after the death of Raj Singh and till now, this adoption has not been challenged. It is also admitted at the time of arguments before this Court by the counsel for the petitioner that house was given to Anju on the basis of civil court decree and she along with her husband was residing separately. As revision petitioner along with her husband was residing in the house owned by the petitioner, therefore, there is no question of turning the petitioner out from the matrimonial house. There is also nothing on the record to show that any property was inherited by the respondents from Raj Singh.

In view of the above discussion, I find that the findings given by learned Addl. Sessions Judge, Bhiwani are correct, as per evidence, law and do not require any interference from this Court. No illegality has been committed by learned Addl. Sessions Judge, Bhiwani while passing the impugned judgment dated 07.07.2015.

Therefore, finding no merit in the present revision petition, the same is dismissed.

August 24, 2015
Vgulati

(INDERJIT SINGH)
JUDGE