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

CRR-1183-2015 (O&M)

Date of Decision: 28.04.2016

RAKESH KUMAR AND OTHERS

... Petitioners

VS.

ANITA KUMARI AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Vipul Aggarwal, Advocate,
for the petitioners.

Mr. Sanjay Gupta, Advocate,
for the respondents.

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

KULDIP SINGH, J (ORAL)

Present petition has been filed against the order dated 27.02.2015 passed by the learned Additional Sessions Judge, Hoshiarpur.

Rakesh Kumar-petitioner No.1 and Anita Kumari-respondent No. 1 were married on 09.02.1996. Two children from the said wedlock were born i.e. one son and one daughter who according to the parties are now 18 ½ and 16 years of age respectively. It is stated that in the year 2008 Anita Kumari-respondent wife left the company of the husband. An application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 was filed before the Judicial Magistrate Ist Class, Mukerian, which was disposed by the

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learned Magistrate vide orders dated 31.01.2013 by directing the husband to pay monthly rent @ ₹ 2,000/- per month to the wife for making arrangement of alternative accommodation, from the date of application. It was also observed that the husband is dependent upon the pension and is maintaining his son and daughter. The remaining plea was declined. Against the said orders, both the parties approached the Court of Learned Additional Session Judge, Hoshiarpur. The learned additional Sessions Judge granted the following relief to the wife:-

“So keeping in view Section 17 of the Act when the aggrieved person Anita Kumar have a clear right to reside in the shared household then there was no need to provide the alternative relief of rental accommodation to Anita Kumari even on the request of respondent Rakesh Kumar and the impugned order passed by the trial court is clearly against law and evidence, which is liable to be set aside and accordingly set aside and accordingly it is ordered that Anita Kumari appellant has a right to reside in a shared household i.e. at Village Kothe Chak and it is also ordered that Anita Kumari shall be put into possession of one room with the basic necessities of kitchen, bathroom and toilet by the respondent No. 1 and 2. Keeping in view the earlier conduct of the respondents, this court has found that the respondents had put the locks on the shared household when interim relief of one room accommodation in the shared household was

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ordered in her favour and thereafter Anita Kumari never came into the possession of the said one room in the shared household. So it is ordered that if the shared household found locked by the respondents then on approaching to the SHO of the nearest area by Anita Kumari, he shall provide full protection and help to put the possession of one room accommodation alongwith the basic necessities of kitchen, bathroom and toilet which were earlier allotted to Anita Kumari by respondents till dated 31.03.2015 and it is further directed to the respondents No. 1 and 2 to provide the above ordered accommodation of one room alongwith kitchen, bathroom toilet to Anita Kumari till 31.03.2015. It is further ordered that thereafter when Anita Kumari came into the possession in the share house hold at village Kothe Chak, respondent No. 1 and 2 are restrained from dispossessing or in any other manner disturbing the possession of aggrieved person i.e. Anita Kumari appellant from the shared household whether or not the respondents No. 1 and 2 have a legal or equitable interest in the shared household and further direction is made that all the respondent are restrained from entering into the portion ordered to be allotted to Anita Kumari in the shared household in which the aggrieved person would reside. It is further ordered that the respondents No. 1 and 2 are restrained from alienating or disposing of the shared household save in accordance with

the procedure established by law as referred in Section 17 (2) of the Act. It is further ordered that the SHO of the nearest police station in whose jurisdiction shared household in village Kothe Chak falls shall provide protection and safety to the aggrieved person namely Anita Kumari and to assist her in the implementation of this Order.”

Learned counsel for the petitioner has argued that the learned Additional Sessions Judge, Hoshiarpur has wrongly observed that Sat Pal, father of the present petitioner is dead, however, he is alive and is one of the petitioners in this case. It is stated that the order granting shared accommodation in the shape of one residential room alongwith one kitchen and one bathroom is illegal. It is further contended that the petition was filed much late in the year 2013.

I have gone through the order passed by learned Additional Sessions Judge, Hoshiarpur. It comes out that even the lower court has found that the wife is entitled to accommodation and for that ₹ 2000 per month as monthly rent for accommodation was allowed to the wife. The appellate court in place of sum of ₹ 2000/- per month as rent, provided for the accommodation in the shared house itself. Learned counsel for the petitioner contended that the husband is not the owner of the house, however, it is not a denying fact that the house is shared. The wife has right to live in the shared house. Now-a-days two thousand may not

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sufficient to pay the rent for the alternative accommodation. It also comes out that the daughter is living with the wife and son is living with the father.

This court while exercising the revisional powers is to see as to whether is there any illegality and perversity in the impugned order ?

While exercising the revisional powers, this Court finds that there is no illegality and perversity in the impugned order whereby the wife had been awarded the accommodation in the shape of one residential room alongwith one bathroom and one kitchen, in place of rent @ ₹ 2000/- per month for the accommodation.

Accordingly, the present revision is dismissed.

[KULDIP SINGH]
JUDGE

April 28, 2016
Suresh Kumar