

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

Crl. Rev. No. 618 of 2015 (O&M)

Date of decision : 05.05.2016

Mukesh

.....Petitioner(s)

Versus

Shashi and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Narender Kajla, Advocate
for the petitioner.

Mr. D.C. Dhaula, Advocate
for the respondents.

ANITA CHAUDHRY, J.

CRM-14154-2015

For the reasons set out in the application, same is allowed as prayed for and accompanying documents (Annexures P-3 & P-4) are allowed to be taken on record.

Crl. Rev. No. 618 of 2015

The instant revision is directed against the order passed by the Additional Sessions Judge, Hissar whereby the appeal filed by the respondents was accepted and the judgment dated 12.12.2014, passed by the Magistrate granting interim maintenance was set aside.

The petitioner was married to Anil son of Ranvir Singh. Anil died in August, 2011. The mother-in-law and father-in-law also died. A complaint under the Domestic Violence Act was filed by Mukesh against her three sister in laws, their husbands and two other relatives seeking maintenance and arrears of rent received from the tenants from the property owned by the father-in-law.

The claim of the complainant was that she had been dispossessed from the matrimonial home and she was entitled to residence in the matrimonial home i.e. House No.594 Housing Board Colony and to receive the rent of the shops.

The respondents denied the fact that the complainant had been forcibly dispossessed or that any threat was extended. It was denied that she was entitled to any amount from them.

The trial Court held that there was no provision for recovery of rent in the Domestic Violence Act and she could approach the Civil Court if she had any right. It was also noted that partition proceedings were pending in the Civil Courts at Rohtak. It was also observed that the petitioner had been dispossessed from the matrimonial home and it amounted to Domestic Violence and because of dispossession, the complainant had suffered physical and financial loss and therefore, she was entitled to Rs.1,000/- per month from the date of the petition in lieu of the share in the house hold which was to be paid by the respondents. It also awarded an interim maintenance of Rs.2,000/- per month.

The complainant had set up a Will said to have been executed by Ranvir Singh in favour of the only grand son Vansh i.e. son of the complainant. The trial Court reversed the judgment in

appeal holding that there was nothing on record to suggest that Mukesh or her son had been dispossessed from the house in dispute. It also noted that no documentary evidence had been placed on file to show who owned the property. It noted that the Will purported to have been executed by Ranvir Singh did not refer to the house in which the complainant was asserting her son's right. It also found that no evidence had been placed on record to show that the respondents were receiving rent of Rs.15,000/- per month from the shops.

Aggrieved by the order this revision.

On the last hearing, the petitioner was asked to place on record the copy of the complaint and the FIR lodged by her prior to the filing of the complaint.

The counsel for the petitioner had urged that the house was owned by the father in law and he had executed a Will in favour of the son of the petitioner and the petitioner had stayed in that house and it was a shared house hold and since she had been illegally dispossessed, she was entitled to maintenance as well as maintenance in lieu of residence.

The submission on behalf of the respondents was that there was no material to show that it was a shared house hold and after the death of the husband, the mother in law and the father in law the petitioner could not claim maintenance from the married sister in laws, their husbands and other relatives. It was urged that there was no material to show that any property had been let out or any rent had been received.

A query was posed to the petitioner with respect to the documents regarding ownership of the house in question. The counsel for the petitioner had stated that they did not have the copy of the title deeds. The petitioner is not in possession of any ration card to show that the petitioner had lived in that house ever and it was the shared house hold even at this stage.

The petitioner was married in 2001. Her husband had died almost 10 years after marriage. The petitioner has not been able to produce the copy of the ration card or the title deeds. The petitioner is mainly relying upon the copy of the Will, which does not specifically refer to the house in which the petitioner is claiming a right. There is no material at this stage to show that the respondents were receiving any rent from the house. A perusal of the FIR shows that the petitioner had claimed that after the death of her husband she had left the matrimonial home after 13 days. No allegations were levelled there that she had been illegally dispossessed. Moreover, it is a matter of evidence. The petitioner is yet to lead her evidence. I find no infirmity in the order. The revision is dismissed as the judgment of the appellate Court does not suffer from any error which calls for interference. However, it is clarified that the case would be decided strictly on merits without being inhibited or influenced by any observation made herein.

05.05.2016

sunil

(ANITA CHAUDHRY)
JUDGE