

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

CRR No.3835 of 2016

Date of decision: 29th March, 2019

Raghubir Singh Bal

... Petitioner

Versus

Sarabjit Kaur & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Simranjeet Singh, Advocate for the petitioner.

Mr. B.D. Sharma, Advocate for respondent No.1.

None for the remaining respondents.

FATEH DEEP SINGH, J.

This revision by the aggrieved petitioner father-in-law Raghubir Singh Bal has been filed challenging an order dated 08.08.2016 of the Court of learned Additional Sessions Judge, Jalandhar in which earlier orders dated 03.09.2012 of learned Additional Chief Judicial Magistrate, Jalandhar had merged and in the impugned judgment passed in the appeal of the daughter-in-law Sarabjit Kaur and cross appeal filed by the father-in-law Raghubir Singh Bal, the Court below dismissed both the appeals.

Heard Mr. Simranjeet Singh, Advocate for the petitioner; Mr.B.D. Sharma, Advocate for respondent No.1 and perused the records of the case.

The facts are that Sarabjit Kaur filed against her husband Gurpreet Singh Bal, his father Raghubir Singh Bal, mother Rajwant Kaur, brothers namely Balwinder Pal Singh Bal and Jarmanjeet Singh Bal, and sister-in-law Gurjeet Kaur wife of Jarmanjeet Singh, a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short, 'the Act'). The allegations levelled by the wife fall within the compass that a marriage between the couple took place on 08.09.2002 and out of this wedlock a female child Harpreet Kaur was born to the couple on 01.08.2003 and who is living with the mother. There have been allegations by the wife levelled against the husband and the in-laws which need not be reiterated here and which led to this matrimonial dispute necessitating institution of the complaint in which the impugned orders have come about whereby the Court of learned Addl. Chief Judicial Magistrate, Jalandhar had passed the following orders:

“... .. Whatever relief she is having, she is having against her husband, who has gone abroad and there is nothing on the record about his whereabouts, so the petitioner has not to be (sic) considered as a destitute and she is entitled to the relief of residence in the matrimonial home with two proper rooms, one kitchen and one bathroom as suggested by the petitioner herself. Hence, the petition is hereby partially allowed. Here, the petitioner is informed that she is liable to pay electricity charges as directed by

the Court on 12.06.2010 and the respondent is not liable to pay electricity charges on her behalf. The petitioner is claiming reliefs of monetary compensation or damages from the other respondents to which the other respondents are not liable to pay to the petitioner and only respondent No.2 is directed to provide her with residential accommodation as suggested earlier. Accordingly, petition stands disposed off. File be consigned to the record room.”

The same was challenged in the appeal and by the impugned judgment both the rival appeals of father-in-law and the wife stood dismissed.

Appreciating the submissions, the entire controversy between the parties revolves around the definition of **‘shared household’**. It is admitted by the two sides that the father-in-law has filed a suit for mandatory injunction for eviction of the daughter-in-law and which is still pending and as has been sought to be submitted by Mr. Simranjeet Singh learned counsel for the petitioner/father-in-law, by seeking support from **‘S.R. Batra & another vs. Taruna Batra’ 2007(1) RCR(Criminal) 403; ‘Sangeeta vs. Om Parkash Balyan & another’ 2015(3) RCR(Civil) 495; ‘Sudha Mishra vs. Surya Chandra Mishra’ 2015(1) ECrC 530; ‘Shumita Didi Sandhu vs. Sanjay Singh Sandhu & others’ 2010(40) RCR (Civil) 618; and ‘Neetu Mittal vs. Kanta Mittal & others’ 2008(4) RCR(Civil) 630**, the shared household would

only mean the house belonging to or taken on rent by the husband or the house which belongs to the joint family of which the husband is a member. It is admitted and cannot be displaced by any means that after marriage on 08.09.2002 the wife as a bride had stepped into this house and cohabited and lived together with the husband till he managed to flee abroad on 18.01.2004 and both have been there till the husband has vanished from this country and has severed all his links with the unfortunate wife and the child. The arguments that have been put forth by learned counsel for the petitioner that the father disinherited the son though appears to be highly inviting however a close look at it shows that it was when the matrimony had gone sour, father of the husband devised a way to wriggle out of his legal obligations by making such a declaration. To the specific query of the Court, learned counsel for the petitioner could not convince or show if this disinheritance of the son to the estate of the father was by any registered document and mere advertisement/publication in the newspaper cannot be legitimately accepted to be an act of legal inheritance. Reliance placed on **‘Madan Lal & another vs. Labhu Ram & another’ 1922 AIR (Lahore) 421.**

Furthermore, in another view of this Court in the case of **‘Subhash and another vs. Shivani’ 2016(4) RCR(Civil) 21,** considering the ratio laid down in **S.R. Batra’s case (ibid)** relied upon by the petitioner side, his Lordship has held that this ratio does not deal with

the situation where the husband is bent upon a mischief by camouflaging a situation by taking different residence and wants to wash his hands of his liability towards his wife by claiming that he is now unemployed and not having any residence. It could not be denied by the father-in-law that there was no domestic relationship with the unfortunate wife of his son. Similarly, in another Division Bench view of Hon'ble Delhi High Court in '**Smt. Preeti Satija vs. Smt. Raj Kumari and another**' 2014 (2) RCR(Civil) 8, their Lordships have taking into consideration **S.R. Batra's case (ibid)** had equated the provisions of the Act being a secular legislature akin to Section 125 of the Cr.P.C. holding that it was to provide more effective protection of the rights of the women guaranteed under the Constitution who are victims of the violence of any kind occurring within the family, and thus, were of the view that introduction of the remedy of right to residence is a revolutionary and path breaking step taken to further the objects of the Act, and any attempt at restricting the scope of the remedy would reduce the effectiveness of the Act itself.

The ratios in **S.R. Batra's case (ibid)** and **Shumita Didi Sandhu's case (ibid)** rather help the case of the wife whereas the one in **Neetu Mittal's case (supra)** is factually at much variance and does not help the case of the petitioner. Furthermore, as has been remarked by the Court below, a suit for mandatory injunction for eviction of the daughter-in-law is pending and it has been rightly concluded by the Court below

that the right of daughter-in-law to reside in the accommodation would be there until her rights are finally decided by the Civil Court. Thus, this Court taking a liberal construction of the definition of ‘shared household’ does not feel inclined to show any interference and the impugned order needs to be upheld. There being no merit, the present revision petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

March 29, 2019
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No