

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 600 of 2017 (O&M)

Date of Decision: 25.02.2020

Dilpreet Kaur

... Appellant(s)

Versus

Jagjeet Singh Matneja and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. M.S.Sachdev, Advocate
for the appellant.

Mr. Abinashi Singh, Advocate
for respondents No.1 and 2.

Mr. K.S.Kalhon and Ms. Reena, Advocates
for respondent No.3.

Anil Kshetarpal, J.

Defendant No.2/appellant has filed regular second appeal against the judgement passed by the learned Additional District Judge, S.A.S. Nagar, Mohali. The issue which arises for consideration is that whether a daughter-in-law can claim self acquired property of parents of her husband to be “shared household” as defined in Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the Act”) and consequently entitled to protect her possession.

The issue is not *res integra* and stands answered in ***S.R.Batra and Another v. Smt. Taruna Batra 2007 (3) SCC 169*** by the Supreme Court, after discussing and interpreting the definition of “shared household” under Section 2(s) of the Act. The Supreme Court has held that the wife is

only entitled to claim a right to residence in a shared household, which 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. The relevant discussion in this respect is extracted as under:-

“26. *If the aforesaid submission is accepted, then it will mean that wherever the husband and wife lived together in the past that property becomes a shared household. It is quite possible that the husband and wife may have lived together in dozens of places e.g. with the husband's father, husband's paternal grand parents, his maternal parents, uncles, aunts, brothers, sisters, nephews, nieces etc. If the interpretation canvassed by the learned counsel for the respondent is accepted, all these houses of the husband's relatives will be shared households and the wife can well insist in living in the all these houses of her husband's relatives merely because she had stayed with her husband for some time in those houses in the past. Such a view would lead to chaos and would be absurd.*

27. *It is well settled that any interpretation which leads to absurdity should not be accepted.*

28. *Learned counsel for the respondent Smt Taruna Batra has relied upon Section 19(1)(f) of the Act and claimed that she should be given an alternative accommodation. In our opinion, the claim for alternative accommodation can only be made against the husband and not against the husband's in-laws or other relatives.*

29. *As regards Section 17(1) of the Act, in our opinion the wife is only entitled to claim a right to residence in a shared household, and a '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. The property in question in the present case neither belongs to Amit Batra nor was it taken on rent by him nor is it a joint family property of which the husband Amit Batra is a member. It is the exclusive property of appellant No. 2, mother of Amit Batra. Hence it cannot be called a 'shared household'.*

30. *No doubt, the definition of 'shared household' in Section 2(s) of the Act is not very happily worded, and appears to be the result of clumsy drafting, but we have to give it an interpretation which is sensible and which does not lead to chaos in society”.*

Learned counsel, on the other hand, relies upon a Division Bench judgement of the Delhi High Court in ***Smt. Preeti Satija v. Smt. Raj Kumari and Another 2014(2) RCR (Civil) 8.***

This Court has already considered the Division Bench judgement of the Delhi High Court and has held that the judgement passed by the Supreme Court directly on the issue is binding on the Courts under Article 141 of the Constitution of India. Hence, the judgement passed by the Division Bench in the case of ***Preeti Satija*** (*supra*) cannot be relied upon in view of the judgement passed by the Supreme Court.

Still further, it is the case of the defendant No.2/appellant that

after marriage between defendants No.1 & 2 on 04.09.2005, she resided in paying guest accommodation for eight months. She along with her husband was permitted to occupy first floor of the residential accommodation. It has also come in evidence that defendant No.1 has taken a rented accommodation i.e. at House No. 2678, Phase 11, Mohali. It is the case of the plaintiff/respondents that relationship between them is far from cordial and rather strained. It is further their case that defendant No.2/appellant is residing along with her husband in a rented accommodation, however, she is not delivering the possession of the first floor of House No. 2148, sector 71, Mohali, to the plaintiffs.

It will be noted here that the suit was filed by the plaintiffs on 18.07.2013. More than nine and a half years have elapsed. The parties continue to be at loggerheads. Keeping in view the facts of the case, efforts were made to reconcile the dispute by referring the parties to Mediator. However, the parties failed to reconcile. Still further, on 04.10.2019, once again the parties were summoned and an effort was made. On 04.10.2019, the following order was passed:

“Appellant as well as all the respondents are present in Court.

It is submitted by the appellant and respondent No.3 that strenuous efforts shall be made by both of them to bring about congeniality in their relationship. Respondent No.3 submits that he shall make an effort to find employment for the appellant and has no objection, in case, she is gainfully

employed. Appellant too assures that she will not create any kind of unpleasant atmosphere for respondents No.1 and 2.

List on 18.10.2019 i.e., the date already fixed in the main case.

Parties to remain present in Court on the next date of hearing.

Status quo regarding possession as on today, be maintained by the parties till the next date of hearing”.

Thereafter, on 07.12.2019, again efforts were made, but no amicable resolution of the entire dispute between the parties could be found.

The order dated 07.12.2019 is extracted hereunder:

“Parties along with the minor child of the petitioner and respondent No.2, are present in Court. The family has interacted with each other. Grandparents and the minor daughter-Aarza are agreed that as and when she would like to visit her grandparents, she can do so along with her father. The appellant, has no objection to the same. However, an amicable resolution of the entire dispute between the parties, does not appear to be possible, at this stage.

List for arguments on 10.01.2020.

Interim order to continue till the next date of hearing only”.

Keeping in view the aforesaid facts, this Court is left with no choice but to decide the present appeal.

Resultantly, this Court does not find any ground to interfere.

Hence, dismissed.

The miscellaneous application(s), if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

February 25, 2020
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No