

140 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-927-2023

Date of Decision:23.01.2023

PREM LATA AND ANOTHER

..... Petitioners

Versus

SANDEEP KUMAR AND ORS

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Neeraj Yadav, Advocate
for the petitioners.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petitioner under Section 482 Cr.P.C. is seeking quashing of order dated 30.09.2022 (Annexure P-1) whereby Additional District & Sessions Judge, Rewari has dismissed revision petition filed against order dated 04.02.2021 passed by Civil Judge (Jr. Divn.), Rewari in execution petition.

2. The marriage of the petitioner No.1. was solemnized with respondent No.1 on 24.02.2012. The petitioner preferred petition under Section 12 of Protection of Women from Domestic Violence Act, 2005. Learned JMJC, Rewari vide order dated 10.10.2016 extended benefit of shared accommodation to the petitioner. The relevant extracts of order dated 10.10.2016 read as:-

“(c) Accommodation/Residence order

under section 19 of the Act is hereby passed provide accommodation to the petitioners by the respondent Sandeep Kumar in his house and is restraining the respondent Sandeep Kumar from dispossessing or throwing out petitioners from

matrimonial house, if that is not possible, then to provide a sum of Rs.3,000/- per month to the petitioners towards rental charges for acquiring an accommodation of her choice.”

3. The petitioner preferred execution petition before Trial Court which vide order dated 04.02.2021 (Annexure P-4) dismissed execution petition holding that respondent is ready to provide shared accommodation, thus, petitioner cannot be awarded a sum of Rs.3,000/-towards rent. The petitioner preferred revision petition before Sessions Court which came up for consideration before learned Additional District & Sessions Judge, Rewari who vide impugned order dated 30.09.2022 dismissed the petition of the petitioner. The relevant extracts of impugned judgment read as:

“9. The revisionists are asserting that the respondent No.1 get a share in his ancestral house to the extent of 1/3rd share of 37.5 Sq. yards, which comes out to 12.5 Sq. yards. The revisionists in his petition itself admitted that the respondent No.1 is under the legal obligation to provide maintenance and standard of living, which wife would have enjoyed in the matrimonial home. The revisionists have not submitted anything which could show that the respondent No.1 is the owner of any other house except his ancestral house. It is also not the case that the revisionist Prem Lata resided separately at any place with the respondent No.1 Sandeep. The photographs of the house are also produced by the respondents. Since, the respondent No.1 himself is a poor person, the revisionists cannot force him to pay Rs.3000/- in lieu of shared house hold especially under the circumstances when he is ready to provide accommodation to them in his ancestral house. The Ld. Executing Court rightly observed that the respondent No.1 has provided a place of residence to the revisionists in his ancestral house and therefore, no

question of payment of rental charges arise.

10. In the result, no shortcomings are observed in the impugned order dated 04.02.2021 passed by the Ld. Executing Court. Hence, no interference is warranted in the same. The revision petition is accordingly dismissed. Trial Court Record be returned along with the copy of this order to the concerned court. Revision file be consigned to records.”

4. I have heard the arguments of learned counsel for the petitioner and perused the record.
5. From the perusal of above quoted findings of Revisionary Court, it comes out that there is no non-compliance of order dated 10.10.2016 on the part of respondent. He is having an ancestral house of 37.5 sq. yards and he is entitled to 1/3 share which comes to 12.5 sq. yards. The size of the house and his share indicates that respondent is a very poor person. The petitioner has failed to bring on record any documentary evidence to show that petitioner had stayed with respondent at any place other than ancestral house of the respondent. Thus, respondent cannot be asked to pay Rs.3,000/- in lieu of accommodation. The respondent is ready to provide accommodation in his ancestral house. This Court does not any infirmity in the impugned order dated 30.09.2022, thus, present petition deserves to be dismissed.

Dismissed.

(JAGMOHAN BANSAL)
JUDGE

23.01.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No