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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ C.R.P. 345/2024 & CM APPLs. 67672/2024, 67673/2024

SMT KIRAN GANDHI

.....Petitioner

Through: Mr. Preet Pal Singh, Ms. Gurmeet
Kaur Kapoor, Ms. Manisha Bagga,
Ms. Tanupreet Kaur & Ms. Akanksha
Singh, Advocates.

versus

SMT KANTA RANI & ANR.

.....Respondents

Through: Mr. Parminder Singh Goindi,
Advocate for R-2 with R-2 through
VC.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

21.11.2024

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1. The present Revision Petition under *Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC, 1908")* has been filed on behalf of the Petitioner-Plaintiff against the Order dated 26.09.2024 *vide* which the Application under *Order XII Rule 6 of CPC, 1908* filed by the Petitioner-Plaintiff has been dismissed and Shri Suraj Singh Negi, the husband of Respondent-Defendant No. 1, has been impleaded as Defendant No. 2 in the array of parties by the Court under *Order I Rule 10 of CPC, 1908*.

2. *Learned counsel for the Revisionist-Plaintiff* submits that the Respondent-Defendant No. 1, who is the wife of Respondent-Defendant No. 2, is residing at B-299, Upper Ground Floor, Mohan Garden, Uttam Nagar, Delhi and the said house belongs to the Revisionist-Plaintiff, who is the sister of Respondent-Defendant No. 2/Shri Suraj Singh Negi and sister-in-law of Respondent (Defendant No. 1).



3. It is further submitted that the Revisionist-Plaintiff has filed the **Suit for Ejectment, Possession, Mesne Profit and Permanent Injunction** in respect of Property bearing No. B-299, Upper Ground Floor, Mohan Garden, New Delhi (*hereinafter referred to as the “suit property”*), wherein an Application under *Order XII Rule 6 of CPC, 1908* was filed on behalf of the Revisionist-Plaintiff seeking Judgment on Admissions.

4. The learned District Judge after referring to various judgments, has declined to exercise his discretion under *Order XII Rule 6 of CPC, 1908* to decree the Suit on Admissions. However, taking *suo moto* cognizance under *Order I Rule 10 of CPC, 1908*, and that the responsibility of providing the accommodation to the wife, is of the husband, Shri Suraj Singh Negi/husband has been impleaded as a Respondent No. 2 in the Suit.

5. The Respondent-Defendant No. 2 is present through video conferencing along with his Counsel.

6. **Submissions heard.**

7. The Petitioner-Plaintiff had sought eviction of Respondent-Defendant No. 1, the sister-in-law/wife of the Respondent-Defendant No.2/Suraj Singh Negi, from the suit property on the ground that she was the owner of the suit property. However, since the suit property was the shared household of Respondent-Defendant No. 1, the learned District Judge has rightly declined to exercise discretion of giving a Judgment on Admissions under *Order XII Rule 6 of CPC, 1908*.

8. However, it cannot be overlooked that though it is a shared household but is owned by the sister-in-law. The primary responsibility to provide for residence to the wife is that of the husband, who has now been impleaded as Defendant No. 2 in the Suit by the learned District Judge. Reference may be



made to *Section 19 of the Protection of Women from Domestic Violence Act, 2005* is relevant which reads as under: -

“Section 19 Residence orders

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order

(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b)

(c)

(d)

(e) or

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:

Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3).....

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7)...

(8)....”

9. The entire objective of *Section 19 of the Protection of Women from*



Domestic Violence Act, 2005 is to give protection to a daughter-in-law who shall not be left without a roof over her head.

10. From the reading of *Section 19 of the Protection of Women from Domestic Violence Act, 2005*, it is evident that while it recognizes the right of a daughter-in-law to continue to live in the *shared household*, is subject to two conditions; *firstly* she cannot be dispossessed except in accordance with law and *secondly*, she may be provided with an alternate accommodation or the rent for such alternate accommodation.

11. *Learned counsel for the Respondent-Defendant No. 2* submits that Respondent-Defendant No. 2 undertakes to provide appropriate alternate accommodation to the Respondent-Defendant No. 1, his wife. In the alternative, he is willing if she comes to stay in his house.

12. In view of the submissions made, no further interference is merited and warranted with the observation that the Petitioner-Plaintiff or the Respondent-Defendant No. 2 may move an appropriate Application for providing the alternate accommodation/rent to Respondent-Defendant No. 1 for her residence.

13. The said Application, when moved, shall be considered by the learned District Judge in the light of the provisions of the *Protection of Women from Domestic Violence Act, 2005* independent of the observations made in the impugned Order dated 26.09.2024.

14. Accordingly, the present Revision Petition along with pending Applications is hereby disposed of.

NEENA BANSAL KRISHNA, J

NOVEMBER 21, 2024

S.Sharma