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

CWP-21046-2021

Date of Decision : **28.10.2025**

GUNJAN

.....Petitioner

VERSUS

THE DISTRICT MAGISTRATE CUM CHAIRMAN AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Tanmoy Gupta, Advocate,
for the petitioner.

Mr. Sushil Bhardwaj, Addl. A.G., Haryana.

Mr. Kamal Deep Sehra, Advocate &
Mr. Saurabh Chaudhary, Advocate,
for respondent no.2.

Respondent no.3 ex parte.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, the petitioner, who is a daughter-in-law, fetching grievance from order dated 13.09.2021 (Annexure P-1), passed by the learned District Magistrate-cum-Chairman, Senior Citizen Welfare and Maintenance of Parents, Apellant Tribunal, Palwal (respondent no.1), filed the instant petition, cast under Article 226/227 of the Constitution of India.

2. Learned counsel for the petitioner submits that though opportunity of hearing was given to petitioner, and they were earlier



proceeded against *ex parte* vide order dated 23.08.2021, however, on the application preferred by the petitioner, the said *ex parte* order was set aside, at the time of passing the impugned order, which clearly reflects that there is a complete violation of principle of natural justice, and only on this account, the impugned order requires interference.

3. He further submits that the petitioner, being daughter-in-law has a right, to protect her right, in the shared household, and the learned Tribunal concerned, has not examined this issue at all, rather solely considering respondent no.2 (senior citizen), as the absolute owner of the property, the order of eviction has been passed.

5. He also placed reliance upon an order passed by this Court in '**Sunita vs. District Magistrate and Appellate Tribunal, Hisar and others**' passed in CWP-38095-2018 (O&M) (decided on 01.10.2025), wherein, this Court after following the ratio laid down by the Hon'ble Supreme Court in "**Smt. S.Vanitha vs. The Deputy Commissioner, Bengaluru Urban District and others,**" 2021 AIR (SC) 177, protected the rights of a daughter-in-law.

6. He in addition submits that in the judgment (*supra*), the Hon'ble Supreme Court, has cast an obligation upon the learned Maintenance Tribunal concerned, to adjudicate the issue; as to whether or not, the daughter-in-law has any title, or right in the shared household; and whether, the house in question, is a shared household or not.



7. He, to a greater extent, submits that in case the Act of 2007, is allowed to give overriding force and effect, irrespective of competing entitlement of a woman to a shared household, within a meaning of Act of 2005, it would defeat the basic object and purpose, for which the Act of 2005 has been enacted by the legislation.

8. On the other hand, learned counsel for respondent no.2, strongly opposes the submissions, as made by learned counsel for the petitioner.

9. He submits that the house in question is not a shared household, and there is no matrimonial dispute between the petitioner and her husband (respondent no.3).

10. He further placed reliance upon the decision rendered by a co-ordinate bench of this Court in “**Manmohan Singh vs. Union Territory, Chandigarh and others**”, 2016 (1) RCR (Civil) 838, to submit that the wife and children occupying the house owned by old parents, are in the capacity of licensee only, and they cannot live against the wishes of the parents and the parents are entitled to evict them under the Act of 2007.

11. This Court has examined the issue, as raised before this Court and has heard the rival submissions.

12. Before this Court embark upon the lengthy submissions made by learned counsel for the parties, let us have a glimpse upon the precedent law, which would be helpful in deciding the validity of the



impugned order. Hon'ble the Supreme Court in the judgment ***Smt. S. Vanitha (supra)***, after examining the legislation intended to deal with salutary aspects, stressed harmonious construction between two statutes, i.e. the Senior Citizen Act of 2007 and the Prevention of Women from Domestic Violence Act (PWDVA), so as to give effect to both the protection, i.e. the elderly right to maintain and protection and woman's rights of residence in domestic relationship. It was specifically held that the property is a 'shared household' under the PWDVA, must be adjudicated by appropriate forum and cannot be defeated merely by invoking summary powers under the Act of 2007, without regard to such competing right. The learned Tribunal, under the Act of 2007, may have authority to order eviction as an incident of enforcement of right of senior citizen, but that power is not absolute and the learned Maintenance Tribunal needs to strike a balance with the competing claim, particularly, the right of woman to reside in a shared household. The rigors of the Act of 2007, cannot be used as a tool to override the protection under the DV Act. The relevant paragraphs are extracted hereinafter :-

“21. In this case, both pieces of legislation are intended to deal with salutary aspects of public welfare and interest. The PWDV Act 2005 was intended to deal with the problems of domestic violence which, as the Statements of Objects and Reasons sets out, is widely prevalent but has remained largely invisible in the public domain. The Statements of Objects and Reasons Indicates that while Section 498A of the Indian Penal Code created a penal offence out of a



woman's subjection to cruelty by her husband or relative, the civil law did not address its phenomenon in its entirety. Hence, consistent with the provisions of Articles 14, 15 and 21 of the Constitution, Parliament enacted a legislation which would "provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society". The ambit of the Bill has been explained thus:

"4. The Bill, inter alia, seeks to provide for the following:-

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

(ii) It defines the expression "domestic violence" to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

(iii) It provides for the rights of women to secure housing. It



also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.

(iv) It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.

(v) It provides for appointment of Protection Officers and registration of non-governmental organisations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter, etc."

The above extract indicates that a significant object of the legislation is to provide for and recognize the rights of women to secure housing and to recognize the right of a woman to reside in a matrimonial home or a shared household, whether or not she has any title or right in the shared household. Allowing the Senior Citizens Act 2007 to have an overriding force and effect in all situations, irrespective of competing entitlements of a woman to a right in a shared household within the meaning of the PWDV Act 2005, would defeat the object and purpose which the Parliament sought to achieve in enacting the latter legislation. The law protecting the interest of senior citizens



is intended to ensure that they are not left destitute, or at the mercy of their children or relatives. Equally, the purpose of the PWDV Act 2005 cannot be ignored by a sleight of statutory interpretation. Both sets of legislations have to be harmoniously construed. Hence the right of a woman to secure a residence order in respect of a shared household cannot be defeated by the simple expedient of securing an order of eviction by adopting the summary procedure under the Senior Citizens Act 2007.

22. This Court is cognizant that the Senior Citizens Act 2007 was promulgated with a view to provide a speedy and inexpensive remedy to senior citizens. Accordingly, Tribunals were constituted under Section 7. These Tribunals have the power to conduct summary procedures for inquiry, with all powers of the Civil Courts, under Section 8. The jurisdiction of the Civil Courts has been explicitly barred under Section 27 of the Senior Citizens Act 2007. However, the over-riding effect for remedies sought by the applicants under the Senior Citizens Act 2007 under Section 3, cannot be interpreted to preclude all other competing remedies and protections that are sought to be conferred by the PWDV Act 2005. The PWDV Act 2005 is also in the nature of a special legislation, that is enacted with the purpose of correcting gender discrimination that pans out in the form of social and economic inequities in a largely patriarchal society. in deference to the dominant purpose of both the legislations, it would be appropriate for a Tribunal under the Senior Citizens Act, 2007 to grant such remedies of maintenance, as envisaged under Section 2(b) of the Senior Citizens Act 2007 that do not result in obviating competing remedies under other special statutes, such as the PWDV Act 2005.



Section 26 of the PWDV Act empowers certain reliefs, including relief for a residence order, to be obtained from any civil court in any legal proceedings. Therefore, in the event that a composite dispute is alleged, such as in the present case where the suit premises are a site of contestation between two groups protected by the law, it would be appropriate for the Tribunal constituted under the Senior Citizens Act 2007 to appropriately mould reliefs, after noticing the competing claims of the parties claiming under the PWDV Act 2005 and Senior Citizens Act 2007. Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride and nullify other protections in law, particularly that of a woman's right to a shared household under Section 17 of the PWDV Act 2005. In the event that the aggrieved woman" obtains al relief from a Tribunal constituted under the Senior Citizens Act 2007, she shall duty-bound to inform the Magistrate under the PWDV Act 2005, as per Sub-section (3) of Section 26 of the PWDV Act 2005. This course of action would ensure that the common intent of the Senior Citizens Act 2007 and the PWDV Act 2005- of ensuring speedy relief to its protected groups who are both vulnerable members of the society, is effectively realized. Rights in law can translate to rights in life, only if there is an equitable ease in obtaining their realization.

24. For the above reasons, we have come to the conclusion that the claim of the appellant that the premises constitute a shared household within the meaning of the PWDV Act 2005 would have to be determined by the appropriate forum. The claim cannot simply be obviated by evicting the appellant in exercise of the summary powers entrusted by the Senior Citizens Act 2007. The Second and Third Respondents are at



liberty to make a subsequent application under Section 10 of the Senior Citizens Act 2007 for alteration of the maintenance allowance, before the appropriate forum.”

13. This Court has also examined the judgment and the ratio laid down by the Hon’ble Supreme Court in ***S.R. Batra and another vs. Smt. Taruna Batra (2007) 3 SCC 169***, and there is no wrangle with regard to same. In Paragraph 29 of the said judgment it was specifically held that 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 the member. The relevant is extracted hereunder :-

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 2, mother of Amit Batra. Hence it cannot be called a “shared household”.



14. On the anvil of the ratio laid down by the Hon'ble Supreme Court, this Court has examined the issue, as well as the validity of the impugned order.

15. In the instant matter, it is apparent that no opportunity of hearing whatsoever, has been afforded to the petitioner, once the *ex parte* proceedings were set aside on dated 13.09.2021. The petitioner should have been given enough opportunity to file her response and to lead evidence in support of her claim.

16. Further, the issue, as to whether, the house in question is a shared household, should also have been examined by the learned Maintenance Tribunal concerned, however, same exercise has not been done.

17. In the absence of the above discussed exercise, this Court is of the considered view that the impugned order does not pass the test of legality, and requires interference. Therefore, the impugned order is **set aside**, and the *lis* is **remanded** to the learned Maintenance Tribunal concerned, to decide afresh, while considering the above legal propositions, and after giving due opportunity of hearing to all the parties concerned to substantiate their claim as raised before this Court.

18. It is also important to note that the State of Haryana has now, vide a notification bearing no.940-961/SJE/023 dated 19.01.2023, has bestowed the powers with the Sub-Divisional Magistrate concerned, for adjudicating the said issue of eviction, therefore, the matter is remanded



for its fresh adjudication.

19. Both the parties are directed to cause their personal appearance before the learned Maintenance Tribunal, on 28.11.2025.

20. Since the issue of welfare of senior citizen as well as rights of daughter-in-law is involved, therefore, a *mandamus* is passed upon the learned Maintenance Tribunal concerned, to make all its efforts to decide the issue in dispute most expeditiously, but not later than 05 months, from the date of receipt of a certified copy of this order.

21. Further, a directions is also passed upon the SHO of the area concerned, to ensure that no harm shall be caused respondent no.2 (senior citizen), during the pendency of the *lis* before the learned Maintenance Tribunal concerned.

22. **Disposed of** accordingly.

October 28, 2025
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No