



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

(207)

CR No. 5331 of 2024

Date of Decision: 17.07.2025

Sushmita

...Petitioner

Versus

Amit and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Vanshika Daaria, Advocate
for Mr. Surinder Kumar Daaria, Advocate
for the petitioner.

Ms. Jyotsana, Advocate for
Mr. Yogesh Goel, Advocate
for respondents No.1 to 3.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition has been preferred under Article 227 of the Constitution of India assailing order dated 26.11.2021 (Annexure P-4) passed by the Court of Additional Sessions Judge, Gurugram, vide which operation of order dated 25.11.2021 passed by the Court of Judicial Magistrate Ist Class, Gurugram was ordered to be stayed.

2. An application under Section 12, 18, 19, 20, 21, 22 and 23 of the Protection of Women under Domestic Violence Act, 2005 (hereinafter referred to as the D.V. Act) was filed by the petitioner. Apart from other reliefs, she was seeking a restraint of forcible eviction from the shared household. Vide order dated 25.11.2021, the Court of Judicial Magistrate Ist

Class, Gurugram, ordered that the petitioner was entitled to reside in the shared household and that she could not be forcibly evicted from the same except in due course of law. Aggrieved by the said order, an appeal (Annexure P-3) was preferred under Section 29 of the D.V. Act. The Court of Additional Sessions Judge, Gurugram, while issuing notice in the said appeal stayed the operation of the order dated 25.11.2021 leading to the filing of the present revision petition.

3. Learned counsel for the petitioner submits that the operation of the order dated 25.11.2021 was stayed without giving any cogent reasons making the petitioner vulnerable to forcible eviction from the shared household. Learned counsel further submits that the appeal is still pending adjudication and is now listed for hearing on 21.07.2025.

4. *Per contra*, learned counsel for respondents No.1 to 3 submits that there is no illegality in the order and the same was rightly passed since the order passed by the Court of Judicial Magistrate Ist Class, Gurugram was not passed in accordance with law.

5. It would be relevant to mention here that before filing the instant revision petition, the petitioner had instituted CRR No.1655 of 2021 which was withdrawn on 22.08.2024 with liberty to invoke appropriate alternate remedy.

6. I have considered the submissions made by learned counsel for the parties. This Court is of the considered opinion that the impugned order dated 26.11.2021 is not sustainable. Vide order dated 25.11.2021, the Court of Judicial Magistrate Ist Class, Gurugram, passed a restraint order in favour of the petitioner restraining the respondents from forcibly evicting the petitioner from the shared household except in due course of law;

“After considering the rival submission of the parties, it transpires that the petitioner is seeking the interim relief to reside in the shared household. It is an admitted fact that respondent No.1 and petitioner are husband and wife. The application along-with the domestic incident report prima facie disclose various instances of domestic violence in the form of physical violence, economic violence, verbal and emotional violence committed against the petitioner. The petitioner has also placed on record entry in General Diary No.029 dated 24.11.2021 to show that the respondents have restrained the petitioner from entering the shared household due to which she was forced to spent night at One Stop Crisis Centre, Gurugram. Although, the Id. Counsel on behalf of respondent No.2 had contended that the house in question is the self acquired property of respondent No.2 and thereby, cannot be treated as the shared household, however, at this initial stage, this facts cannot be determined and ascertained, for which detailed reply is required to elucidate the matter. Since, the petitioner has specifically claimed the property to be her shared household in which she as well as her husband respondent No.1 had resided [duly supported by her affidavit] therefore, at this stage, it prima facie appears that the petitioner is entitled to reside in the shared household and she cannot be restrained nor forcibly evicted by the respondents except in due course of law. As such, in the meantime, the respondents are thereby restrained from dispossessing or forcibly evicting the petitioner.”

7. Aggrieved by the same, an appeal was preferred in which operation of the impugned order was stayed without giving any further reasons. Once the petitioner was found to be living in the shared household and a restraint order had been passed against her forcible eviction except in due course of law, it was incumbent upon the Appellate Court to have given

some reasons for staying the operation. Be that as it may, the appeal is pending adjudication and is fixed for hearing 21.07.2025.

8. In view of the above, the present revision petition is disposed of with a direction to the Court concerned to make efforts to expeditiously decide the appeal and preferably within a period of three (03) months from today. Till then, parties shall maintain status quo as regards possession of the shared household.

The revision petition is accordingly disposed of.

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

(VIKRAM AGGARWAL)
JUDGE

July 17, 2025
Rekha

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