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

+ **CRL.REV.P. 114/2019**

SHUCHI MEHRA

.....Petitioner

Through: Petitioner in person
Advocate (*Appearance not given*)

versus

ANURAG MEHRA & ORS.

.....Respondents

Through: Mr. Nalin Tripathi, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

21.04.2025

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1. The present revision petition under Sections 397 and 401 read with Section 482 of Code of Criminal Procedure, 1973¹, is directed against order dated 26th November, 2018 passed by ASJ, Saket Court, New Delhi in Appeal bearing no. 338/18. By the said order, the appeal preferred by the Petitioner under Section 29 of the DV Act was dismissed and the order dated 28th June, 2018 passed by Mahila Court-03, South East District, Saket Courts, New Delhi in CT Case No. 636150/2016 titled as *Shuchi Mehra vs. Anurag Mehra & Others* was confirmed. The Trial Court had, by the said order, dismissed the Petitioner's application under Section 19 of the Domestic Violence Act, 2005², seeking an interim order as to the right of residence in the alleged shared household.

¹ "Cr.P.C."

² "DV Act"



2. For ease of reference, it is considered apposite to briefly note the reasoning adopted by the Mahila Court in its order dated 28th June, 2018, which reads as follows:

“An application U/s 19 DV Act is pending adjudication seeking right in residence in joint property at H.No.230D, third floor, pocket C Sidharth Extension, New Delhi.

It is submitted that after the complainant was thrown out of the shared household at H. no.2A, Pocket -C, Sidharth Extension, she is residing with her parents. Applicant submits that the aforementioned property i.e H. No.230D is jointly owned property of respondent no. 1 and complainant to which she is entitled. She has thus claimed right of residence in the said property U/s 19 DV Act. Application has been strongly opposed by counsel for the respondent on the ground that respondent no. 1 is living at the said property and allowing complainant in the said property may result in breach of peace. Respondent has also denied right, title or interest of complainant in the said property.

Application and record has been perused. It is seen that vide detailed order dated 11.08.2017, Ld. Predecessor of the court had decided interim application for maintenance U/s 23 DV Act and granted Rs. 25,000/- per month as interim maintenance payable by respondent to the complainant for herself and her minor child. The court had specifically ordered needless to say that the said amount also includes the expenses for alternate accommodation and any other ancillary expenses. Thus, by way of present application, complainant has sought modification of the order dated 11.08.2017 to further claim separate residence, that is, an issue already decided vide order dated 11.08.2017. Thus, this application is not maintainable firstly for the reason that order dated 11.08.2017 has been decided after taking into account the admitted fact that respondent is solely paying installment of Rs,39,000/- approximately of loan taken towards against the aforementioned joint property, secondly for the reason that complainant has been unable to show any change in circumstances to justify modification of order dated 11.08.2017 and thirdly for the reason that the title of the complainant in the said property is disputed and an equally efficacious remedy by way of civil suit is available to the complainant for better appreciation her claim to title over the aforementioned property, which has not been exhausted by her.

Further more, the decision of Hon'ble Delhi High Court Shumita Didi Sandhu Vs. Sanjay Singh Sandhu (decided on 26.10.2010) disentitles the complainant to claim right of residence in a particular property. Also Section 19 of DV Act encompasses power of the court to make to pass residence order in respect of “shared



household” and not any other property even though the same may be jointly owned property of the complainant or otherwise. Property at H.No.230Dis admittedly not shared household and thus does not fall within the purview of section 19 DV Act. As such, application U/s 19 DV Act is declined.

Counsel for the respondent has also pressed upon the application U/s 340 CrPC.

Put up for arguments on application u/s 340 CrPC on 27.09.2018.

Respondent has also moved an application seeking deletion of respondent no.2 &3 from array of parties. Copy supplied. Let reply be filed.”

3. The application filed by the Petitioner under Section 19 of the DV Act sought a residence order in respect of property bearing No. 230D, Third Floor, Pocket-C, Sidharth Extension, New Delhi. The Petitioner claimed that the said premises constituted a joint property between herself and Respondent No. 1, and as such, she was entitled to reside there as a matter of right. This plea was opposed on the ground that the Respondent was residing there alone and the property did not qualify as a “shared household” within the meaning of the DV Act. It was further submitted that the Petitioner had already been awarded interim maintenance of ₹25,000 per month under Section 23 of the DV Act by order dated 11th August, 2017, which included expenses toward alternate accommodation.
4. The Mahila Court rejected the application holding, *inter alia*, that: (i) the claim for a separate residence had already been decided while granting interim maintenance; (ii) no change in circumstances was shown to warrant modification of the earlier order; and (iii) the Petitioner’s title to the property was in dispute, and she had not pursued the appropriate civil remedies to establish her right over the said property.
5. The appeal filed by the Petitioner was dismissed by the Appellate



Court though impugned order dated 26th November, 2018, *inter alia* holding that the Petitioner's challenge to the earlier interim order dated 11th August, 2017 was impermissible, as the said order had attained finality. Furthermore, it was further directed that the Petitioner has the liberty to assert her rights, if any, over the property by availing appropriate remedies in accordance with law.

6. Aggrieved, the Petitioner has approached this Court by way of the present revision petition, assailing both the impugned orders and seeking the relief originally claimed before the Trial Court.

7. The Court has considered the aforementioned contentions of the Petitioner but remains unconvinced. At the outset, it bears noting that the Petitioner has invoked the revisional jurisdiction of this Court against an order passed by the Appellate Court. It is well settled that such jurisdiction is to be exercised sparingly and only in cases involving manifest illegality or a gross miscarriage of justice³. Having regard to these legal principles, no prima facie infirmity is found in the impugned order.

8. Be that as it may, the main DV case [CT Case No. 636150/2016] itself has been dismissed in default and for non-prosecution *vide* order dated 27th July, 2023 passed by the Mahila Court. Further, an appeal under Section 29 of the DV Act [being CA No. 21/2014], against the said order, has also been dismissed by a detailed order dated 05th March, 2024.

9. In light of the above, it is evident that the very foundation of the present revision petition no longer survives. The primary proceeding under the DV Act [CT Case No. 636150/2016] has already been dismissed for non-prosecution, and the Petitioner's appeal against the said dismissal has



also been rejected by the Appellate Court. Therefore, once the main case has concluded and that conclusion has attained finality, no useful purpose would be served in examining an interlocutory order passed during its pendency. In the opinion of this Court, the claim for a residence order under Section 19 DV Act, being part of the interim relief of a now defunct proceeding, cannot be resurrected in isolation.

10. Therefore, in light of the foregoing, the Court finds no reason to interfere with the impugned order. Accordingly, the present petition is dismissed along with pending application.

SANJEEV NARULA, J

APRIL 21, 2025/ab

³ *D. Stephens v. Nosibolla*, 1951 SCC OnLine SC 17