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

+ **CRL.M.C. 7236/2025**

MRS BASANT SAWHNEY

.....Petitioner

Through: Mr. Udit Chauhan, Mr. Aditya P.
Arora, Ms. Kashish Khurana,
Advocates

versus

MRS GURLEEN CHOPRA

.....Respondent

Through: Mr. Ramandeep Bawa, Mr. Mujeeb,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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13.10.2025

CRL.M.A. 30369/2025 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

CRL.M.C. 7236/2025, CRL.M.A. 30366/2025 (for stay), CRL.M.A. 30367/2025 (for placing additional documents) & CRL.M.A. 30368/2025 (requisition of trial court record)

4. The present petition under Article 227 of the Constitution of India assails the order dated 9th July 2025 passed by the ASJ, Patiala House Courts, New Delhi in Criminal Appeals Nos. 34/2025 and 41/2025, filed by the Petitioner under Section 29 of the Protection of Women from Domestic



Violence Act, 2005¹. By the impugned order, the Appellate Court, affirmed (i) in Appeal [CA No. 34/2025], the JMFC's order dated 9th January, 2025 in CT Case No. 59172/2024 issuing summons to the Petitioner, and (ii) in Appeal [CA Case No. 41/2025] the order dated 7th February, 2025 in the same proceedings granting interim residence rights to the Respondent in the premises in question.

5. The Petitioner married the Respondent's son on 28th October, 2019, according to Sikh rites and customs. After marriage, she moved into Flat No. 304, Ganga Tower-5, Pocket D-6, Vasant Kunj, New Delhi. This flat, purchased on 2nd June, 2014, stands in the name of the Respondent's daughter, Ms. Ashvinder Chopra, where the Respondent and her son had been residing since its acquisition. The Petitioner joined them in the household following the marriage and continued to live there along with her husband and, later, their minor daughter.

6. In 2022, serious differences emerged between the Petitioner on one hand and the Respondent and her son on the other. The Petitioner instituted proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, in which she secured a residence order in her favour. Following this, the Respondent alleged that the Petitioner began obstructing her access to the shared premises and, on 26th July, 2024, verbally abused and physically assaulted her when she attempted to enter. The Respondent subsequently filed her own complaint under Section 12 of DV Act, upon which the Trial Court, by order dated 9th January, 2025, issued summons to the Petitioner. Subsequently by order dated 7th February, 2025, the Respondent's application under Section 23(2) of DV Act was allowed,

¹ "DV Act"



granting her interim access to the premises.

7. The Petitioner challenged both orders through CA Nos. 34/2025 and 41/2025, which were heard together and dismissed by the Appellate Court by a common impugned order. The relevant extracts from the said order are reproduced below:

“14. In the present matter, one or the arguments or the appellant IS that the aggrieved has not produced any document to show that she ever permanently resided in the said flat.

15. I have considered the submissions and perused the TCR. No doubt, no document has been placed by the aggrieved with the petition u/s 12 of PWDV Act to show that the aggrieved ever permanently resided in the said flat, however, merely because there is no documentary evidence to show that the aggrieved was living in the said flat from 2014 onwards, the same is not sufficient to disbelieve the averments made by the aggrieved in the petition that she was living with her son in the said flat since 2014.

16. It is settled position of law that at the stage of summoning, the allegations mentioned in the complaint and the documents annexed with it are to be seen whether prima-facie there is sufficient ground to proceed against the respondent.

17. As already discussed above, in her petition u/s of PWDV Act, the aggrieved has averred that she was living in the said flat since 2014 and thereafter with the respondent from October 2019 to March 2020 and even after birth of child to the respondent, the aggrieved was living in the said fat. The averments made by the aggrieved in her petition us 12 of PWDV Act and the DIR prima facie establish thar there was domestic relationship between the aggrieved and the respondent. There are allegations of domestic violence in the petition of the aggrieved. The respondent has been rightly summoned by the Ld. Trial Court in PWDV petition filed by the aggrieved. Therefore this Court does not find any infirmity or illegality in the summoning order dated 09.01.2025 passed by Ld. JMFC (Mahila Court-01). The appeal bearing No. 34/25 filed against summoning order dated 09.01.2025 is accordingly dismissed and disposed off.

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24. I have considered the submissions. I am of the considered opinion that the averments made by the son of the aggrieved in the reply can not be read against the aggrieved at this stage. There is no admission of the aggrieved that she did not reside in the said flat since 2014 or that she was occasionally visiting the said flat or that she was permanent resident of Ludhiana. It has been shown to the Court that



the respondent (appellant herein) herself had made the aggrieved (respondent in the appeal) a party as respondent in petition under Section 12 of PWDV Act filed by her. In her petition, the respondent (appellant herein) has claimed that she had domestic relationship with the aggrieved (respondent herein). Hence, now the respondent (appellant herein) cannot take a stand contrary to her stand in petition under DV Act. It is an admission on the part of respondent (appellant herein) that she had domestic relationship with the aggrieved (respondent in the appeal) and therefore, she is estopped from taking contrary stand in this appeal.

25. Coming to another contention of the respondent (appellant herein) that in one application dated 15.12.2024 filed by the aggrieved in the DV petition filed by the respondent, the aggrieved has mentioned her address of Ludhiana and later in her MLC prepared at Safdarjung Hospital in July 2024, she has mentioned her address of flat no. 303, Yamuna-2, D-6, Vasant Kunj and all these documents show that the aggrieved never resided at the said flat no. 304, Ganga Tower.

26. I have considered the submissions and perused the record.

27. Along with the appeal, copy of application dated 15.12.2024 filed by the aggrieved for police protection against misuse of residence order in the petition under PWDV Act filed by the respondent (appellant herein) is also placed. By way of said application, the aggrieved herein (respondent no.2 in petition under DV Act filed by Basant) sought peaceful access and stay in the property. In the supporting affidavit dated 15.12.2024, the aggrieved has mentioned her address as Sarabha Nagar Ludhiana. However, I am of the considered opinion that mere fact that in the affidavit dated 15.12.2024, the aggrieved had mentioned her address of Ludhiana, it does not establish that since day of purchase of said flat in 2014 till March 2020, the aggrieved did not live in the said flat no. 304, Ganga Tower, Pocket-6, Vasant Kunj. As already discussed, respondent (appellant herein) had claimed in her petition that she had domestic relationship with the aggrieved (respondent in the appeal).

28. In the MLC dated 26.07.2024, the aggrieved has mentioned her address as flat no. 303, Yamuna-2, D-6, Vasant Kunj. The MLC only suggests that on the date of preparation of MLC, the aggrieved was living at flat no. 303 and it does not establish that the aggrieved did not reside in the said flat no. 304, Ganga Tower since the year 2014 upto March 2020.

29. Perusal of complaint under Section 12 of PWDV Act by the respondent (appellant herein) against the son of the aggrieved and in-laws would show that in para number 2, the respondent (appellant herein) has admitted about her marriage at Vasant Vihar Gurudwara on 28.10.2019. In para number 3 (iv), she has stated that after



marriage she was brought to the Flat No. 304, Ganga Tower-5, Sector D-6, Vasant Kunj where she was staying since the date of marriage. It is stated in point (vii) that in afternoon of 30.10.2019, the respondent no.2 and 5 used the spare key of the flat and came to the flat. In point (ix) she has stated that on 31.10.2019, while the respondents no.1, 3, 4 and 5 were sitting in the said flat, respondent no.2 was cooking food in the kitchen. In point (xv), she has stated that on 03.11.2019, her mother had given cash Sagan as per demand of respondent no. 1, 2 and 3. In point (xx), she has stated that in the last week of November 2019, the respondent no.2 came to Delhi and stayed in the said flat. She has also stated that the respondent no.2 and 3 would always book hotel for their stay in Delhi, however, they used to stay with the applicant and respondent no.1 in their flat. In para no. (xii) of the petition, she has stated that after birth of the daughter, respondent no. 2 (aggrieved herein) and respondent no. 4 were staying in the said flat with respondent no. 1 (son of the aggrieved).

30. Perusal of the complaint u/s. 12 of PWDV Act filed by the respondent (appellant herein) against her husband and in-laws would show that at the time of her marriage with son of aggrieved, the aggrieved was living in the aforesaid flat and that in October, 2019 as well as in November.2019, the aggrieved was living in the said flat and that in December 2019 also, the aggrieved again came to stay in the said flat. The respondent also admitted in her petition that after birth of daughter to the respondent, the aggrieved again came to live with them in the said flat. The averments made in the petition under PWDV Act filed by the respondent also prima facie establish that the aggrieved was living in the flat with the respondent for substantive period of time.

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41. In the present matter, the aggrieved has prima facie shown that she lived in the said flat from 2014 till March 2020, she lived with respondent from October 2019 to March 2020 and even in February 2021 also, she lived in the said flat with the respondent, however she was forced by the respondent to leave the said flat. The said flat, where the aggrieved lived with the respondent in the past, is prima facie shown to be shared household of the aggrieved and she can not be restrained from the entering or residing in the shared household in view of law settled in the matter of Prabha Tyagi (supra). Therefore, this Court holds that the Trial Court has rightly allowed the application of the aggrieved u/s. 23 (2) of PWDV Act vide order dated 07.02.2025 vide which the respondent was restrained to create any sort of obstruction for the aggrieved in gaining peaceful access and stay in the shared household and the respondent was also restrained from causing any act of domestic violence and the respondent / her relatives were also restrained from entering any portion of the shared



household in which the aggrieved resides. Therefore appeal filed against order 07.02.2025 is also dismissed being devoid of any merits.”

8. Mr. Udit Chauhan, counsel for the Petitioner assails the impugned order on the following grounds:

8.1. The impugned order was passed mechanically, ignoring that the Appellate Court, accepted the Respondent’s allegations at face value which are unsupported and lack evidentiary foundation. The Appellate Court, instead of examining whether a *prima facie* domestic relationship or instance of domestic violence was made out, merely reiterated the Respondent’s pleadings and treated them as proof. Such an approach, falls short of the judicial scrutiny required even at the threshold stage under Section 12 of DV Act.

8.2. It stands admitted, from the Respondent’s own pleadings and from prior proceedings between the parties, that she is a permanent resident of Ludhiana. Her alleged stays at the Delhi premises were occasional and temporary, limited to short visits around family events. Such intermittent presence does not meet the statutory requirement of residence “at any stage in a domestic relationship,” as contemplated by Section 2(s) of the DV Act, and therefore cannot confer upon her the status of an “aggrieved person” entitled to residence rights.

8.3. A right of residence cannot be assumed in favour of the Respondent merely because the premises are owned by her daughter, who has independently initiated eviction proceedings against the Petitioner. The ownership of a third party does not, by itself, establish a domestic relationship or create any entitlement to residence under Section 17 of the



DV Act.

8.4. The impugned order disregards the subsistence of a protection order dated 24th August, 2022 issued in favour of the Petitioner concerning the same premises in which allegations of violence were levelled against the Respondent's family. The impugned directions, permitting the Respondent's re-entry into the premises, effectively dilute and contradict that protection order without recording any reasons or justification.

9. At this stage, Respondent's daughter, Ashvinder Chopra, although not a party to the present case, has joined the proceedings through video conferencing. She states that she is the owner of the said property, and that she had permitted her mother (the Respondent) to reside in the concerned property since 2014.

Analysis

10. The Respondent has instituted proceedings under Section 12 of DV Act, alleging that the Petitioner subjected her to acts of domestic violence, including forcibly dispossessing her from the Delhi residence and harassing her on multiple occasions. The Petitioner disputes the maintainability of these proceedings, asserting that no "domestic relationship" ever existed between the parties so as to attract the provisions of the DV Act.

11. Section 2(f) of the DV Act defines a "domestic relationship" as a relationship between two persons who live or have lived, at any point of time, together in a shared household. The provision deliberately employs broad and inclusive language, designed to encompass not only subsisting cohabitation but any prior living arrangement in a domestic setting. The



Supreme Court in ***Prabha Tyagi v. Kamlesh Devi***,² has affirmed that a domestic relationship continues to exist even after cohabitation ceases; prior residence together in a shared household is sufficient to trigger the protections of the Act.

12. The Respondent has averred in her complaint and Domestic Incident Report that she resided in the Delhi flat since 2014, and that following her son's marriage in October 2019, the Petitioner also lived there until March 2020. These statements are independently corroborated by the Respondent's daughter, the owner of the property, who has expressly stated that she permitted the Respondent to reside in the premises since 2014. The Petitioner herself, in her own DV Act proceedings, also acknowledges having resided in the same flat after marriage. Taken together, these admissions and averments establish, *prima facie*, that the parties had lived in a shared household, satisfying the statutory requirement of a domestic relationship.

13. At the stage of summoning, the Court is not required to conduct a detailed inquiry into the veracity of these statements. A *prima facie* case is sufficient to assume jurisdiction. The Petitioner's objections, that the Respondent has listed Ludhiana as her residence or produced no documents, do not weaken the *prima facie* finding. As clarified in ***Prabha Tyagi***, the DV Act does not require continuous or permanent residence. Intermittent residence elsewhere does not disrupt the existence of a domestic relationship, and the Respondent's occupancy of the Delhi flat during relevant periods suffices to qualify it as a shared household under the Act. Accordingly, in view of the allegations of domestic violence and the *prima*

² (2022) 8 SCC 90.



facie establishment of a domestic relationship, no infirmity is found in the Appellate Court's decision upholding the Trial Court's order issuing summons to the Petitioner.

14. Turning to the challenge against the interim residence order, it must be noted that the DV Act does not merely address abusive conduct but also seeks to ensure residential and economic security for women in domestic settings. Section 17 of the DB Act unequivocally confers upon every woman in a domestic relationship the right to reside in the shared household, irrespective of ownership or title. In ***Prabha Tyagi***, the Supreme Court has elaborated upon the breadth of this protection, holding:

“The expression 'domestic relationship' is a comprehensive one. Hence, every woman in a domestic relationship in whatever manner the said relationship may be founded as stated above has a right to reside in a shared household, whether or not she has any right, title or beneficial interest in the same. Thus, a daughter, sister, wife, mother, grand-mother or great grand-mother, daughter-in-law, mother-in-law or any woman having a relationship in the nature of marriage, an adopted daughter or any member of joint family has the right to reside in a shared household.”

15. In light of the above, the approach of the courts below shows no infirmity. The Trial Court, in its order dated 7th February, 2025, considered the Respondent's age, health, and practical needs, and granted only an interim residence arrangement. Section 17 of the DV Act confers a statutory right to reside in a shared household for every woman in a domestic relationship, irrespective of ownership, title, or beneficial interest. Since the Petitioner also claims residence rights in the same flat on the basis of it being a shared household, parity of principle requires recognizing the Respondent's protected right to interim residence. The Appellate Court,



while dismissing the appeal against the residence order, correctly balanced the competing interests rather than elevating bare ownership over statutory protection.

16. The objection that the flat stands in the name of the Respondent's daughter or is the subject of separate tenancy/eviction proceedings does not defeat Section 17. Ownership by a third party does not erase the character of a premises as a shared household if the aggrieved lived there in a domestic relationship; nor does it immunise family members in occupation and control from residence orders tailored to prevent dispossession or homelessness.

17. It is emphasised that the residence order under Section 17 of DV Act is purely temporary measure. It does not confer any ownership rights, nor affect the daughter's independent claims or pending civil proceedings. The Trial Court can regulate co-existence, through measures such as separate rooms, defined use, and non-interference, ensuring the Respondent's access and dignity while leaving all title and tenancy disputes to be resolved in the appropriate forum.

18. For these reasons, the petition stands dismissed, along with all pending applications.

SANJEEV NARULA, J

OCTOBER 13, 2025/ab