

PA 17.04.2026  
Court No.29  
Item No.1

**In The High Court At Calcutta  
Criminal Revisional Jurisdiction**

**C.R.R 553 of 2026**

**Ankit Saraiya  
-versus-  
Pooja Saraiya**

**Mr. Ranjan Bachawat, Sr. Adv.  
Mr. Sandipan Ganguly, Sr. Adv.  
Mr. Somopriyo Chowdhury  
Mr. Sanjiv Kumar Trivedi  
Mr. Sanket Sarawgi  
Mr. Satyaki Mukherjee  
Mr. Bhavesh Garodia  
Ms. Priyanka**

**.....for the Petitioner**

**Mr. Sabyasachi Banerjee, Sr. Adv.  
Mr. Ayan Bhattacharya, Sr. Adv.  
Ms. Nandini Khaitan  
Mr. Pratik Shanu**

**.....for the Opposite Party**

The petitioner herein has assailed the order dated 12<sup>th</sup> December, 2025 passed by learned ADJ 9<sup>th</sup> Court Alipore, in Criminal Appeal No. 197 of 2025 thereby setting aside the order dated 1<sup>st</sup> July, 2025 passed by learned Judicial Magistrate 9<sup>th</sup> Court, Alipore, in case no. C-989 of 2020 along with M. Execution 253 of 2025, pending before learned Judicial Magistrate 9<sup>th</sup> Court Alipore.

The opposite party herein is the wife of the petitioner, who filed an application before Trial Court under section 12 of the Protection of Women from Domestic Violence Act, 2025 (in short DV Act) along with an interim application under section 23 of the

said Act seeking interim monetary relief, alternative accommodation etc.

Mr. Banerjee learned Counsel appearing on behalf of the petitioner/husband submits that due to the torture meted out by the opposite party/wife, the petitioner herein and his parents were compelled to leave their residence at 2B Hastings Park Road Kol-27(in short disputed household) on or about 25<sup>th</sup> January, 2020 and the petitioner duly intimated the jurisdictional police station about such shifting vide letter dated 2<sup>nd</sup> April, 2020. It is further alleged that opposite party/wife and his parents kept the same under forceful occupation. Although thereafter the Opposite Party herein also shifted to her parental residence, but she has kept the second and third floor portion of the said disputed household under lock and key and she has not been residing there since February 2020.

Be that as it may during the pendency of the aforesaid interim application filed under section 23 of the D.V. Act, the petitioner/ husband filed an application, before the court below *inter alia* offering that he is ready and willing to provide suitable alternative accommodation charges as would be decided by the court. In reply to the said application, the opposite party herein filed written objection in which she admitted that she had shifted with her minor son to her parental home and that she is also ready and willing to accept the alternative accommodation for herself and her son.

Taking into account the pleading of the parties, the trial court observed that the opposite party/wife is not entitled to get

monetary relief but he granted Rs. 90,000/ per month to the minor son and Rs. 60,000/- towards alternative accommodation relief w.e.f. 4<sup>th</sup> August, 2020 by an order dated 12<sup>th</sup> February, 2025.

It is further submitted that opposite party also filed miscellaneous case, praying for arrears of Rs. 82,50,000/-, which the petitioner claimed has already been deposited. The petitioner filed an application before the Trial Court for appropriate clarification of the order dated 04.08.2025 which premised on the fact that she was not occupying the said disputed household and was entitled to alternative accommodation charges on and from the said date. Though in reality she refused to hand over the keys of the said disputed household to the petitioner herein.

Learned Trial court by an order dated 1<sup>st</sup> July, 2025 observed that he inclined to appoint an advocate commissioner to conduct local enquiry regarding present status of the portion or occupation in respect of second and third floor of the aforesaid disputed household situated at 23 Hastings park road, kol-27, after serving notice upon both the parties and it was further observed by the trial court, that she will not be entitled to claim alternative accommodation side by side, if she is found to be in possession of her matrimonial home in aforesaid disputed household.

Said order has not been assailed by the wife/opposite party herein but has been assailed by the petitioner/husband before the appellate court who by the impugned order held

*“However, after perusal of application u/s 25(2) of PWDV Act filed by the respondent before the Ld. Trial Court, it appears that there was a specific prayer from the side of respondent no.1 for appointment of an Advocate Commissioner/Special Officer. On 01.07.2025 Ld. Trial Court adjourned the proceedings as per instance of the present appellant for filing written objection against the application u/s.25(2) of PWDV Act. On the next part of the impugned order dated 01.07.2025 it appears, Learned Trial Court appointed Advocate Commissioner for holding local enquiry considering the submissions made by*

*Learned Advocate for the respondents. On this particular point, the present appellant was not given any opportunity to oppose the contention of the respondents. This violates the principle of natural justice of giving reasonable opportunity to both sides of being heard. So, the case law referred by the Ld. Advocate for the respondents has no applicability in connection with this case as the scenario of both the case are quite different.*

*In view of above discussions, this Court thinks that the impugned order requires interferences of this Court and is liable to be set aside.”*

During pendency of the present application the Opposite Party/ wife filed an affidavit stating that she is in possession and occupation of the said household premises at 2B Hastings park Road, Alipore which is the shared household and she does not wish to hand over the keys of the said premises.

In such view of the matter the impugned order passed by Court below in Criminal Appeal no. 197 of 2025 on 12<sup>th</sup> December, 2025 is hereby set aside being infructuous. The portion of the order of the Trial Court dated 01.07.2025 wherein he observed that “*the complainant wife would not be entitled to claim alternative accommodation side by side if she is found to be in possession of her matrimonial home in 2<sup>nd</sup> and 3<sup>rd</sup> Floor in respect of apartment situated at 23 Hastings park Road, Kol-27*” is hereby affirmed. If any amount paid towards interim relief towards alternative accommodation by the petitioner, shall be adjusted with the monetary relief awarded by the court below to the child and the opposite Party will have liberty to make necessary amendment in the Execution application accordingly.

However it is made clear that since this order pertains only in respect of interim relief under section 23 of the DV Act, the issue of alternative accommodation/ alternative accommodation charges, shall be kept open for future consideration, if situation demands and the observations made herein is confined only in respect of the

interim prayer for alternative accommodation made by the Opposite party.

**CRR 553 of 2026** thus stands disposed of.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

**(Dr. Ajoy Kumar Mukherjee, J. )**