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

% ***Date of Decision: 28.10.2026***

\# **CNR No. DLHC010208992025**

\+ **CRL.REV.P.(MAT.) 168/2025, Crl.M.A. NOs.12458/2025, 14124/2025, 19241/2025, 24633/2025, 24634/2025, 31892/2025**

SMT GEETA .....Petitioner

Through: Mr. Deepak Mehra, Mr. Devender, Mr. Vikash Kumar, Mr. Vikshit Kumar and Mr. DigvijayRana, Advs. along with petitioner in person.

versus

SMT DROPATI .....Respondent

Through: Mr. Ashvini Kumar, Adv. for R-1.
Mr. Rishabh Raj Jain and Mr. Om Swarup Kumar, Advs. for BSES YPL.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*Oral.*)

1. The matter was adjourned for today for the parties to be present.

2. The petitioner is present in person. She submits that she is living in a garage and is facing acute distress on account of being ousted from her matrimonial home. She seeks interim residence in the house of her late husband's mother. The petitioner's application under Section 23 of the Domestic Violence Act ('DV Act'), 2005 was dismissed by the learned Metropolitan Magistrate on 08.02.2024. Her appeal against the said order, under Section 29 of the DV Act was dismissed by the learned Additional Sessions Judge on 07.01.2025 in CA No.44/2024.

3. The present revision petition is against the aforesaid appellate order

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dated 07.0.2025.

4. The factual conspectus is as follows:

(i) The petitioner claims to be the wife of late Raju, son of respondent no.1. She states that she lived on the fourth floor of House No. 18/213, Trilokpuri, Delhi. Respondent no.1 lives on the ground floor in the same house.

(ii) On an application dated 03.03.2022 filed by the respondent no.1, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007; the learned District Magistrate directed the petitioner and her alleged late husband to vacate the fourth floor *vide* order dated 03.03.2022 in Eviction No. 381/2021.

(iii) On 17.03.2023, the Divisional Commissioner/ Appellate Authority set aside the order of the District Magistrate dated 03.03.2022, noting that the deceased Raju was a co-owner of the said house.

(iv) The petitioner alleges that on 13.08.2022, the electricity supply to the fourth floor was disconnected at the instance of respondent no. 1 which compelled the couple to move out.

(v) The husband filed a civil suit, CS No.882/2022 against respondent no. 1, in which he sought interim relief for restoration of water and electricity and against dispossession. No interim injunction was granted; the application was dismissed on 18.07.2023, as there was nothing on record to show that he was then in possession, and the appeal against the same was dismissed on 23.01.2024. The petitioner was not a party to that suit.

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(vi) The husband of the petitioner died on 16.11.2024. His legal representative, the petitioner herein, was substituted in the said civil suit. The suit was thereafter withdrawn on 28.05.2025 with liberty to file a fresh suit in accordance with law. Thereafter, on 07.08.2025, the respondent no.1 unconditionally withdrew the Civil Suit No. 459/2023 filed by her for permanent and mandatory injunction against the petitioner and late Raju.

(vii) The learned Metropolitan Magistrate *vide* order dated 08.02.2024, declined interim residence to the petitioner, observing that since multiple cases were pending between the parties in regard to the property, it is in the best interest of the parties that the residence right of the petitioner be decided at the conclusion of trial. The said order was assailed by the petitioner by filing an appeal under Section 29 of the DV Act. The same came to be decided by the impugned order dated 07.01.2025.

5. In the opinion of the Court, the impugned orders cannot be sustained due to the following reasons:

(i) The learned ASJ treated the petitioner's exclusion from the property as being under the procedure established by law. However, it was completely overlooked that the eviction order dated 03.03.2022, passed under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the rules framed thereunder was set aside in appellate proceedings by the Divisional Commissioner *vide* order dated 17.03.2023.

(ii) The learned ASJ also took a negative view on the ground that

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husband of the petitioner had filed a civil suit. It was overlooked that the petitioner herein was not a party in the said civil suit and the orders passed in the said civil suit have no bearing on the petitioner's right of residence under Section 17 of the DV Act.

(iii) The impugned order treated it as relevant that the plaintiff made no allegations against her husband. The same is however, immaterial. A complaint under the DV Act lies against a female relative of the husband. In this regard, reference may be made to the judgment of ***Hiral P. Harsora v. Kusum Narottamdas Harsora*, (2016) 10 SCC 165** wherein the following has been observed:-

> ***"23.*** *When we come to Section 19 and residence orders that can be passed by the Magistrate, Section 19(1)(c) makes it clear that the Magistrate may pass a residence order, on being satisfied that domestic violence has taken place, and may restrain the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides. This again is a pointer to the fact that a residence order will be toothless unless the relatives, which include female relatives of the respondent, are also bound by it. And we have seen from the definition of "respondent" that this can only be the case when a wife or a common law wife is an aggrieved person, and not if any other woman belonging to a family is an aggrieved person. Therefore, in the case of a wife or a common law wife complaining of domestic violence, the husband's relatives including mother-in-law and sister-in-law can be arrayed as respondents and effective orders passed against them. But in the case of a mother-in-law or sister-in-law who is an aggrieved person, the respondent can only be an "adult male person" and since his relatives are not within the main part of the definition of respondent in Section 2(q), residence orders passed by the Magistrate under Section 19(1)(c) against female relatives of such person would be unenforceable as they cannot be made parties to petitions under the Act."*

(iv) It has also been held that a shared household includes a house belonging to a relative of the husband where the aggrieved person

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lived in a domestic relationship, and it does not need to belong to the husband. In this regard, reference may be made to the following observations of the Supreme Court in ***Satish Chander Ahuja v. Sneha Ahuja,*** **(2021) 1 SCC 414:**

> *"68. The words "lives or at any stage has lived in a domestic relationship" have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household. The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not. As noted above, the 2005 Act was enacted to give a higher right in favour of women. The 2005 Act has been enacted to provide formore effective protection of therightsof the women who are victims of violence of any kind occurring within the family. The Act has to be interpreted in a manner to effectuate the very purpose and object of the Act. Section 2(s) read with Sections 17 and 19 of the 2005 Act grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not.*
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> ***
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> ***91.*** *In view of the foregoing discussions, we answer Issues 1 and 2 in the following manner:*
> *91.1. The definition of "shared household" given in Section 2(s) cannot be read to mean that shared household can only be that household which is household of the joint family of which husband is a member or in which husband of the aggrieved person has a share."*

(v) The learned Magistrate also did not consider the domestic incident report ('DIR') dated 18.11.2023 as mandated by the proviso to Section 12(1) of the DV Act. Its contents were not adverted to by the learned ASJ either. The DIR records the allegation that respondent no.1 forced the petitioner out of the shared householdby cutting off the water and electricity supply.

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6. Considering the aforesaid circumstances, the orders dated 08.02.2024 and 07.01.2025 are set aside.

7. The application under Section 23 of the DV Act is restored to the file of the Metropolitan Magistrate.

8. However, the petitioner cannot be left without a roof in the meantime while the application is decided.

9. The protection officer's report dated 23.05.2025 shows that the petitioner is living in a garage without basic facilities. The same reads as under:

> As per the order of this Hon'ble Court to verify the living condition of the complaint accordingly the undersigned reached at the given address by the complainant on 22/05/2023 i.e. a Garge opposite the mayor vihar phase 1 Police Station Delhi.
>
> The Complainant has been residing in this Garge from last 3 months (also told by the garge worker and owner). The undersigned found a sofa, single bed, a fridge and few utensils in the room when she residing, all these stuff belongs to the garage owner except utensils. There is no facility of toilet and Bathroom. The Complainant is living in bad condition.
>
> Photos are attached herewith.

10. What is also disturbing is that during the course of hearing today, it has been brought to the notice of this Court that notwithstanding the interim order passed by this Court on 22.05.2025 and 24.09.2025, restraining creation of third-party rights in the fourth floor and directing maintenance of *status quo*, the fourth floor of the property has been sold. Clearly, the respondent no.1 cannot be permitted to take advantage of the flagrant breach on her part, of orders passed by this Court and thereby defeat the petitioner's

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claim to a shared household. At least one floor of the same house is with the respondent no.1.

11. In the circumstances, considering the hardship being faced by the petitioner, it is directed that as an interim measure, during the pendency of the application under Section 23 of the DV Act (which is relegated to the concerned Magistrate), the petitioner shall be accommodated in one of the floors of House No.18/213, Trilokpuri, Delhi-110091 within one week from today.

12. For this purpose, the SHO, P.S.Trilokpuri shall visit the premises and ensure that the respondent no.1 is suitably inducted in a portion of the property where she can reside.

13. The respondent no.1 shall not obstruct the petitioner's entry, residence, or the use of basic amenities such as water and electricity.

14. In case of any obstruction by the respondent no.1 or by any other person, the concerned SHO shall render appropriate assistance to the petitioner.

15. The SHO shall file a compliance report before the concerned Metropolitan Magistrate, identifying the portion in which the petitioner has been accommodated.

16. The petitioner shall been entitled to use the same electricity connection which is installed in the property in question.

17. The aforesaid interim arrangement shall abide by the outcome of the application under Section 23 of the DV Act before the learned Metropolitan Magistrate. Nothing stated herein shall be construed as an expression of opinion on the merits of the case.

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18. The petition, along with pending applications, is disposed of in the above terms.

19. Let a copy of this order be communicated to the SHO P.S. Trilokpuri for compliance.

SACHIN DATTA, J

OCTOBER 28, 2026/cl

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