



2026:DHC:5114



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

Reserved on: 27th March, 2026
Pronounced on: 16th June, 2026

+ **RFA 1119/2025, CM APPL. 77222/2025 (stay)**

SMT. UPINDER KAUR MALHOTRA

W/o Capt. Teghjeet Singh Malhotra,
Resident of F-8/11 Vasant Vihar (FF)
New Delhi-1 10057

.....Appellant

Through: Ms. Nandini Sen, Mr. Basab
Sengupta, Advocates.

versus

SMT. GURMEET MALHOTRA

W/o Late Shri Surjit Singh Malhotra
Rio F-8/11, Vasant Vihar,
New Delhi-I 10057

.....Respondent

Through: Mr. Dhruv Chawla, Adhya Sinha,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal has been preferred under Section 96 of the Code of Civil Procedure, 1908 (hereinafter referred to as CPC), against the Judgment and Decree dated 12.09.2025 passed by the learned Senior Civil Judge-cum-Rent Controller, New Delhi *whereby the Suit of the Plaintiffs for Mandatory and Permanent Injunction, was decreed against the*



Appellant/Defendant.

2. The Plaintiff filed a Suit CS SCJ No. 274/2022 titled "Surjit Singh Malhotra through Power of Attorney holder vs. Upinder Kaur Malhotra" for Mandatory and Permanent Injunction, for directing the Appellant to remove herself from the first floor of the Suit Property, and restraining her from causing interference in the peaceful occupation of the respondent and also for damages/mesne profits.

3. The facts in brief, are that the respondent and her late husband Sh. Surjit Singh Malhotra Plaintiff No. 1, (since deceased on 26.01.2024) were the owners of property bearing No. F-8/11, Vasant Vihar, New Delhi-110057, admeasuring 415 sq. yds., (hereinafter referred to as suit property) by virtue of a registered Conveyance Deed dated 28.12.1999. The Suit Property comprises of ground floor, first floor and second floor.

4. The Appellant is the daughter-in-law of the respondent, married to the respondent's son Capt. Teghjeet Malhotra on 06.06.1992 in accordance with Hindu rites and ceremonies, at New Delhi. At the time of marriage, the respondent's son was a Pilot Officer with the Indian Air Force, posted at Air Force Station, Palam, Delhi. She resided with him at the place of posting. Thereafter, the Respondent's son was posted at various places across India and the Appellant accompanied him, at his respective postings.

5. In the year 2004, the Respondent's son took voluntary retirement from the Indian Air Force and joined Deccan Airlines. Since his employment required extensive travel, he requested the Respondent to permit the Appellant and his children to reside in the Suit Property. At that time, both the first and second floors were occupied by tenants. The Respondent got the second floor vacated and permitted the Appellant and her family, to reside



therein as permissive licensees as a temporary arrangement, till the son could secure a stable employment.

6. Around March/April 2010, on account of the growing needs of the family, the Respondent's son sought permission for the first floor as well. The Respondent accordingly, got the first floor vacated from the tenant and permitted the Appellant to occupy the same.

7. In April 2011, the Respondent's son joined Sri Lankan Airlines and was required to relocate to Sri Lanka. The Appellant was requested to accompany him, but she refused to do so. Thereafter, in the year 2013, the Respondent's son joined Saudi Airlines and was required to relocate to Saudi Arabia. The Appellant again refused to accompany him.

8. The Respondent's son had not been residing in the suit property, since April 2011. The grandson was abroad for higher studies from 2013 to 2018 and the granddaughter from 2014 to 2018. After returning to India in 2018, they were permitted by the Respondent to occupy the second floor of the suit property, which had an independent locked entrance.

9. It was further the case of the Respondent that the conduct of the Appellant towards her and her husband, was cruel and intolerable and had caused serious harm to their physical and mental health.

10. The Respondent's son filed a Divorce Petition bearing HMA No. 211/2019 and the Appellant also filed a Divorce Petition bearing HMA No. 529/2019.

11. Thereafter, the Respondent and her late husband, being senior citizens aged 81 and 87 years respectively at the time of filing of the suit, terminated the licence of the Appellant to reside in the first floor of the suit property by issuing a Legal Notice dated 28.12.2021, but the Appellant failed to vacate.



12. The Respondent filed the present Suit and sought a decree of Mandatory Injunction for directing the Appellant to remove herself from the first floor, and Permanent Injunction for restraining her from causing interference in the peaceful occupation of the Respondent over the suit property, and damages/mesne profits from the date of filing of the Suit till the date of actual vacation.

13. The Appellant/Defendant contested the Suit by filing the Written Statement wherein, preliminary objections were taken that the Suit was not maintainable and had been instituted with the sole object of dispossessing the Appellant/Defendant from her matrimonial home. It was asserted that the suit property constituted her shared household and that she possessed a right of residence therein by virtue of her matrimonial relationship with the son of the Plaintiffs and that the present Suit had been instituted only to dispossess her therefrom.

14. On merits, it was asserted that the Appellant/Defendant had married Capt. Teghjeet Malhotra on 06.06.1992 and had entered the Suit Property as the daughter-in-law of the family. It was claimed that she had been residing in the Suit Property along with her husband and children ever since her marriage and that the Suit Property had always been treated as the family residence.

15. It was further asserted that the occupation of the Appellant/Defendant was not in the nature of a licensee, and that no licence agreement had ever been executed between the parties. Therefore, there was no question of termination of any licence by issuance of Notice dated 28.12.2021.

16. The Appellant/Defendant asserted that, apart from herself, Capt. Teghjeet Malhotra and the children were also residing in the Suit Property and that the family was using both the first and second floors thereof. It was



denied that the Appellant/Defendant was in exclusive occupation of the first floor or that the Plaintiffs had been deprived of the use and enjoyment of the suit property.

17. The allegations regarding cruelty, harassment and misconduct towards plaintiff, were denied. It was asserted that matrimonial disputes had arisen between the Appellant/Defendant and Capt. Teghjeet Malhotra on account of his conduct and that the Plaintiffs had sided with their son in the matrimonial disputes.

18. It was further claimed that the Suit Property constituted the matrimonial home and a shared household of the Appellant/Defendant and that she possessed a legal right of residence therein. The Appellant/Defendant accordingly prayed for dismissal of the Suit.

19. The Respondent in her Replication denied the averments made by the Appellant in the Written Statement and reiterated and reaffirmed the assertions made in the plaint.

20. It was further clarified that the Appellant was first permitted to reside on the second floor around 2004 and the first floor was given only around 2010, both on a temporary basis at the request of the Respondent's son.

21. During the pendency of the suit, Plaintiff No. 1 Sh. Surjit Singh Malhotra expired on 26.01.2024. By virtue of a Will dated 09.12.2018, he bequeathed all his immovable properties in the name of the Respondent. An Application under Order XXII Rule 2 CPC, was filed by the Respondent seeking to pursue the suit, which was allowed by the Ld. Predecessor Court vide order dated 17.08.2024.

22. It is relevant to note at this stage, that the relationship between the Appellant and the Respondent's son has been mired in prolonged and parallel



litigation, the broad contours of which are as under:

- (i) The Respondent's son filed HMA No. 211/2019 seeking dissolution of the marriage on the grounds of cruelty, and the Appellant filed a cross-petition being HMA No. 529/2019 against the Respondent's son.*
- (ii) The Family Court vide judgment dated 18.07.2024 dissolved the marriage between the parties.*
- (iii) The Appellant assailed the said decree before this Court by way of MAT.APP (F.C) 136/2025, and this Court vide judgment dated 24.09.2025 set aside the said decree and remanded both petitions for fresh adjudication.*
- (iv) The Respondent's son thereafter preferred SLP(C) No. 35974/2025 before the Apex Court, wherein the Apex Court vide order dated 19.12.2025 stayed the judgment of this Court, though only to the extent of interference with the decree of divorce.*
- (v) In parallel, the Appellant has instituted proceedings under the Protection of Women from Domestic Violence Act, 2005 against the Respondent's son. Vide order of the Family Court dated 05.08.2022, the Respondent's son was directed to pay interim maintenance of Rs. 50,000/- per month to the Appellant, with liberty granted to the Appellant to seek enhancement in case rental accommodation is required.*

23. After completion of pleadings, the following issues were framed by the Ld. Predecessor Court on 14.07.2023:



“(i) Whether the suit is barred by limitation? OPD

(ii) Whether the suit property is the shared household of the defendant? OPD

(iii) If Issue No. 1 is decided in favour of the defendant, whether she cannot be removed from the suit property? OPD

(iv) Whether the plaintiff is entitled to a decree of mandatory injunction to remove the defendant from the suit property, as prayed for? OPP

(v) Whether the plaintiff is entitled to a decree of permanent injunction, as prayed for? OPP

(vi) Whether the plaintiff is entitled to recover damages and mesne profits, if so, at what rate and for what period? OPP

(vii) Relief.”

24. PW-1 Smt. Gurmeet Kaur Malhotra, the Respondent herein, tendered her evidence by way of affidavit Ex. PW1/A and relied upon the General Power of Attorney dated 10.11.2021 Ex. PW1/1, copies of Aadhaar Cards Ex. PW1/2 and Ex. PW1/3, the registered Conveyance Deed dated 28.12.1999 Ex. PW1/4, the site plan Ex. PW1/5, medical documents Ex. PW1/6 (Colly), the legal notice dated 28.12.2021 Ex. PW1/7 along with postal receipt Ex. PW1/7A, the reply dated 16.01.2022 thereto Ex. PW1/8 and a certified copy of the Family Court order dated 03.03.2021 Ex. PW1/9. PW1 was duly cross-examined.

25. PW-2 Mr. Bhavkaran Singh Malhotra, the grandson of the Respondent and the son of the Appellant, tendered his evidence by way of affidavit Ex.



PW2/A.

26. PW3 Mr. Mohd. Noor Alam, who had prepared the site plan Ex. PW1/5 in the year 2022, was examined and cross-examined.

27. DW1 Smt. Upinder Kaur Malhotra, the Appellant herein, tendered her evidence by way of affidavit Ex. DW1/A and relied upon documents Ex. DW1/1 to Ex. DW1/13 (Colly).

28. The Ld. Senior Civil Judge vide impugned judgment dated 12.09.2025, held the suit property to be the shared household of the Appellant. It was observed that the matrimonial disputes between the Appellant/Defendant and the son of the Plaintiffs, had resulted in prolonged litigation and that the Plaintiffs could not be compelled to continue suffering the consequences thereof indefinitely. The Appellant/Defendant had been awarded maintenance in the matrimonial proceedings and it was observed that appropriate remedies in relation to residence and maintenance, were available to her in accordance with law. It was thus, concluded that notwithstanding the status of the Suit Property as a shared household, the Plaintiffs were entitled to recover possession of the portion under occupation of the Appellant/Defendant.

29. Accordingly, the Suit for Mandatory Injunction was decreed and the Appellant/Defendant was directed to vacate and hand over peaceful possession of the portion in her occupation. The relief of Permanent Injunction was also granted in favour of the Plaintiffs.

30. Insofar as the claim for damages and mesne profits was concerned, the learned Trial Court found that no evidence had been led by the Plaintiffs regarding the prevailing rental value of comparable properties. It was, therefore, held that the Plaintiffs had failed to establish their entitlement to damages or *mesne* profits and the said relief was declined.



31. On the question of shared household, the Ld. Trial Court decided in favour of the Appellant. PW1 had herself admitted that the Appellant had been residing in the suit property for the last 25 years. Relying upon Satish Chander and Prabha Tyagi, the Suit Property was held to be the shared household of the Appellant. It was noted that the Appellant had nowhere alleged domestic violence and that proof thereof was not a prerequisite for the right of residence under Section 17(1) of the Protection of Women from Domestic Violence Act, 2005 (*hereinafter referred to as DV Act*).

32. Having so held, the learned Trial Court proceeded to examine the competing rights of the parties and observed that the right of residence claimed by the Appellant/Defendant was required to be balanced against the rights of the Plaintiffs, who were senior citizens and undisputed owners of the Suit Property. ***The learned Trial Court further took note of the fact that the Respondent had been suffering on account of the matrimonial discord between the Appellant and her son and was entitled to live peacefully in her own home in the twilight years of her life. It was further observed that the Appellant was in receipt of interim maintenance from the Respondent's son with liberty to seek enhancement, and was not without alternative recourse.***

33. Aggrieved by the aforesaid Judgment and Decree dated 12.09.2025, the present Appeal has been preferred.

34. **The grounds of challenge are** that the Ld. Trial Court, having itself returned a finding that the Suit Property is a shared household of the Appellant, could not have proceeded to direct her eviction, therefrom. It is contended that the right of residence under Section 17(1) of the DV Act, is a statutory right and cannot be defeated merely on the ground of competing interests of the in-laws. It is further contended that the reliance placed by the



Ld. Trial Court on Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414, is misplaced and that the balancing exercise contemplated therein, requires evidence of actual disruption, which is wholly absent on the record. In that very case, the Apex Court dismissed the father-in-law's Appeal and upheld the setting aside of the eviction decree. **This judgement** had been misread.

35. In the **Written Submissions**, Learned counsel for the Appellant argued that the Ld. Trial Court, having itself held the suit property to be the shared household of the Appellant, could not have directed her eviction therefrom. Section 17(1) of the DV Act, 2005 guaranteed the right of residence to every woman in a domestic relationship regardless of title. The Apex Court in Prabha Tyagi v. Kamlesh Devi, *Crl. Appeal No. 511/2022*, had categorically held, that a daughter-in-law cannot be evicted from a shared household, even in the absence of domestic violence.

36. The balancing exercise required evidence of actual disruption, which was wholly absent. PW1 admitted no physical damage and PW2 could not cite a single instance of inappropriate behaviour.

37. It was further contended that the Appellant was never inducted into the suit property as a licensee and, therefore, the alleged termination of licence vide Legal Notice dated 28.12.2021, was of no consequence.

38. The Appellant further contended that the stay granted by the Apex Court vide order dated 19.12.2025 in SLP(C) No. 35974/2025 was narrow in its scope and did not affect her right of residence under Section 17(1), which subsisted, irrespective of whether the domestic relationship was current or past.

Submissions heard and the record perused.

39. Admittedly, the Appellant got married to the Respondent's son on



06.06.1992. It is also admitted that at the time of marriage, the Respondent's son was serving in the Indian Air Force and was posted at Air Force Station, Palam, Delhi, and the Appellant resided with him at the said place of posting. Thereafter, the Respondent's son was posted at various places across India and the Appellant accompanied him to his respective postings.

40. PW-1 Smt. Gurmeet Malhotra, while admitting in her cross-examination dated 19.10.2023 that the Appellant had been residing in the suit property for the last 25 years, also clarified the nature of the arrangement in her cross-examination dated 06.12.2023 in the following terms:

"The second floor of the suit property was got vacated by us from the tenants in the year 2004 when my son took voluntary retirement from the Indian Air Force and requested us to permit his family to stay there till he settled in his next employment. The first floor was got vacated from the tenant around 2010 on his further request... My grandson Bhavkaran is also presently residing on the second floor on the same temporary arrangement as I had given to my son's family."

41. It is pertinent to note that while the Appellant in her pleadings asserted continuous residence in the Suit Property since her marriage in 1992, she categorically admitted in her cross-examination dated 14.05.2025 as under:

"It is correct that till 2004, I had been visiting the suit property and not continuously residing there... One major visit was during the summer vacation... My husband Capt. Teghjeet Malhotra was in the Indian Air Force from 1990 to 2004 and I used to reside with him at his place of posting along with the children."

42. The Appellant, in her cross-examination dated 03.06.2025, further



admitted as under:

"It is correct that the ground floor of the suit property is in the independent occupation of my mother-in-law and we have never shared any kitchen with her... It is correct that the first floor and the second floor of the suit property have their own independent locked entrances."

43. The said admission stands fully corroborated by the testimony of PW-2 Bhavkaran Singh Malhotra, the son of the Appellant, who in his affidavit Ex. PW2/A and in his cross-examination dated 30.08.2024 deposed as under:

"My father took voluntary retirement from the Indian Air Force in the year 2004 and we shifted to the suit property thereafter... Before that, we used to reside with my father at his various places of posting in different parts of the country."

44. **PW-2 Bhavkaran Singh Malhotra** in his cross-examination dated 18.10.2024 himself described the nature of his own occupation in the following terms:

"I have been given a permissive license to stay on the second floor of the suit property by my grandmother and I have assured her that I would vacate the same as and when she requires."

45. The question for consideration, is in two folds:

(i) *Whether the suit property constitutes a "shared household" of the Appellant within the meaning of Section 2(s) of the DV Act; and*

(ii) *Whether the Appellant has a continued right to remain in possession of the Suit Property.*



I. Whether the Suit Property is the Shared Household of the Appellant:

46. To appreciate the competing claims, it would be relevant to refer to the provisions of the Protection of Women from Domestic Violence Act, 2005.

47. **Section 2(f) defines "domestic relationship"** as under:

"(f) 'domestic relationship' means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family."

48. Section 2(s) of D.V. Act defines "**shared household**" as:

"(s) 'shared household' means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household."

49. Section 17 of D.V. Act provides for the right to reside in a shared household:

"17(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or



beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law."

50. The contours of the expression "shared household" came up for elaborate consideration before the Apex Court in Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414. The Apex Court observed that Section 2(s) uses both the expressions "*means and includes*", and the said legislative formula renders the definition exhaustive. The Apex Court observed in paragraph 53 that:

"the definition of shared household in Section 2(s) is an exhaustive definition. The first part of definition begins with expression 'means' which is undoubtedly an exhaustive definition and second part of definition, which begins with word 'includes' is explanatory of what was meant by the definition."

51. The Apex Court further observed in paragraph 55 that the definition can be divided into two parts. The first part requires that the person aggrieved must live or at any stage have lived in a "domestic relationship" in the household either singly or along with the respondent. *The second part is illustrative of the kinds of households that would fall within the definition.*

52. The expression "*lives or at any stage has lived in a domestic relationship*" was specifically interpreted by the Apex Court in paragraph 63 of Satish Chander Ahuja (*supra*) as follows:

"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."

53. Therefore, before a property can be held to be a shared household, what has to be examined is whether the Appellant has lived therein in a "domestic relationship" with the Respondent with some degree of permanency, and not whether she has merely been permitted to occupy a portion of the property by way of a temporary arrangement.

54. Reverting to the facts of the present case, the Appellant as per her own admission, did not reside in the Suit Property between 1992 and 2004. During the said period, she resided with her husband at his various places of posting. Even her own visits during this period were occasional, the major one being during summer vacations. Thus, for a period of twelve years immediately after marriage, there was no living, much less a living with permanency, in the Suit Property.

55. The Appellant came to reside in the suit property only in 2004, when the Respondent's son, on his voluntary retirement from the Indian Air Force, requested the Respondent to permit the Appellant and his children to reside therein as a temporary arrangement, till he could secure a stable employment. The said second floor was, at that time, occupied by a tenant whom the Respondent got evicted in order to accommodate the Appellant and her family. Around March/April 2010, on the request of the Respondent's son for additional space, the first floor was also got vacated from the tenant and given



to the Appellant.

56. Significantly, *the Respondent and her husband*, throughout the said period, continued to reside on the ground floor of the Suit Property, which was independent in all respects and had its own kitchen and entrance. The first and second floors of the Suit Property had their own independent locked entrances. The Appellant and her family never shared a kitchen or any common household arrangement with the Respondent and her husband.

57. Pertinently, the Respondent's son himself ceased to reside in the Suit Property from April, 2011, when he relocated to Sri Lanka for his employment with Sri Lankan Airlines. Thereafter, in 2013, he relocated to Saudi Arabia for his employment with Saudi Airlines. The Appellant, on both occasions, refused to accompany him. The grandson and granddaughter were also abroad from 2013/2014 till 2018, for higher studies. The Appellant has, therefore, been residing on the first floor of the suit property by herself for the most part, while the Respondent has been residing on the ground floor.

58. There is not an iota of evidence on record to demonstrate that the Appellant *ever lived together with the Respondent in a "domestic relationship,"* so as to satisfy the foundational requirement of Section 2(s). The admission of the Appellant in her cross-examination dated 03.06.2025 that the ground floor of the Suit Property was in the independent occupation of the Respondent and her late husband; that she had never shared any kitchen with the Respondent, and that the first and second floors had their own independent locked entrances, *conclusively establishes that the two families occupied as separate units.* The arrangement was, from its very inception in 2004, a temporary one occasioned by the employment circumstances of the Respondent's son, specifically described as such by PW-1 in her cross-



examination dated 06.12.2023, *corroborated* by PW-2 in his cross-examination dated 18.10.2024, and effectively admitted by the Appellant in her own cross-examination.

59. Even PW-2, the Appellant's own son, in his deposition described his own occupation of the second floor as a "permissive license" granted by his grandmother, *a characterisation that applies with equal force to the Appellant's occupation of the first floor.* The nature and quality of the Appellant's possession is, on the basis of evidence, that of a permissive licensee.

60. The Apex Court in Satish Chander Ahuja (*supra*) was conscious of this very situation. In paragraph 117 of the said judgment, the Apex Court observed:

"In case, the shared household of a woman is a tenanted/allotted/licensed accommodation where tenancy/allotment/license is in the name of husband, father-in-law or any other relative, the Act, 2005 does not operate against the landlord/lessor/licensor in initiating an appropriate proceedings for eviction of the tenant/allottee/licensee qua the shared household."

61. The said principle applies with greater force where the occupation itself is by way of a permissive licence, granted by the owner. The protection of Section 17 cannot be invoked to convert what is, in substance, a temporary licence into a permanent right of residence, on the strength of the marital relationship of the licensee with the son of the owner.

62. In the present case, the Appellant's occupation of the Suit Property commenced in 2004 by way of a temporary licence granted to accommodate the Respondent's son who was in transferable employment. The said licence



was admittedly terminated by the Respondent and her husband by issuance of Legal Notice dated 28.12.2021 Ex. PW1/7, which was duly served upon the Appellant. Despite the said termination, the Appellant failed to vacate, which compelled the Respondent to institute the present Suit.

63. In view of the foregoing discussion, **it is evident that the Suit Property does not constitute *the shared household of the Appellant within the meaning of Section 2(s) of the DV Act.*** The Appellant has not, at any stage, lived in the suit property in a "***domestic relationship***" with the Respondent with the degree of permanency, contemplated by Section 2(s) as interpreted by the Apex Court in Satish Chander Ahuja (*supra*). ***Her occupation of the first floor of the Suit Property is, on the admitted facts and the evidence on record, that of a permissive licensee whose licence has been duly terminated.***

64. The finding of the Ld. Trial Court that the Suit Property is the shared household of the Appellant, is accordingly set aside.

II. Whether the Appellant has a Continued Right to Remain in Possession:

65. Once it is held that the Suit Property is not the shared household of the Appellant and her occupation thereof is that of a permissive licensee, the question of her continued right to remain in possession has to be examined in light of the said legal position alone.

66. The status of the Respondent as the owner of the Suit Property is admitted. The licence granted in 2004 was admittedly temporary and was occasioned by the employment exigencies of the Respondent's son. The said circumstances ceased to exist when the Respondent's son ceased to reside in the Suit Property in 2011 and the children moved abroad. The licence stood



terminated by Legal Notice dated 28.12.2021, leaving the Appellant in unauthorised occupation thereafter.

67. The submission that the Appellant was never inducted into the Suit Property as a licensee and that, therefore, the termination Notice was of no consequence, is not tenable on the face of it. The very pleadings of the Respondent in the plaint, the deposition of PW-1, the corroborative deposition of PW-2 and the admissions of the Appellant herself in her cross-examination, establish that the occupation was permissive in nature, granted by the Respondent as the owner of the Suit Property to accommodate her son and his family on a temporary basis. The absence of a formal written licence agreement does not alter the legal character of the occupation; a licence may be created orally and by conduct, and the conduct of the parties in the present case unambiguously establishes the relationship of licensor and licensee.

68. The argument that PW-1 admitted no physical damage was caused by the Appellant and that PW-2 could not cite a single instance of inappropriate behaviour, does not assist the Appellant either. Once the Appellant's occupation is held to be that of a permissive licensee whose licence has been terminated, the question of misconduct or otherwise becomes irrelevant. A licensee whose licence has been validly terminated is bound to vacate, irrespective of whether her conduct during the subsistence of the licence was unobjectionable.

69. The right of the Appellant to residence and maintenance, in the event of any subsisting matrimonial relationship with the Respondent's son, flows from her marriage and is enforceable against her husband, and not against her mother-in-law. The Appellant is admittedly receiving interim maintenance of Rs. 50,000/- per month from the Respondent's son, with liberty granted by the



Family Court to seek enhancement should rental accommodation be required. Her remedies in that regard lie elsewhere and not against the Respondent, who is the absolute owner of the Suit Property and is herself a widow, aged 84 years.

70. The Respondent, being a widow, is entitled to spend the evening of her life in peace and tranquillity in her own home. The Apex Court in Satish Chander Ahuja (*supra*) in paragraph 83 observed that the senior citizens in the evening of their life are also entitled to live peacefully and not be haunted by the marital discord between their son and daughter-in-law. The said observation, even where the Suit Property is held to be a shared household, applies with greater force in the present case where the property is not even a shared household and the Appellant's occupation is merely by way of a terminated licence.

71. In S. Vanitha v. Deputy Commissioner, Bengaluru Urban District, (2021) 15 SCC 730, the Apex Court further held that the competing rights under the DV Act and the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, must be harmonised. The right of senior citizens to live in peace, is a recognised statutory right which the Courts must give due weight to.

72. The factual development that the Apex Court vide order dated 19.12.2025 in SLP(C) No. 35974/2025 has stayed the judgment of this Court dated 24.09.2025 to the extent of its interference with the decree of divorce, does not bear upon the present determination. The Appellant's claim before this Court is founded on the alleged status of the suit property as a shared household, and not on the subsistence or otherwise of her marriage. Since the foundational status itself has been found to be absent, the question of the



subsistence of the marriage does not require to be gone into.

73. In view of the foregoing discussion, the Appellant has no continued right to remain in possession of the Suit Property. The decree of mandatory injunction directing the Appellant to vacate the Suit Property and the decree of permanent injunction restraining her from interfering with the peaceful possession of the Respondent, are accordingly upheld, though on grounds different from those recorded by the Ld. Trial Court.

74. In Satish Chander Ahuja v. Sneha Ahuja, the Supreme Court, while interpreting Section 17(2) of the Protection of Women from Domestic Violence Act, 2005, held that the right of residence in a shared household is not an absolute or indefeasible right. The Court observed that the expression ***“save in accordance with the procedure established by law”*** expressly contemplates eviction or exclusion of the aggrieved person through proceedings before a competent court and, therefore, a properly instituted suit for possession, eviction or mandatory injunction is maintainable in law.

75. *Insofar as the dismissal of the claim for damages and mesne profits is concerned*, the Ld. Trial Court has rightly held that no evidence was led by the Plaintiffs to establish the prevailing rental value of comparable properties. Not an iota of evidence was placed on record to establish the prevailing rate of rent. The finding of the Ld. Trial Court declining the relief of damages and mesne profits, therefore, warrants no interference.

Conclusion:

76. In view of the foregoing discussion, the finding of the Ld. Trial Court that the Suit Property is the shared household of the Appellant is set aside. It is held that the Suit Property does not constitute the shared household of the Appellant within the meaning of Section 2(s) of the DV Act, and that the



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Appellant's occupation thereof is that of a permissive licensee whose licence stood terminated by Legal Notice dated 28.12.2021.

77. Notwithstanding the modification in the reasoning, the decree of mandatory injunction directing the Appellant to vacate the Suit Property and the decree of Permanent Injunction in favour of the Respondent, are upheld. The dismissal of the claim for damages and mesne profits, is also affirmed.

78. In view of the foregoing circumstances, ***the Appeal is without merit and is, hereby, dismissed.*** Pending Application(s) if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 16, 2026/R