



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Reserved on: 12th August, 2026

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CNR No. DLHC010376462023

+ RFA No.778/2023

LATE RAJ KUMAR @ BABBAL (DECEASED)

Through L.Rs.

1. **MRS. MANJU VERMA**
W/o Late Raj Kumar @ Babbal ...Appellant No.1
2. **MS NISHA**
D/o Late Raj Kumar @ Babbal ...Appellant No.2
3. **MS MANISHA**
D/o Late Raj Kumar @ Babbal
All the above residing @
H.No. A5/139A, DDA Janta Flats,
Paschim Vihar, New Delhi-110063. ...Appellant No.3

Through: Mr.Tripurari Jha & Mr. Brajesh
Kumar, Advocates.

versus

SH. ATTAR SINGH

S/o Sh. Bharat Singh

R/o Flat No. A5/209C, DDA Janta Flat,

Paschim Vihar, New Delhi.

....Respondent

Through: Mr. Shantanu Singh and Mr.
Rajneesh Tingal, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T



NEENA BANSAL KRISHNA, J.

1. The present **Regular First Appeal under Section 96 read with Order XLI of the Code of Civil Procedure, 1908** (*hereinafter referred to as 'CPC'*) has been preferred by the Appellants, *the Legal Representatives of Defendant No. 1, Mr. Raj Kumar @ Babbal*, against the Judgment and Decree dated 22.05.2023, *whereby the Suit bearing CS DJ/10776/2016 filed by the Respondent/Plaintiff for Possession and Damages was decreed, directing the Appellants to hand over vacant and peaceful possession of the Suit property and to pay damages/mesne profits @ ₹10,000/- per month from 01.01.2013 till vacation of the suit property, by the learned ADJ, Delhi.*

2. The **brief facts**, as narrated in the amended Plaint, are that the Plaintiff, had purchased the property bearing No. A-5/139A, Ground Floor, Paschim Vihar, New Delhi (*hereinafter referred to as the "suit property"*) from one *Mr. Tara Singh*, the original allottee of the Janta Flat, by virtue of *Agreement to Sell, Special Power of Attorney, General Power of Attorney, registered Receipt and Will, all dated 29.07.1988*. He was thus, the lawful owner of the suit property.

3. The Plaintiff explained that he had two sons, *namely, Mr. Raj Kumar @ Babbal and Mr. Rakesh*, both of whom were married, were residing with him along with their respective families, in the suit property. However, ***Defendant No. 1, Mr. Raj Kumar @ Babbal***, and his wife started creating trouble in the family, by picking up quarrels and defaming the elders and other family members. In order to maintain peace in the family, the Plaintiff arranged another Flat bearing No. A-5/209C, Paschim Vihar, New Delhi, where his second son, *Mr. Rakesh* along with his wife, shifted.



4. The Plaintiff asserted that he *thereafter, resided partly in the suit property and partly with his second son, Mr. Rakesh, while Defendant No.1 and his family were permitted to continue residing in the suit property, without payment of any charges and merely as licensees.*

5. Subsequently, Defendant No. 1, without the permission of the Plaintiff/Respondent, *inducted Defendant Nos. 2 and 3, namely, Mr. Manogi Prasad and Mr. Vinod Kumar, into the front portion of the suit property, for carrying on commercial activities. Defendant No. 2 started running a kabadi shop under the name and style of “Shivam Kabadi”, while Defendant No. 3 started running a photostat shop, from the other portion of the front room.*

6. Defendant No. 1 was charging rent @ ₹4,000/- per month each from Defendant Nos. 2 and 3 and the remaining portion of the suit property, comprising two rooms, kitchen and toilet, was being used by Defendant No. 1, for *residential purposes.*

7. When the Plaintiff objected to the aforesaid activities, Defendant No. 1 misbehaved with him and stated that the Plaintiff had no concern with the suit property. According to the Plaintiff, the aforesaid conduct reflected the *mala fide* intention of Defendant No. 1, to grab the suit property.

8. Consequently, the Plaintiff debarred/disowned Defendant No. 1 and his wife, from all his movable and immovable properties and severed his relations with them by way of a Public Notice dated 04.06.2006, published in the newspaper.

9. The Plaintiff thereafter, called upon Defendant No. 1 to hand over vacant and peaceful possession of the suit property and to remove Defendant Nos. 2 and 3 therefrom. *However, the Defendants failed to comply.*



10. The electricity and water connections in the suit property continued to stand in the name of *Mr. Tara Singh*, the erstwhile owner. However, owing to misuse of the Property and the amenities by the Defendants, the said connections were disconnected by the concerned authorities, at the request of the Plaintiff.

11. Thereafter, Defendant No. 1 drew electricity directly from the electricity pole and also unauthorisedly connected the water supply. He also tried to cause substantial damage to the suit property, in respect whereof the Plaintiff lodged a Complaint dated 28.01.2007 with Police Station Paschim Vihar, New Delhi, which was recorded *vide* DD No. 25B.

12. The Plaintiff also instituted *Criminal Complaint Case No. 294/1/2007 against Defendant No. 1*, in which he was summoned. However, upon the assurance of Defendant No. 1 that he would vacate the suit property, the said Complaint was withdrawn as compromised on 19.08.2011, by the Plaintiff.

13. However, despite the aforesaid assurance and repeated opportunities, Defendant No. 1 neither vacated the portion of the suit property in his possession, nor removed the tenants inducted by him. Rather, in November 2012, he began asserting himself to be the owner of the suit property and refused to hand over its possession to the Plaintiff.

14. The Plaintiff thereafter, issued a Legal Notice dated 01.12.2012 to Defendant No. 1, terminating his licence and calling upon him to hand over possession of the suit property. The Notice of the same date, were also issued to Defendant Nos. 2 and 3. Since the actual name of Defendant No. 2 was not known at the time, he was addressed as "*Shivam Kabadi*".



15. *However, despite service of the Notices, all the Defendants failed to vacate the suit property.*

16. Due to the aforesaid illegal possession, the Plaintiff claimed damages/mesne profits @ ₹10,000/- per month, *being the rent which, according to him, the suit property could have fetched.*

17. After institution of the Suit, Defendant Nos. 2 and 3 were proceeded *ex parte vide* Order dated 21.02.2013. Thereafter, *vide* Order dated 05.12.2013, the parties were directed to maintain *status quo* with respect to the possession and title of the Suit property.

18. Subsequently, *vide* Order dated 15.04.2014, Defendant No. 1 was restrained from alienating the Suit property or creating any third-party interest therein. It is alleged that despite the said restraint, Defendant No. 1 caused Defendant Nos. 2 and 3 to vacate and thereafter, inducted Defendant No. 4, *Mr. Chhote Lal (Kabadi)*, **on 24.04.2014** and Defendant No. 5, *Smt. Bimla*, **on 05.06.2014**, into the suit property. *Consequently, the Plaint was amended to implead Defendant Nos. 4 and 5.*

19. *The Plaintiff accordingly, sought recovery of possession of the suit property along with damages/mesne profits @ ₹10,000/- per month.*

20. Defendant No. 1, in his **Written Statement**, raised a preliminary objection to the maintainability of the Suit, on the ground that he was a tenant under the Plaintiff and that the dispute, therefore, fell within the jurisdiction of the Delhi Rent Control Act.

21. The objections were also taken with regard to absence of cause of action, valuation of the Suit and the description of the suit property, in the Site Plan.



22. **On merits**, Defendant No.1 admitted that the Plaintiff had two sons, namely, Defendant No.1, *i.e. himself* and *Mr. Rakesh*, and that both sons, after their respective marriages, had resided with the Plaintiff in the suit property.

23. He denied that either he or his wife, had created any disturbance in the family. It was explained that at the time of his marriage, the Plaintiff owned *three residential properties at Paschim Vihar and two shops at East Punjabi Bagh*. Defendant No. 1 was working from one of the said shops and the income therefrom, was being utilised towards the household expenses of the family.

24. After a few years of his marriage, Defendant No. 1 and his family were shifted to the suit property, which was stated to be in a dilapidated condition. He contended that he incurred expenses exceeding Rs.1,00,000/- towards making the suit property habitable and fit for living.

25. Defendant No. 1 stated that he was working from Shop No. 26/7, East Punjabi Bagh, New Delhi and on the demand of the Plaintiff's *second son, Mr. Rakesh @ Raju*, he was asked to hand over the said shop to him, with an assurance that another shop would be provided to Defendant No. 1. The Plaintiff, however, failed to honour the said assurance.

26. It was thereafter represented that, upon sale of the other shop, Defendant No. 1 would be provided a shop at Rohini; however, even after sale of the said shop, no alternate shop was provided.

27. *Defendant No. 1 thus, pleaded that the Plaintiff had played fraud upon him* and he was left without any place of work. As a result, Defendant No. 1 and his wife, started undertaking other work to meet their day-to-day expenses.



28. Defendant No. 1 further stated that, by the year 2006, the disputes between the parties had intensified and the Plaintiff started insisting that he either vacate the suit property or pay rent for its occupation.

29. Consequently, with effect from February 2006, Defendant No. 1 started paying rent in respect of the portion comprising one room, kitchen, latrine and bathroom was ₹1,000/- per month exclusive of electricity and water charges, in cash to the Plaintiff. The rent which continued to be paid till December, 2013. Despite repeated demands, no rent receipts were issued and the rent was thereafter, increased from time to time.

30. The allegation that Defendant No. 1 had inducted Defendant Nos. 2 and 3 as tenants, was specifically denied. It was claimed that Defendant Nos. 2 and 3 had themselves been inducted by the Plaintiff, in March, 2011 in the front rooms of the suit property, with a view to cause interference in the peaceful occupation of Defendant No. 1 and his family.

31. He further denied having humiliated or harassed the Plaintiff; on the contrary, claimed that it was the Plaintiff who had repeatedly threatened to dispossess him from the suit property.

32. In this regard, it was also pleaded that on 09.05.2007, at around 9:30 pm, the wife of Defendant No.1 had called the Police Helpline Number 100 and complained about the conduct of the Plaintiff. The Plaintiff thereafter, gave a written apology before the Police, in the presence of ten other persons, undertaking not to harass Defendant No. 1 and his family.

33. Defendant No. 1 further stated that the electricity and water charges were being paid by him, to the Plaintiff. The Plaintiff, however, failed to deposit the same with the concerned authorities, resulting in disconnection of the electricity and water supply to the suit property. The Plaintiff was also



stated to have made complaints to the concerned Departments regarding non-payment of the dues.

34. When Defendant No.1 sought a *No Objection Certificate* for restoration of the electricity and water connections, the Plaintiff declined to furnish the same with a *mala fide* intention, resulting in accumulation of substantial outstanding dues.

35. It was thus, maintained that the Plaintiff was adopting various means to dispossess Defendant No.1 from the Suit property, without following due process of law. The relationship between the parties was asserted to be that of landlord and tenant and the possession of Defendant No. 1 was, therefore, denied to be illegal or unauthorised.

36. The claim for damages/*mesne* profits @ Rs.10,000/- per month, was also denied. Defendant No. 1 maintained that the portion in his occupation could not fetch rent exceeding Rs.1,000/- per month, exclusive of electricity and water charges. On this basis, the jurisdiction of the Civil Court was also questioned, with the plea that the dispute fell within the jurisdiction of Delhi Rent Control Act.

37. During the pendency of the Suit, **Defendant No.1 was proceeded ex parte, vide Order dated 17.12.2013.**

38. His Application under Section 151 CPC seeking recall of the said Order, was allowed subject to payment of costs of ₹5,000/-. Since the costs were not paid, **his defence was struck off vide Order dated 16.09.2014.**

39. Defendant Nos. 2 and 3 had already been proceeded *ex parte, vide* Order dated 21.02.2013.

40. Likewise, Defendant Nos. 4 and 5 also did not enter appearance and, on 10.02.2016, learned Counsel for the Plaintiff informed the Court, that



they had vacated the portions of the suit property in their occupation. *No relief of possession was thereafter, pressed against them, as it became infructuous.*

41. During the pendency of the Suit, **Defendant No. 1, Mr. Raj Kumar @ Babbal, expired on 25.07.2015**, due to prolonged illness. The Application under Order XXII Rule 4 CPC was allowed and his **wife, Ms. Manju Verma**, and **two daughters, Ms. Nisha and Ms. Manisha**, were brought on record, as his Legal Representatives.

42. Since the defence of Defendant No. 1 had already been struck off, no Replication was filed and *no issues were framed.*

43. The Plaintiff examined himself as **PW-1** and tendered his evidence by way of Affidavit **Ex. PW1/A**. He relied on the following documents:-

Sl.No.	Title of documents	Exhibition of documents
1.	Site Plan	Ex.PW-1/1
2.	GPA	Ex.PW-1/2
3.	Agreement to Sell and Purchase	Ex.PW-1/3
4.	SPA	Ex.PW-1/4
5.	Receipt	Ex.PW-1/5
6.	Will	Ex.PW-1/6
7.	Affidavits	Ex.PW-1/7 Ex.PW-1/8
8.	Copy of DDA Authority Letter	Ex.PW-1/9
9.	Public Notice	Mark A
10.	Complaint given to police	Ex.PW-1/11
11.	Legal Notice dated 01.12.2012 sent	Ex.PW-1/12



	to <i>Raj Kumar @ Babbal</i> (initial defendant No.1)	
12.	Copy of Courier and postal receipt	Mark B & C
13.	Legal Notice dated 01.12.2012 sent to defendant Nos. 2 & 3.	Ex.PW-1/15
14.	Copy of Courier and Postal Receipt	Mark D & E
15.	Photographs	Ex.PW-1/18 & Ex.PW-1/19

44. The Plaintiff was *cross-examined* on behalf of Defendant No.1. However, *no evidence was led on behalf of the Defendant No.1, whose defence had already been struck off.*

45. The **learned ADJ in the judgement dated 22.05.2023** after considering the pleadings and the evidence on record, observed that Defendant No. 1 had, in his Written Statement, *admitted the ownership of the Plaintiff as well as the fact that he and his family had been inducted into the Suit property by the Plaintiff.* The challenge subsequently raised by his Legal Representatives to the title documents of the Plaintiff, was held to be barred by Section 116 of the Indian Evidence Act, 1872.

46. The learned ADJ further held that the occupation of Defendant No. 1 was permissive and that his licence stood terminated by Legal Notice dated 01.12.2012, **Ex.PW1/12**. Since his defence had already been struck off and there was no material on record to establish any independent right to continue in possession, *it was held that the Plaintiff was entitled to recover possession of the suit property. The Legal Representatives of Defendant No. 1 were directed to hand over vacant and peaceful possession of the Suit property to the Plaintiff.*



47. Insofar as the claim for damages/*mesne* profits was concerned, the learned ADJ held that, having regard to the nature and locality of the suit property, it could reasonably fetch *rent @ Rs.10,000/- per month, which was . awarded from 01.01.2013 till vacation of the suit property.*

48. Defendant Nos. 2 to 5 were, however, not made liable for damages/*mesne* profits, there being no privity between them and the Plaintiff, the possession having originally been delivered by the Plaintiff to Defendant No. 1.

49. The Suit was accordingly, decreed in favour of the Plaintiff and against the Legal Representatives of Defendant No. 1 for possession of the suit property and damages/*mesne* profits @ Rs.10,000/- per month from 01.01.2013 till the date of handing over of vacant possession, along with costs.

50. Aggrieved by the impugned Judgment and Decree, the Appellants, being the Legal Representatives of Defendant No. 1, **have preferred the present Regular First Appeal.**

51. The **grounds of challenge** are that the learned ADJ failed to appreciate that **Appellant No. 1, Ms. Manju Verma**, had come to reside in the suit property immediately after her marriage with Defendant No. 1 as *the daughter-in-law of the Plaintiff and had been residing therein as part of the joint family and was in a “Domestic Relation” with the Respondent.* The suit property, therefore, constituted her **“shared household,”** within the meaning of the Protection of Women from Domestic Violence Act, 2005.

52. It is further urged that Appellant No. 1 had resided in the suit property jointly with the Respondent, *for over 17 years* and that the parties had a common kitchen till the year 2007. *She has been occupying the suit property*



as the **daughter-in-law of the Respondent**. Reliance is placed upon the admission of the Respondent in his *cross-examination* that, *at the time of the marriage of Defendant No. 1, they were residing together as a joint family, in the suit property*. The case of the Respondent that Defendant No. 1 and his family were residing in the suit property merely as licensees is, therefore, challenged as being false and legally untenable.

53. It is further asserted Appellant Nos. 2 and 3 are the Respondent's granddaughters and the Appellants have remained in peaceful physical possession of the suit property for more than 25 years and do not claim any ownership rights therein, *but seek protection of their right of residence in the suit property, as their **shared household and matrimonial home***.

54. The learned ADJ failed to examine the plea that the suit property constituted a "**shared household**," within the meaning of Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 (*hereinafter referred to as the 'DV Act'*) and that the Appellants had an **independent right of residence** therein, under Sections 17 and 19 of the said Act. It is, therefore, urged that the Appellants could not have been directed to vacate the suit property, without considering the protection available to them under the aforesaid provisions.

55. Reliance has been placed upon Preeti Satija v. Raj Kumari & Ors., AIR 2014 Delhi 46, to contend that the right of residence of a daughter-in-law in a shared household, is not dependent upon her husband having any ownership rights therein.

56. Reliance is also placed on Satish Chander Ahuja vs. Sneha Ahuja, (2021) 1 SCC 414 and also on Prabha Tyagi vs. Kamlesh Devi, Criminal Appeal No. 511/2022, which has been decided recently.



57. It is thus, contended that even if the suit property is taken to have been initially occupied by the deceased Defendant No. 1, the right of Appellant No. 1 to reside in the *shared household could not have been defeated merely on account of the demise of her husband*, in view of the protection afforded under Sections 17 and 19 of the Protection of Women from Domestic Violence Act, 2005.

58. Reliance has also been placed upon Ravneet Kaur v. Prithpal Singh Dhingra, 2022 SCC OnLine Del 594, to contend that even where strained relations between the parties justify separation of residence, the right of a daughter-in-law to shelter cannot be ignored and appropriate alternate accommodation may be directed in terms of Section 19(1)(f) of the Domestic Violence Act, 2005.

59. It is further submitted that the Defendant No. 1 was ill from May 2013 to July, 2015 and died of prolonged illness on 25.07.2015, after which, the Appellants were impleaded as a party to the Suit. After the demise of the Defendant No. 1, the Appellants are in poor financial condition and could not afford a private Counsel, on account of which, the Appellants were unable to contest the Suit effectively.

60. *The learned ADJ failed to afford the Appellants an opportunity to defend the Suit.* The defence of Defendant No. 1 had been struck off on account of non-payment of costs of ₹5,000/-. After his death, the Appellants were impleaded as his Legal Representatives and engaged Legal Aid Counsel who moved an application under Section 151 CPC for setting aside the Order dated 16.09.2014 and another Application under Order I Rule 10 CPC, seeking impleadment of the Appellants in their independent capacity on the ground that they had an independent right in the suit property.



61. Both the Applications were dismissed and the Suit was thereafter, decreed without permitting the Appellants to place their defence on record or lead evidence.

62. It is thus, contended that the Appellants were denied a fair and reasonable opportunity to defend, contrary to the principles of natural justice, and that the Suit was decided without framing issues, despite the Appellants having been brought on record, only after the death of Defendant No. 1. It is also urged that the Suit was decided without framing issues and without affording the Appellants an opportunity to lead defence evidence.

63. It is further submitted that the learned ADJ failed to appreciate that the deceased Defendant No. 1 had been working in the family motor-repair workshop, since the year 1983 and had been contributing his income therefrom, to the Respondent. The suit property was purchased jointly by the Respondent and Defendant No. 1 in the year 1988, for a sale consideration of ₹30,000/-, *though the same stood in the name of the Respondent*. The income from the said motor-repair workshop, was the only source of income of the joint family, from which the suit property, as well as the other properties were purchased in the name of the Respondent, being the *Karta*/head of the family. It is maintained that all the properties, including the suit property, had been acquired from the income generated from the motor-repair workshop and constituted joint family properties.

64. It was clarified that after the marriage of Defendant No. 1 with Appellant No. 1, it became difficult for the entire family to reside in the single-room accommodation in the suit property. Consequently, under a family settlement, the plaintiff along with his wife and younger son, shifted to another joint family property bearing Flat No. A-5/209C, Paschim Vihar,



New Delhi, while Defendant No. 1 and the Appellants continued to reside in the suit property.

65. It is thus, denied that the Respondent had shifted from the suit property on account of any harassment or misconduct on the part of Defendant No. 1/ Appellant No. 1.

66. It is also contended that from the year 2005 onwards, the Respondent, in connivance with his younger son, had been attempting to dispossess Defendant No. 1 and the Appellants from the suit property, and had lodged various false and frivolous complaints against them before the Police, Electricity Department, and Delhi Jal Board.

67. *It is, therefore, submitted that the impugned Judgment is liable to be set aside.*

68. In the **Objection-cum-Reply**, the Respondent denied that Defendant No. 1 had been contributing his income from the motor-repair workshop towards acquisition of the suit property or the other properties standing in the name of the Respondent.

69. It was stated that Defendant No. 1 was still a minor, when Janta Flat No. A-162, Paschim Vihar, New Delhi was allotted to the Respondent and that the suit property was subsequently purchased by the Respondent in the year 1990 from his own savings, while Defendant No.1 was still learning motor-repair work from him.

70. The Respondent further stated that after his marriage, Defendant No.1 and Appellant No.1 initially resided with the family at Janta Flat No. A-162, Paschim Vihar, but left the same after about two months and shifted to rented accommodation. Since Defendant No.1 was thereafter, unable to



maintain himself and his family, the Respondent permitted them to reside in the suit property.

71. *Their occupation was thus, stated to be permissive and in the nature of a licence, and not pursuant to any family settlement or independent right in the suit property.*

72. It was further stated that, after being permitted to reside in the suit property, Defendant No.1 and Appellant No.1 started harassing the Respondent and his family with an intention to retain the suit property. To maintain peace in the family, the Respondent shifted with his wife and other family members to another Janta Flat, while Defendant No.1 and his family continued to occupy the suit property, as licensees.

73. The Respondent denied that Appellant No.1 or her daughters, had any independent right to continue in possession of the suit property as a shared household.

74. The Respondent reiterated the assertions made in the Complaint and supported the findings of the learned ADJ regarding possession and *mesne* profits. *The Appeal was accordingly, sought to be dismissed, as being devoid of merit.*

75. The **Written Submissions** were filed by the Appellants, as well as the Respondent, reiterating the assertions and the defence as set out in the pleadings and the grounds of Appeal.

Submissions heard and the record perused

76. It is an admitted case that the Plaintiff had purchased the suit property from the erstwhile owner, *Mr. Tara Singh*, vide the General Power of Attorney, Agreement to Sell and Purchase, Special Power of Attorney, Receipt and Will, all dated 29.07.1988. It is further not in dispute that the



Plaintiff has two sons, namely, Defendant No. 1, *Mr. Raj Kumar @ Babbal*, and the younger son, *Mr. Rakesh Kumar*.

77. Defendant No. 1 married Appellant No. 1, ***Ms. Manju Verma***, in the year 1990. It is not in dispute that thereafter, they resided in a Flat with the Plaintiff and other family members. Subsequently Defendant No. 1 and his family shifted to the suit property. Two daughters, namely, *Ms. Nisha and Ms. Manisha*, were born from the wedlock. ***They all continued to reside in the suit property***, while the Plaintiff, along with his wife and younger son, *Mr. Rakesh Kumar*, shifted to Flat No. A-5/209C, Paschim Vihar, New Delhi.

78. It is also not in dispute that Defendant No.1 expired on 25.07.2015 and Appellant No.1 and her two daughters have, however, continued to reside in the suit property, thereafter. During the pendency of the Suit, the Appellants were brought on record as his Legal Representatives under Order XXII Rule 4 CPC. Under sub-rule (2), a Legal Representative can only take such defence as is appropriate to his character as the Legal Representative of the deceased defendant. *The Appellants have, therefore, stepped into the shoes of Defendant No. 1.*

79. Defendant No. 1 had pleaded that he was working in the shop of the Plaintiff at East Punjabi Bagh and that its income was used for the household expenses. However, even if he was working with his father, it was never his case that the suit property was acquired from any joint family business or that he had contributed towards its purchase. There is nothing on record to show the existence of any joint family business, or any contribution by Defendant No. 1, in any manner.



80. Pertinently, the Plaintiff in his cross-examination denied that the properties were purchased out of joint family income and deposed that they were his self-acquired properties. He further deposed that he was paying Rs.5,000/- per month to Defendant No. 1 when he was working with him, which Defendant No. 1 was spending on himself. Nothing has been brought out in the cross-examination to discredit this testimony.

81. The Apex Court in D.S. Lakshmaiah vs. L. Balasubramanyam, (2003) 10 SCC 310, held that there is no presumption that a property is joint family property merely because the family is joint, and the burden is on the person asserting so to prove that it was acquired from a joint family nucleus. No such evidence exists in the present case.

82. *The significant aspect is that from his own Written Statement, it emerges that the Plaintiff is the exclusive owner of the suit property. Defendant No. 1 (since deceased), in his Written Statement, did not deny the ownership of the Plaintiff and in his reply to the Plaint, wherein the Plaintiff had asserted his title, stated that the contents were a matter of record.*

83. *Defendant No. 1 claimed to be a tenant under the Plaintiff, paying rent of Rs.1,000/- per month since February, 2006, which is in itself an acknowledgement of the Plaintiff, as the owner. Even this plea of tenancy was not substantiated. Defendant No. 1 himself admitted that no rent receipts were issued, and the Plaintiff categorically denied having ever received any rent.*

84. ***Therefore, Defendant No. 1 and his family were merely permissive users of the suit property, which belonged exclusively to the Plaintiff.***

85. After the demise of Defendant No. 1, the Appellants sought to question the title of the Plaintiff, by objecting before the learned ADJ that



the title documents, Ex.PW1/2 to Ex.PW1/8, are unregistered, and by claiming in the present Appeal that the suit property is joint family property. *Such a challenge was never raised by Defendant No. 1. It was not even his case that he was the owner or a co-owner of the suit property.*

86. Admittedly, the Appellants came to reside in the suit property as the wife and daughters of Defendant No. 1. Their occupation is, therefore, through Defendant No. 1, who was a permissive user. *Having stepped into his shoes, they cannot question the title which Defendant No. 1 himself had admitted*, and the learned ADJ has rightly held that they are estopped under Section 116 of the Indian Evidence Act, 1872.

87. Even otherwise, the Appellants in the Grounds of Appeal have themselves stated that they do not claim any ownership in the suit property and only seek protection of their right of residence. *The challenge to the title of the Plaintiff, therefore, fails, and the question which survives is whether the suit property is the shared household of Appellant No. 1.*

88. The plea of the suit property being the shared household of Appellant No. 1 was neither taken in the Written Statement nor considered by the learned ADJ. *However, whether specifically pleaded or not, the right of residence of Appellant No. 1 in the suit property is a legal question.* The facts on which it rests, namely her marriage with Defendant No. 1, her residence in the suit property with the family of the Plaintiff, and her continued residence after his demise, are borne out from the Plaintiff's own pleadings and testimony and require no further evidence.

89. The Apex Court in Greater Mohali Area Development Authority v. Manju Jain, (2010) 9 SCC 157, held that a pure question of law, which does



not require any further enquiry into facts, can be raised at any stage, including in appeal.

90. Moreover, **Section 26** of the D.V. Act provides that any relief available under the Act, may be sought in any legal proceeding before a civil court, affecting the aggrieved person and the respondent. It reads as under:

“26. Relief in other suits and legal proceedings-(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil Court, family Court or a criminal Court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceedings before a civil or criminal Court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.”

91. Thus, the right of residence of a woman under the D.V. Act, can be considered in any proceedings. ***This being a legal issue which does not require any evidence, it is taken up for consideration.***

92. From the aforesaid factual matrix, it is evident that Appellant No. 1 came to reside in the suit property upon her marriage with Defendant No. 1 and *has continued to reside therein as her matrimonial home.*

93. The questions which, therefore, arise for consideration are, ***firstly***, *whether the right of residence of Appellant No.1 in the suit property was only through her husband, Defendant No.1 (since deceased), or whether she*



has an independent right of residence therein; the suit property, being her “shared household” within the meaning of Section 2(s) of the D.V. Act; and secondly, whether, her husband having died, she is liable to be evicted at the instance of the Plaintiff, being her father-in-law and the owner, or whether any law protects her residence.

I. Whether the Suit property is the "shared household" of Appellant No. 1 within the meaning of Section 2(s) of the DV Act, giving her an independent right of residence, and not merely a right derived through her husband:

94. In order to consider the aforesaid question, it would be pertinent to refer to the expression “*shared household*” as defined under Section 2(s) of the D.V. Act, which reads as under:

“2. (s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or alongwith 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.”

95. The definition of “*shared household*” under Section 2(s) of the D.V. Act is not confined to a property in which the woman or her husband has any right, title or interest. What is material is whether she has lived in the household in a domestic relationship. In Satish Chander Ahuja v. Sneha



Ahuja, (2021) 1 SCC 414, the Supreme Court held that even a property belonging to a relative of the husband may constitute a shared household, notwithstanding that the husband has no proprietary interest therein.

96. Section 17 of the D.V. Act speaks of right to reside in a shared household and reads as under:-

17. Right to reside in a shared household –

(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.

97. Section 19 deals with the residence orders that may be passed by the Magistrate and it reads as under:-

“19. Residence orders-

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order-

(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;

(b) directing the respondent to remove himself from the shared household;



(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;

(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;

(e) restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or

(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require.

Provided that no order under clause (b) shall be passed against any person who is a woman.

(2) The Magistrate may impose any additional conditions or pass any other direction which he may deem reasonably necessary to protect or to provide for the safety of the aggrieved person or any child of such aggrieved person.

(3) The Magistrate may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(4) An order under sub-section (3) shall be deemed to be an order under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) and shall be dealt with accordingly.

(5) While passing an order under sub-section (1), sub-section (2), or sub-section (3), the Court may also pass an order directing the office in-charge of the nearest police station to give protection to the aggrieved person



or to assist her or the person making an application on her behalf in the implementation of the order.

(6) While making an order under sub-section (1), the Magistrate may impose on the respondent obligations relating to the discharge of rent and other payments, having regard to the financial needs and resources of the parties.

(7) The Magistrate may direct the officer in-charge of the police station in whose jurisdiction the Magistrate has been approached to assist in the implementation of the protection order.

(8) The Magistrate may direct the respondent to return to the possession of the aggrieved person her stridhan or an other property or valuable security to which she entitled to.”

98. Thus, while *Section 19 deals with Residence Orders* that may be passed for protection of an aggrieved person, *Section 17 recognises the substantive right of residence itself. Sub-Section (1) of Section 17* begins with a *non-obstante clause* and confers upon every woman in a domestic relationship, the right to reside in the shared household irrespective of whether she has any right, title or beneficial interest therein. **Sub-Section (2)**, while protecting an aggrieved person against eviction or exclusion, expressly qualifies such protection by the words “**save in accordance with the procedure established by law**”.

99. Section 2(f) defines “*domestic relationship*” to mean a relationship between two persons who live or have, at any point of time, lived together in a shared household and are related by consanguinity, marriage, a relationship in the nature of marriage, adoption or as members of a joint family. *The expression, therefore, takes within its fold not merely a wife, but*



also a daughter-in-law who has lived with the members of her husband's family, as part of the household.

100. In Prabha Tyagi v. Kamlesh Devi, (2022) 8 SCC 90, the Supreme Court drew a *clear distinction* between sub-Sections (1) and (2) of Section 17. *It was held that the right under Section 17(1) is conferred upon every woman in a domestic relationship and is not dependent upon her first establishing an act of domestic violence.* The expression is also not confined to present or continuous physical residence. A woman who is or has been in a domestic relationship may enforce her right of residence in the shared household irrespective of any proprietary interest therein.

101. In Prabha Tyagi (supra), the aggrieved person had been married for less than a month when her husband died in a car accident on 15.07.2005. She left the matrimonial home allegedly owing to harassment by her mother-in-law and other in-laws, and thereafter sought reliefs under Section 12 of the DV Act. The First Appellate Court and the High Court denied her relief, *inter alia*, on the ground that she had never lived in a shared household with the respondents. *The Supreme Court set aside both Judgments and held that Section 17(1) confers a right on every woman in a domestic relationship, independent of any act of domestic violence and observed as under:*

"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.”

102. Hence, every woman in domestic relationship in whatsoever manner, is entitled to the right of residence. Thus, a mother, daughter, sister, wife, mother-in-law and daughter-in-law or such other categories of women in a domestic relationship, have the right of residence in the shared household. Such a woman, whose right is guaranteed under Section 17 of D.V. Act, cannot be evicted, excluded or thrown out from the household, save in accordance with the procedure established by law.

103. On the effect of the husband's death, the Supreme Court in Prabha Tyagi (supra), observed thus:

"The right to live in the shared household, even when the domestic relationship may have been severed for instance when a woman has been widowed owing to the death of her husband, entitles her to have remedies under the D.V. Act."

104. Thus, the death of the husband does not, by itself, sever the daughter-in-law's right to reside in the shared household, and the right is not dependent upon actual or continuous residence.

105. The Supreme Court in S. Vanitha v. Deputy Commissioner, Bengaluru Urban District, (2021) 15 SCC 730, while considering a claim for eviction of a daughter-in-law under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, reiterated that the definition of shared household extends to premises in which the woman has lived in a domestic relationship irrespective of the absence of any right, title or interest therein. *It was further emphasised that statutory rights of residence cannot be rendered*



nugatory merely by relying upon another competing entitlement; ***the rights have to be harmonised.***

106. Reverting to the facts of the present case, Appellant No.1 came into the suit property upon her marriage with Defendant No.1 and resided therein with the Plaintiff's family. ***Significantly, the Plaintiff himself pleaded in the amended Plaint, that both his sons along with their respective families, were residing with him in the suit property.*** He further pleaded that even after his younger son, Mr. Rakesh Kumar, shifted to Flat No. A-5/209C, Paschim Vihar, he continued to reside partly in the suit property and partly with his younger son. *Thus, even as per the Plaintiff's own pleaded case, Appellant No. 1 had resided with him in the suit property, as a member of the family.*

107. This position also stands fortified by the admission of the Plaintiff in his cross-examination, wherein he stated that *"We lived together as a joint family for period of 6 month after marriage of my said son. Thereafter I started living with my wife and other sons in other property."*

108. The Plaintiff's own testimony, therefore, establishes that Appellant No. 1 had, after her marriage, ***resided with him and Defendant No. 1 as part of the joint family in the suit property.*** It is also not in dispute that Appellant No. 1 and her daughters, have continued to reside in the suit property for over two decades and were residing there when the Suit was instituted. The subsequent shifting of the Plaintiff to another premises, would not retrospectively alter the character in which Appellant No. 1 had entered and resided in the suit property. The suit property, therefore, answers the description of a *"shared household"* qua Appellant No.1, within the meaning of Section 2(s) of the D.V. Act.



109. In Seema Bansal v. Durga Dass Bansal, RFA 704/2019, decided on 07.08.2024 by a Coordinate Bench of this Court, it was observed that "*disowning*" of a son does not have a dispositive legal effect of breaking all legal ties and cannot per se be made the basis to deprive a wife of her matrimonial home, and the Courts should be cautious in denying statutory rights to wives on the basis of such practices.

110. The subsequent Public Notice dated 04.06.2006 Mark A, whereby the Plaintiff purported to sever his relations with Defendant No. 1 and Appellant No. 1, would also not efface the domestic relationship which had already existed between the parties. Section 2(f) of the D.V. Act expressly includes persons who "*have, at any point of time, lived together*" in a shared household. The later alleged estrangement between the parties, therefore, does not alter the status of the suit property as "*shared household*" qua Appellant No. 1, within the meaning of Section 2(s) of the D.V. Act.

111. It may also be observed that the permissive nature of the occupation of Defendant No. 1 and the exclusive ownership of the Plaintiff, do not detract from the right of Appellant No. 1. Her right of residence does not flow from any right, title or interest of her husband in the suit property, but *from her own domestic relationship with the family of the Plaintiff, in the household which belongs to him*. It is, therefore, an independent right and not merely a right derived through her husband.

112. A comparable situation arose before the Division Bench of this Court in Navneet Arora v. Surender Kaur & Ors., 213 (2014) DLT 611 (DB). The daughter-in-law therein had, upon her marriage, joined her husband and his family in the matrimonial home, where they were residing together as a joint family. She continued to reside in the said premises even after the demise of



her husband. *In these circumstances, it was held that the premises constituted her shared household and that her right of residence therein could not be denied merely because she or her husband had no right, title or interest in the property.*

113. *The decision, therefore, reinforces that the demise of the husband does not, by itself, extinguish the right of a widowed daughter-in-law to reside in the matrimonial home which constitutes her shared household. The Supreme Court in Satish Chander Ahuja (supra) approved this view, observing that the Division Bench had rightly considered the concept of shared household under Section 2(s).*

114. *The Division Bench of this Court in the case of Navneet Arora (supra), while considering the scope of a "shared household" under Section 2(s) of the D.V. Act, observed:*

"44. However, in the later eventuality, if a couple live as members of 'joint family' in a domestic relationship with the relatives of the husband in a premises owned by such relatives of the husband, statutory prescription would indeed enable the wife to claim 'right of residence' since it would fall within the realm of 'shared household' as contemplated under Section 2(s) of the Act irrespective of whether she or her husband has any right, title or interest in the 'shared household'."

115. *The Division Bench further held:*

"49. We are of the view that the plain language of the Act viz. Section 2(s) read in conjunction with Section 19(1)(a) is unambiguous and enables an aggrieved person to claim 'right of residence' in a household even though the aggrieved person or the respondent may have no right, title or interest in the said household, if the aggrieved person and the respondent have lived therein by establishing a domestic relationship with the joint



family of which the respondent is a member and to which such household belongs."

116. The Division Bench also clarified that "*joint family*" under the DV Act, is not confined to a Hindu Undivided Family, and that a couple who stay with the husband's relatives only for a short duration as guests or visitors would not qualify, as such persons do not habitually reside in the household.

117. In the present case as well, Appellant No. 1 was not a guest or visitor and had entered the suit property upon her marriage with Defendant No. 1 and had resided therein as a member of the family. The Plaintiff himself admits in his cross-examination that they lived together as a joint family after the marriage. *The demise of Defendant No. 1 would, therefore, not by itself efface the character of the suit property, as the shared household of Appellant No. 1.*

118. However, in Satish Chander Ahuja (supra), the Supreme Court held that the right of residence in a shared household, is not an indefeasible right and does not bar the owner from seeking possession in accordance with law. It was observed that the *expression "save in accordance with the procedure established by law"* in Section 17(2), contemplates eviction or exclusion of the aggrieved person through proceedings before the competent court, and a properly instituted Suit for possession is, therefore, maintainable in law.

119. Thus, the mere maintainability of the present Suit, cannot be questioned. *What was required to be examined was whether the independent right of the Appellant No. 1 to be in possession, under the D.V. Act, could simply be ignored.*



120. In Seema Bansal v. Durga Dass Bansal, RFA 704/2019, decided on 07.08.2024, a Coordinate Bench of this Court dealt with a similar situation. The parents-in-law had obtained a decree for possession against their son and daughter-in-law on the footing that the property was self-acquired and that the daughter-in-law was merely a permissive user whose licence stood revoked. The daughter-in-law had, however, specifically pleaded that the premises constituted her *shared household under the D.V. Act*. The Trial Court did not frame or adjudicate that issue and proceeded principally on the basis of title and licence.

121. The Coordinate Bench, applying Prabha Tyagi (supra), held that the test is whether the woman resides or has resided jointly with the family in a shared household in a manner indicative of a domestic relationship, irrespective of title. The daughter-in-law could not, therefore, be excluded from the shared household except in accordance with the procedure established by law. The absence of any proceedings under the DV Act was not material, since the right under Section 17(1) is not dependent on a complaint or on an act of domestic violence. A decree passed solely on the basis of title documents, without considering the statutory rights of the daughter-in-law, is not eviction "*in accordance with the procedure established by law*". The Court observed:

"...the procedure contemplated in the law ought to be just, fair and reasonable. If the procedure adopted by a Court tramples upon the statutory rights of any party, or overlooks such rights, it could not be termed as just, fair and reasonable."



122. The Court in the case of Seema Bansal (supra) held that even where the property is self-acquired, the claim of a daughter-in-law to a shared household has to be independently examined under the D.V. Act, irrespective of title. The same infirmity arises in the present case, where the learned ADJ proceeded on the title of the Plaintiff and the permissive nature of occupation without examining the independent right of residence claimed by Appellant No.1 under the D.V. Act.

123. Therefore, ***it stands established that the suit property is the shared household of Appellant No. 1, and her right of residence therein is an independent right*** which has not been extinguished by the demise of her husband.

124. However, the two propositions have to be kept distinct. The death of the husband, does not *ipso facto* extinguish the character of the premises as the shared household of the wife. At the same time, the status of a premises as a shared household, does not render the proprietary rights of its owner/plaintiff, *otiose*.

II. Whether, after the demise of Defendant No. 1, Appellant No. 1 is entitled to protection of her residence, and what relief, if any, the parties are entitled to, having regard to the title of the Respondent/Plaintiff:

125. Ordinarily, the right of residence of a wife in the shared household is recognised against the husband, upon whom lies the primary obligation to maintain her, including providing her residence. The present case is unique, as the husband of Appellant No. 1 has already died. *The question, therefore, is whether she can continue in the suit property, being her shared*



household, or is liable to be evicted at the instance of the Plaintiff, who is the owner.

126. Undoubtedly, as held in Satish Chander Ahuja (supra), the filing of a Suit for possession is a due process of law. The question, however, is whether there is any law which *grants protection to Appellant No. 1 against eviction by her father-in-law, after the demise of her husband.*

127. In this context, it would be pertinent to refer to the Hindu Adoptions & Maintenance Act, 1956 (*hereinafter referred to as 'HAMA'*), which deals with the right of widowed daughter-in-law, to claim maintenance from the father-in-law. **Section 19** of the HAMA, 1956 reads as under:

“19. Maintenance of widowed daughter-in-law.—

(1) A Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained after the death of her husband by her father-in-law:

Provided and to the extent that she is unable to maintain herself out of her own earnings or other property or, where she has no property of her own, is unable to obtain maintenance—

(a) from the estate of her husband or her father or mother, or

(b) from her son or daughter, if any, or his or her estate.

(2) Any obligation under sub-section (1) shall not be enforceable if the father-in-law has not the means to do so from any coparcenary property in his possession out of which the daughter-in-law has not obtained any share, and any such obligation shall cease on the remarriage of the daughter-in-law.”



128. Thus, Section 19 of HAMA specifically provides that after the death of her husband, *a widowed daughter-in-law is entitled to be maintained by her father-in-law*, where she is unable to maintain herself from her own earnings or property, or from the other sources enumerated therein.

129. Significantly, **Section 3(b) of HAMA** defines "***maintenance***" to include, *inter alia*, provision for residence. Section 3(b) reads as under:-

"3. (b) '*maintenance*' includes-

*(i) in all cases, provision for food, clothing, **residence**, education and medical attendance and treatment;*

(ii) in the case of an unmarried daughter, also the reasonable expenses of and incident to her marriage."

130. Thus, maintenance under HAMA, encompasses not merely financial support, but also the provision of shelter and residence.

131. Further, **Section 21 of HAMA** defines the term "*dependants*". Clause (vii) thereof specifically includes "***any widow of his son***", so long as she does not remarry, subject to the conditions prescribed therein. Section 21 reads as under:—

21. *Dependents defined-* For the purpose of this Chapter "*dependants*" mean the following relatives of the deceased-

(i) his or her father;

(ii) his or her mother;

(iii) his widow, so long as she does not re-marry;



(iv) *his or her son or the son of his predeceased son or the son of a predeceased son of his predeceased son, so long as he is a minor; provided and to the extent that he is unable to obtain maintenance, in the case of a grandson from his father's or mother's estate, and in the case of a great grand-son, from the estate of his father or mother or father's father or father's mother.*

(v) *his or her unmarried daughter, or the unmarried daughter of his predeceased son or the unmarried daughter of a predeceased son of his predeceased son, so long as she remains unmarried: provided and to the extent that she is unable to obtain maintenance, in the case of a grand-daughter from her father's or mother's estate and in the case of a great-grand-daughter from the estate of her father or mother or father's father or father's mother;*

(vi) *his widowed daughter: provided and to the extent that she is unable to obtain maintenance-*

from the estate of her husband, or

from her son or daughter if any, or his or her estate, or

from her father-in-law or his father or the estate of either of them;

(vii) any widow of his son or of a son of his predeceased son, so long as she does not remarry: provided and to the extent that she is unable to obtain maintenance from her husband's estate, or from her son or daughter, if any, or his or her estate; or in the case of a grandson's widow, also from her father-in-law's estate;

(viii) *his or her minor illegitimate son, so long as he remains a minor;*



(ix) *his or her illegitimate daughter, so long as she remains unmarried.*

132. Likewise, Section 22 of HAMA, provides that the heirs of a deceased Hindu are bound to maintain the dependants of the deceased out of the estate inherited by them from the deceased.

133. In the recent case of Kanchana Rai v. Geeta Sharma & Ors., 2026 INSC 54, the Supreme Court held that “*any widow of his son*” under Section 21(vii) of HAMA is a dependant, irrespective of the time she becomes a widow, and is entitled to claim maintenance from the estate of her father-in-law, under Section 22. While distinguishing Section 19, it was observed that Section 19 casts an *obligation upon the father-in-law to maintain his widowed daughter-in-law, which subsists during his lifetime*, whereas a claim under Section 22 arises only after his death.

134. The Supreme Court further observed that denying maintenance to a widowed daughter-in-law on a narrow or technical construction of the statute, would expose her to destitution and social marginalisation, thereby offending her right to live with dignity under Article 21 of the Constitution of India.

135. While considering the obligation to maintain dependent members of the family, the Supreme Court also referred to **verse 389 of Chapter VIII of the Manu Smriti**, which emphasises the duty of the head of the family to support dependent family members, quoted as under:-

“No mother, no father, no wife, and no son deserves to be forsaken. A person who abandons these blameless (relatives) should be fined six hundred (units) by the king. This verse emphasizes duty of the family head to support female family members”.



136. It was thereafter, observed that “*on the death of son, it is the pious obligation of the father-in-law to maintain widowed daughter-in-law, if she is unable to maintain herself either on her own or through the property left behind by the deceased son.*” Thus, during the lifetime of the father-in-law, it is Section 19 which governs, while Sections 21 and 22 operate on his demise.

137. Therefore, on the demise of son, it is the ***pious obligation of the father-in-law to maintain widowed daughter-in-law***, if she is unable to maintain herself either on her own or through the property left behind by the deceased son. The statutory scheme of HAMA ***thus, recognises a widowed daughter-in-law as a person entitled to maintenance, which includes residence, where she is unable to maintain herself from the sources contemplated under the Act.***

138. In the present case, it is not in dispute that after the demise of Defendant No. 1, Appellant No. 1 along with her daughters has continued to reside in the suit property. The Appellants have asserted that they are in poor financial condition, and they were represented before the learned ADJ, through Legal Aid Counsel. There is nothing on record to show that Appellant No. 1 has any earnings or property of her own, or that Defendant No. 1 left behind any estate from which she could be maintained.

139. Read conjointly with the *protection of a shared household* under Section 2(s) and *the right of residence recognised* under Section 17 of the D.V. Act, Section 19 of HAMA, further recognises the obligation of a father-in-law to maintain his widowed daughter-in-law, if she is unable to support herself. Thus, the statutory right to maintenance under HAMA



encompasses not merely financial support, but also the provision of *shelter and residence*. *The Plaintiff, being her father-in-law, therefore, has an obligation to maintain Appellant No. 1, which includes providing her a residence.*

140. *It is thus, evident that the Appellants' right of residence in the suit property, is protected and her right to residence cannot be disregarded, merely on the basis of the Plaintiff's title.*

141. However, this right does not operate as an absolute bar to recovery of possession by the owner. In Ravneet Kaur v. Prithpal Singh Dhingra, 2022 SCC OnLine Del 594, the daughter-in-law was residing in the self-acquired property of her father-in-law, which admittedly constituted her shared household. Having regard to the strained relationship between the parties and the advanced age of the parents-in-law, a Coordinate Bench of this Court held that the proprietary rights of the parents-in-law and the right of residence of the daughter-in-law have to be balanced. Since the father-in-law had undertaken to provide alternate accommodation, the decree for possession was sustained, but its execution was postponed until suitable alternate accommodation was secured for the daughter-in-law.

142. The Supreme Court in Ravneet Kaur v. Prithpal Singh Dhingra, SLP(C) No. 12427/2022, vide Order dated 29.07.2022, declined to interfere, having regard, inter alia, to the age of the parents-in-law and their *willingness to provide alternate accommodation in the same locality*. It nevertheless directed that "***the petitioner is to be provided with alternative accommodation***", and required the Executing Court to ensure that appropriate alternate premises were provided before the decree was given effect to.



143. Thus, while the right of residence in a shared household does not operate as an absolute bar against recovery of possession by the owner, the ***Court is required to mould the relief so that the woman is not deprived of shelter, and suitable alternate accommodation is secured before her eviction.***

144. The significant aspect of the present case is that the Plaintiff has not been residing in the suit property. As per his own deposition, he has been living with his younger son at Flat No. A-5/209C, Paschim Vihar, since 2001-02. On the other hand, Appellant No. 1, a widow, has resided in the suit property along with her daughters for over two decades, and no other residence available to her has been shown on record.

145. While balancing the right of the father-in-law to enjoy the fruits of his property in his old age, with the right of his widowed daughter-in-law to shelter and his social obligation to ensure that she and her daughters are not pushed into vagrancy, it becomes essential to evolve a mechanism by which the rights of both are protected.

146. In the circumstances, while the Plaintiff is entitled to recover possession of the suit property, Appellant No. 1 cannot be evicted till such time as the Respondent makes a suitable alternate arrangement for her residence, or pays her rent sufficient to enable her to reside in rented premises.

147. Insofar as damages/mesne profits are concerned, the learned ADJ awarded Rs.10,000/- per month, merely on the basis of the nature and locality of the suit property. No evidence of the letting value of the suit property, or of any comparable premises, was led by the Plaintiff, apart from his bare assertion in his Affidavit, Ex.PW1/A. Rather, in his cross-



examination, he valued the suit property itself at Rs.15 lakhs to Rs.20 lakhs on 06.02.2019, and at Rs.20 lakhs to Rs.25 lakhs on 09.05.2019.

148. Moreover, the Appellants, residing in their shared household, cannot be treated as unauthorised occupants, till such time as the Respondent secures alternate accommodation for them. **The award of damages/mesne profits is, therefore, not sustainable.**

Conclusion:

149. In view of the aforesaid discussion, the Appeal is partly allowed and the impugned Judgment and Decree dated 22.05.2023, is modified.

150. The Decree for Possession is upheld. However, it shall be executable only after the Respondent first secures suitable alternate accommodation for Appellant No. 1, in the same or a nearby locality and commensurate with the accommodation enjoyed by her in the suit property, or in the alternative pay rent in the sum of Rs.15,000/- p.m. which should be sufficient to secure such alternate accommodation. The Executing Court shall ensure compliance with the aforesaid direction, before the decree for possession is given effect to.

151. The Decree for Damages / Mesne Profits against the Appellants is set aside.

152. Pending Applications, if any, are also disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 12, 2026/RS