



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on : 04.11.2025
Pronounced on: 23.01.2026
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- 1) RSA No.3580 of 2013 (O&M)
Mrs. Chand SoniAppellant
V/s
Brig. R.M. Soni and othersRespondents
- 2) RSA No.2298 of 2019 (O&M)
Mrs. Chand SoniAppellant
V/s
Sabina AggarwalRespondent
- 3) RSA No.2307 of 2019 (O&M)
Mrs. Chand SoniAppellant
V/s
Sabina AggarwalRespondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. Chetan Mittal, Senior Advocate with
Ms. Shifali Goyal, Advocate, for the appellant (in all appeals)

Mr. Amit Jain, Senior Advocate with
Mr. Mayank Mathur, Advocate,
Mr. Anupam Mathur, Advocate and
Mr. Parit Aggarwal, Advocate, for the respondent(s).

VIKRAM AGGARWAL, J.

CM-5260-C-2022 in RSA-2298-2019

This order shall dispose of an application preferred by the

applicant-appellant under Order 41 Rule 27 read with Section 151 CPC for adducing additional evidence.

2. By way of the application, the applicant-appellant seeks to produce order dated 17.02.2016 passed by the Court of Additional Sessions Judge, Panchkula, in an appeal preferred under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (for short “the DV Act”) and information as regards particulars and status of other properties of the applicant-appellant.

3. It has been averred that inadvertently order dated 17.02.2016 could not be annexed and could not be produced earlier despite due diligence. As regards the existence of other properties, the details of which have been given in the application, it has been averred that the said details are also germane to the controversy and need to be brought on record.

4. No reply to the application has been filed.

5. Learned counsel for the parties were heard.

6. The suit for mandatory injunction was instituted as far as back as in 2012 and written statement was also filed shortly thereafter. Even the appeal against the judgment and decree passed by the trial Court was filed in March 2016 and the instant application was filed in the year 2022. In the considered opinion of this Court, the documents and details sought to be produced are not essential for the just decision of the case as the same has to be decided on the basis of the evidence available on record. Even otherwise, the applicant-appellant has not been able to prove that despite due diligence, these documents could not be produced earlier.

7. Under the circumstances, this Court is not inclined to allow the application for additional evidence in second appeal.

8. That being so, the application is found to be devoid of merit and

is accordingly dismissed.

RSA No.3580 of 2013;
RSA No.2298 of 2019 and
RSA No.2307 of 2019

By way of the instant judgment, this Court proceeds to decide the afore titled appeals. The suit property being the same, all three appeals shall be decided by way of a common judgment. Relevant facts pertaining to two suits out of which these three appeals arise, shall be detailed at the relevant place.

THE DISPUTE

2. The dispute, once again, is with regard to an immoveable property viz. a double storey House No.940, Sector-8, Panchkula, constructed on a plot measuring 420 sq. mtrs. (hereinafter referred to as “the suit property”). The said property was owned by one Brig. R.M. Soni (hereinafter referred to as “Brig. Soni”). He had a matrimonial dispute with his wife Mrs. Chand Soni (hereinafter referred to as “Mrs. Soni”). He eventually sold off the suit property to one Mrs. Sabina Aggarwal (hereinafter referred to as “Mrs. Aggarwal”)

2.1 Mrs. Soni had filed a suit for permanent injunction against Brig. Soni as regards the suit property. The said suit was dismissed by the trial Court. Appeal preferred against the said decision was also dismissed, after which RSA-3580-2013 was preferred.

2.2 Mrs. Aggarwal instituted a suit for mandatory injunction and consequential relief of permanent injunction against Mrs. Soni who is in occupation of the suit property. The said suit was decreed by the trial Court. Appeal filed against the same was dismissed by the first appellate Court, leading to filing of RSA-2298-2019 and RSA-2307-2019.

**FACTS (RSA-3580-2013)**

3. Mrs. Soni instituted a suit for permanent injunction on 08.12.2004 against Brig. Soni restraining him from dispossessing her from the suit property which, she claimed to be her matrimonial home. She further sought a restraint order restraining Brig. Soni from alienating the suit property by way of sale, mortgage etc. A decree for permanent injunction restraining Brig. Soni from blocking the ingress and egress of Mrs. Soni or from disturbing her peaceful residence in the suit property was also sought. Notably, Mrs. Aggarwal was not a party to this suit.

3.1 The case of Mrs. Soni was that she was the legally wedded wife of Brig. Soni for the last 35 years, their marriage having been solemnized on 29.05.1969. She claimed to have been living in the suit property for the last 4 years prior to the institution of the suit and after the retirement of Brig. Soni.

3.2 From the wedlock, the couple had a son Sandeep Soni (proforma defendant No.2 in the suit) and a daughter Sonali Soni. Both were claimed to be happily married and residing separately from the couple.

3.3 It was averred that after retirement from the Army, Brig. Soni had become unreasonably demanding and quarrelsome, since he had not been able to adjust to the idea of not being in command. His attitude, as per Mrs. Soni, qua all family members, had become hostile, hurtful and quarrelsome. He had been, under the circumstances, picking up small fights with her.

3.4 The dispute reached a point where Brig. Soni instituted a petition under Section 13 of the Hindu Marriage Act, 1955 (hereinafter

referred to as “the HMA”) on 30.08.2004 for dissolution of their marriage by way of a decree of divorce. Alternative relief of judicial separation was also prayed for.

3.5 With the intervention of their children and other relatives and friends, Brig. Soni told Mrs. Soni that he would withdraw the divorce petition on 04.10.2004 as a result of which, she did not attend the proceedings. However, on 28.11.2004, Brig. Soni told her that she would be thrown out of the suit property soon as the divorce petition had not been withdrawn. Upon enquiry, she came to know that the divorce petition had not been withdrawn and she had been proceeded against *ex parte*. She, then, moved an application for setting aside of the said *ex parte* proceedings. It has come on record that subsequently, the divorce petition was withdrawn on 06.01.2005 and thereafter another divorce petition was filed.

3.6 Averments were made about the good nature of Mrs. Soni and hostile nature of Brig. Soni. It was claimed that the suit property was an HUF property which had been purchased with the proceeds of the sale of the property of Sh. Hans Raj Soni, father of Brig. Soni. It was claimed that Sh. H.R. Soni was the owner of a house in New Friends Colony, New Delhi, which had been inherited by Brig. Soni and his brother Sh. Surinder Mohan Soni, which was subsequently sold by the two brothers and out of the sale proceeds, the suit property was purchased, as a result of which, it was an HUF property.

3.7 It was claimed that Brig. Soni threatened Mrs. Soni (plaintiff therein) that he would sell off the suit property to some third party and she would be thrown out of the same. Some people started visiting the suit property and had been making queries as regards the price. Certain property dealers had also been visiting at the instance of Brig. Soni as a

result of which, she apprehended that the same may be alienated.

3.8 At the instance of Mrs. Soni, her son again intervened. Brig. Soni assured that he would not alienate the house but after departure of their son, Brig. Soni again started calling upon property dealers. It was claimed that Mrs. Soni being the legally wedded wife of Brig. Soni, was in joint possession of the suit property. Having no other remedy left, she instituted the suit.

4. The suit was opposed by Brig. Soni by way of a written statement in which, preliminary objections as regards maintainability, the suit being barred under Section 41-H of the Specific Relief Act, 1963 (hereinafter referred to as “the 1963 Act”), the suit being frivolous etc. were raised.

4.1 On merits, the relationship between the parties was admitted so was the factum of the couple having a son and a daughter, both of whom were married.

4.2 It was claimed that the suit property had been purchased by Brig. Soni from his own funds and that he had been residing in the same for about 4 years along with his wife and with his consent.

4.3. The filing of the petition under Section 13 of the HMA was admitted, which was stated to be pending in the Court of Additional District Judge, Panchkula. It was claimed that said petition had been filed on account of Brig. Soni having been fed up with the uncalled for quarrels, unbecoming attitude, violent and aggressive behavior of Mrs. Soni and routine humiliations suffered by him at her hands at home as well as outside for the last about 5 years. Details about the alleged humiliations suffered by him and the acts, which are not relevant for the purpose of decision of the instant appeal, were also given.

4.4 It was denied that the suit property was an HUF property. It was averred that Brig. Soni had only got a share in the sale proceeds of the Delhi house. It was averred that Mrs. Soni was not a coparcener, even if the property was taken to be an HUF property.

4.5 It was averred that the deal for the suit property had been struck in her presence and with her consent with a *bona fide* motive to purchase a smaller house, sufficient for the living of Brig. Soni and Mrs. Soni as per their status and requirement. It was averred that since he had already executed an agreement to sell and had received a substantial amount as earnest money, he could not back out from the agreement which would entail legal implications.

4.6 It was averred that the possession of Mrs. Soni over the suit property was not in her independent right but was there simply being the wife of Brig. Soni. All other averments were denied.

5. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated.

6. From the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether House bearing No.940, Sector-8, Panchkula was purchased by the plaintiff from the funds of HUF property?OPP***
- 2. Whether the plaintiff is legally entitled to remain in possession of the house in dispute?OPP***
- 3. If issues No.1 and 2 are proved, whether the plaintiff is entitled for permanent injunction on the grounds mentioned in the plaint?OPP***
- 4. Whether the suit is not maintainable?OPD***
- 5. Whether the suit is barred under Section 41-H of Specific Relief Act?OPD***
- 6. Whether the suit is false and frivolous?OPD***
- 7. Whether the plaintiff is not coparcener and not entitled to share in the property in question?OPD***
- 8. Relief.”***

7. Parties led their respective evidence.

8. Vide judgment and decree dated 19.09.2011, the Court of Civil Judge (Jr. Divn.), Panchkula dismissed the suit. Aggrieved by the same, Mrs. Soni instituted an appeal which too was dismissed by the Court of Additional District Judge, Panchkula vide judgment and decree dated 16.04.2013. Aggrieved by the aforesaid decision, the instant appeal was preferred.

8.1 Notice of motion in the instant appeal was issued vide order dated 12.09.2013 and dispossession of Mrs. Soni from the suit property was stayed.

8.2 Vide order dated 16.09.2014, the appeal was admitted:-

“Heard.

The following substantial question of law arises for determination by this Court:-

“Whether the judgments and decrees passed by the Courts below declining the relief of permanent injunction against dispossession of the appellant are contrary to the provisions of Section 26 of the Protection of Women from Domestic Violence Act, 2005 read with Section 19 thereof?”

In the meantime, dispossession of the appellant from the suit property shall remain stayed except in due course of law.

Admitted.”

FACTS (RSA-2298-2019 and RSA-2307-2019)

9. Mrs. Aggarwal instituted a suit for mandatory injunction on 03.05.2012 directing Mrs. Soni to hand over the vacant possession of the suit property to her and to pay *mesne* profits for use and occupation of the same at the rate of Rs.50,000/- per month with effect from 01.05.2012. Consequential relief of permanent injunction restraining Mrs. Soni from handing over the possession of the suit property to any third person was also sought.

9.1 It was averred that Mrs. Aggarwal was the owner of the suit property, the same having been purchased by her from Brig. Soni vide registered sale date dated 24.01.2012. Re-allotment letter had been issued in her favour by the Estate Officer Panchkula vide memo No.1360 dated 30.01.2012.

9.2 It was claimed that Mrs. Soni being a licensee under her husband was occupying the suit property. Details of the suit for permanent injunction filed by Mrs. Soni against Brig. Soni were given.

9.3 It was averred that vide registered notice dated 03.04.2012, Mrs. Aggarwal had revoked the license of Mrs. Soni and had called upon her to vacate the suit property within 15 days. Despite receipt of the notice, the suit property was not vacated as a result of which, Mrs. Soni had become an unauthorized occupant.

9.4 It was claimed that the prevailing rent in the locality for similar accommodation was more than Rs.50,000/- per month. Under the circumstances, use and occupation charges along with *pendente lite* and future interest at the rate of 18% per annum were also claimed.

9.5 The suit was opposed by Mrs. Soni, who, in the written statement raised certain preliminary objections on the grounds of maintainability, cause of action, *locus standi* and concealment of true and material facts.

9.6 On merits, it was claimed that she was the legally wedded wife of Brig. R. M. Soni and that the suit property was ancestral property. The same was her matrimonial house and a shared household, which had been purchased by Brig. Soni from the proceeds of property of Sh. H.R. Soni. The details of the Delhi house and its sale etc. were given.

9.7 It was averred that Brig. Soni had no right to alienate the suit

property or to create any type of encumbrance over it. It was averred that Brig. Soni was in collusion with Mrs. Aggarwal and wanted to take away her only shelter. It was averred that the alienation of the suit property was in violation of the provisions of the Contract Act and the DV Act.

9.8 No replication was filed.

9.9 From the pleadings of the parties, following issues were framed:-

- “1. Whether the plaintiff is entitled for a decree for mandatory injunction as prayed for?OPP*
- 2. Whether the plaintiff is entitled for permanent injunction as prayed for?OPP*
- 3. Whether the suit of the plaintiff is not maintainable in the present form and the plaintiff has no locus standi to file the same? OPD*
- 4. Whether the plaintiff is stopped by her own act and conduct from filing the present suit?OPD*
- 5. Whether the plaintiff has no cause of action to file the present suit?OPD*
- 6. Relief.”*

10. Vide judgment and decree dated 29.02.2016, the Court of Civil Judge (Junior Division), Panchkula decreed the suit and Mrs. Soni was directed to hand over the vacant physical possession of the suit property to Mrs. Aggarwal within a period of two months. The relief of *mesne* profits was, however, denied on account of no evidence having been led as regards the same.

11. Mrs. Soni preferred an appeal against the said decision, whereas, Mrs. Aggarwal instituted cross objections. Vide judgment and decree dated 30.03.2019, the Court of Additional District Judge, Panchkula dismissed the appeal preferred by Mrs. Soni and allowed the cross objections filed by Mrs. Aggarwal. She was held entitled to *mesne* profits at the rate of Rs.20,000/- per month from the date of institution of the suit till

the date of realization subject to affixation of the requisite court fee.

Aggrieved by the foresaid decision, the present appeals were instituted.

12. Learned counsel for the parties were heard.

ARGUMENTS (ON BEHALF OF MRS. SONI)

13. Both sides addressed lengthy arguments which continued for a number of days For about 1½ hours on each date. The recent view expressed by the Hon'ble Chief Justice of India as regards providing fixed time frames for decision of matters is the need of the hour. Unless and until time frames are fixed for arguments, there will be unending arguments by litigants who can afford such unending arguments as against litigants who cannot afford the same (emphasis supplied).

14. Keeping in view the aforesaid, this Court shall refer to the gist of the arguments addressed, instead of referring to them in detail which will give unnecessary volume to the judgment rather than content.

15. The crux of the arguments addressed by Learned Senior Counsel representing Mrs. Soni is as under:-

- i) The declining of permanent junction by both courts (in RSA-3580-2013) is contrary to the provisions of Section 26 read with Section 19 and Section 17 of the DV Act;
- ii) The suit property, being the shared household of Mrs. Soni, she cannot be evicted from the same. Reference was made to Sections 2(s), 17, 19 and 26 of the DV Act and Sections 39, 52 and 53 of the Transfer of Property Act, 1882 (hereinafter referred to as "the TP Act");
- iii) The "expression" (except in due course of law) would have to be interpreted as per the facts of the present case;
- iv) The agreement to sell executed between Brig. Soni and

Mrs. Aggarwal was the result of collusion between them and, therefore, Mrs. Aggarwal was not a bona fide purchaser. Specific dates were referred to. Detailed arguments were addressed which shall be dealt with during the course of the findings;

v) Though not seriously pressed, a feeble attempt was made to submit that the suit property was ancestral property and, therefore, Brig. Soni could not have alienated the same;

vi) A wife is never the licensee of a husband and that under the circumstances, a suit for mandatory injunction would not be maintainable and, taking Mrs. Chand Soni to be an unauthorized occupant, only a suit for possession would be maintainable. It was also submitted that a license is never transferable or heritable and, therefore, only a suit for possession could have been filed;

vii) No *mesne* profits were payable since no evidence had been led as regards the same; and

viii) There was no financial necessity to alienate the suit property and the same was done only with a view to defeat the rights of Mrs. Soni.

16. In support of his contentions, learned Senior Counsel placed reliance upon the judgments in ***Prabha Tyagi vs. Kamlesh Devi*, 2022 SCC OnLine SC 607, *Satish Chander Ahuja vs. Sneha Ahuja*, (2021) 1 SCC 414, *Preeti Satija vs. Raj Kumari and another*, ILR (2014) II Delhi 1246, *Hema Rawal and another vs. Prashant Sharma*, 2015 SCC OnLine P&H 1827, *Sher Singh vs. Shakuntala Devi and another* (RSA-819-2014, decided on 08.09.2015), *Sarwan Singh vs. Jagir Kaur*, 2006 SCC OnLine**

P&H 324, Sathiyamma vs. Gayathri & Ors, 2013 SCC OnLine Ker 24180, Rattan Singh vs. Ram Singh (RSA-204-1982, decided on 09.05.2003), Sanjay Verma vs. Manik Roy and others, (2006) 13 SCC 608, Sukhdev Singh and others vs. Mohan Singh and others (RSA-4314-2008, decided on 02.08.2011), Sita Devi and others vs. Sheela and others (RSA-2648-2013, decided on 26.08.2015), Ballabgarh Coop. Marketing Society vs. Haryana Coop. Supply & Marketing Federation, 2011 SCC OnLine P&H 10863, Kaushalya Devi vs. Bhola Nath and another, 1987 SCC Online P&H 289, Inderjit & another vs. Kamal Kishore, 2018(1) RCR (Rent) 660, Surinder Kumar vs. Rattan Lal, 2006 SCC OnLine P&H 410, Chinnan and others vs. Ranjithammal, 1931 AIR Madras 216, Sunder Lal vs. Sita Bali, 2003(3) RCR (Civil) 243, Hari Dass vs. Sagar Chand (since deceased) through LRs, 2017 (2) RCR (Civil) 80, Sheela Devi vs. Ram Sarup (since deceased) through LRs and another, 2019 (4) RCR (Civil) 630, Ishwar Dass vs. Parkash Chand and others, 2019 (2) RCR (Civil) 873, Karnail Singh and another vs. Shakuntla Devi and others (CR-632-2015, decided on 03.12.2015), Vinod Infra Developers Ltd. vs. Mahaveer Lunia and others, 2025 SCC OnLine SC 1208 and Hussain Ahmed Choudhury and others vs. Habibur Rahman (Dead) through LRs and others, 2025 SCC OnLine SC 892.

ARGUMENTS (ON BEHALF OF MRS. AGGARWAL)

17. *Per contra*, the crux of arguments addressed by learned Senior Counsel representing Mrs. Aggarwal is as under:-

- i) Permanent injunction was rightly declined by both Courts and the same was not, in any manner, contrary to the provisions of Section 26 read with Section 19 as also Section 17 of the DV

Act. Learned counsel referred to the findings in detail to support his contention;

ii) The suit property could not be termed to be the shared household of Mrs. Soni after the death of her husband Brig. Soni. and under the circumstances, the provisions of the DV Act and the TP Act would not come to her rescue. It was also submitted that Mrs. Soni is a well off lady and had alienated a number of properties in the past, the details of which were given and it was also submitted that her son is well settled and is residing in Delhi and if at all, some relief is to be sought, it was to be sought from the legal representatives of Brig. Soni;

iii) The filing of the suit for mandatory injunction would be taken to be an action in due course of law;

iv) There was no collusion between Brig. Soni and Mrs. Aggarwal and that the agreement to sell and the subsequent sale deed were bona fide. Detailed arguments were addressed, which shall be dealt with during the course of findings;

v) No evidence worth its name had been led to prove that the suit property was ancestral property and on the contrary, it stood proved that the same was the self acquired property of Brig. Soni;

vii) A suit for mandatory injunction was duly maintainable since there was no cloud on the title of Mrs. Aggarwal, being a bona fide purchaser of the suit property for consideration by way of a registered sale deed;

vii) *Mesne* profits were rightly assessed and

viii) No *prima facie* case is made out in favour of Mrs. Soni.

Under the circumstances, the suit for permanent injunction was rightly dismissed by both Courts.

18. In support of his contentions, he placed reliance upon the judgments in *Satish Chander Ahuja vs. Sneha Ahuja*, (2021) 1 SCC 414, *Archana Goindi Khandelwal vs. Rajesh Balkrishnan Menon and others* (SLP(C)-2939-2022, decided on 13.05.2021), *Jaidev Rajnikant Shroff vs. Poonam Jaidev Shroff*, (2022) 1 SCC 683, *Maria Margarida Sequeira Fernandes and others vs. Erasmo Jack De Sequeira (Dead) through LRs*, (2012) 5 SCC 370, *Jagan Nath(deceased) through LR vs. Sita Ram (deceased) through LR* (RSA-1987-1992, decided on 23.07.2025), *Surjit Kaur vs. Balwinder Kaur*, 2005 (4) RCR (Civil) 644, *Parshotam Lal Sharma vs. Subhash Chand Sharma*, 2019 (1) PLR 182, *Manju Arora vs. Neelam Arora and another* (RFA(OS)-64-2025, decided on 30.10.2025), *Eveneet Singh vs. Prashant Chaudhri*, 2011 (177) DLT 124, *Vijesh P.K. and others vs. Divya and another* (CRL M.C. No.380-2013, decided on 14.02.2014 by the Kerala High Court), *Bimal Mitra and others vs. Ashalata Mitra (Baishya)*, 2013 CriLJ 4110 (decided by the High Court of Gauhati), *K. Ramaraju vs. Lakshmi Pratima*, 2010 (1) ALT (Crl.) 84, *Bipin Prataprai Bhatt and others vs. Union of India and others*, 2011 (7) RCR (Crl.) 856 (decided by Gujarat High Court), *Smt. Neetu Singh vs. Sunil Singh*, 2008 AIR (Chhattisgarh) 1, *Sunil Singh vs. Neetu Singh*, 2011 (1) DMC 386, *Rajkumar Rampal Pandey vs. Sarita Rajkumar Pandey*, 2010 (5) RCR (Civil) 151, *Sukri Verma and another vs. State of Rajasthan and another*, 2011 (1) CriLR (Rajasthan) 711.

19. I have considered the submissions made by learned counsel for the parties.

ANALYSIS AND FINDINGS

20. The first issue to be decided is as to whether the alienation of the suit property by Brig. Soni to Mrs. Aggarwal was a sham transaction and whether it was a collusive act committed with a view to defeat the rights of Mrs. Soni. If one examines the entire issue in detail, the answer to the same is in the negative.

20.1 The suit property was purchased by Brig. Soni in the year 2000. The divorce petition was first instituted in August 2004 and withdrawn on 06.01.2005 and thereafter, fresh petition for divorce was filed on 14.08.2006. The agreement to sell between Brig. Soni and Mrs. Aggarwal was executed on 18.10.2004. The total sale consideration was fixed at Rs.1.03 crores. Earnest money of Rs.10.20 lakhs was paid. The sale deed was to be executed by 12.01.2005. However, on 08.12.2004, the suit for permanent junction was instituted by Mrs. Soni.

20.2 In the divorce petition itself, the father of Mrs. Aggarwal namely Sh. R.D. Gupta, appeared as a witness and stated about the transaction between Brig. Soni and his daughter Mrs. Aggarwal. He stated that his daughter Mrs. Aggarwal was a young widow having two minor children and that since she wanted to buy a house for her, they contacted some property consultant, who was dealing with the suit property. They were introduced to Brig. Soni by the said consultant after which, he along with his daughter visited the suit property a couple of times. He is on affidavit to say that thereafter, an appointment was fixed with Mrs. and Brig. Soni after which, he along with his wife and daughter Mrs. Aggarwal, as also the property consultant, went to the suit property in the middle of October 2004 and had discussions. Both husband and wife voluntarily discussed about the sale of the suit property and thereafter the deal was

finalized.

20.3 It has also come on record that unfortunately, issues had arisen between Brig. Soni and Mrs. Soni on account of which, at an advanced age, he instituted the divorce petition. It has to be borne in mind that Brig. Soni retired from a senior position of the Indian Army. It came in the evidence of the father of Mrs. Soni that Brig. Soni had been feeling ashamed and helpless on account of not having been able to execute the sale deed after having executed the agreement to sell. Therefore, what emerges is that Brig. Soni wanted to alienate the suit property to enable him to buy a smaller house where he could live comfortably with his wife Mrs. Soni. In the considered opinion of this Court, there was nothing unreasonable in this desire of Brig. Soni. Further, nothing has been brought on record to even *prima facie* suggest that Mrs. Aggarwal or her father were, in any manner, related to or known to Brig. Soni, which may have led to a collusive agreement to sell. Why a young widow would enter into an agreement to sell with a retired Brigadier of the Army to be unnecessarily dragged into litigation. Brig. Soni would also not commit such an act which would entangle the suit property in litigation. The money of service class people is hard earned money and even a brick is laid or removed after lot of thinking. No one would ever want their property to be entangled in some litigation.

20.4 On the contrary, a helpless and a hapless widow has been running from pillar to post, from one court to the other, from one lawyer to the other, from one corridor to the other to seek possession of a property which she had purchased to secure her future and the future of her children. It is sad that after the agreement to sell having been executed in 2004 and the sale deed having been executed in her favor as far back as on 24.01.2012, she has not been able to secure the possession of her house which she had

wished to live in.

20.5 The argument of learned Senior Counsel for Mrs. Soni that it is strange that after the agreement to sell having been executed in 2004, the suit for specific performance was instituted in 2009 itself shows that the deal was collusive, is devoid of merit and is rejected. The further argument that a compromise was arrived at between Brig. Soni and Mrs. Aggarwal and thereafter, the sale deed was executed shows that the suit was collusive, is also devoid of merit. If there had to be a collusive act, what stopped Brig. Soni from straightaway executing a sale deed. Where was the need to execute an agreement to sell in 2004 and then execute the sale deed in 2012. He could have straightaway executed the sale deed and could have washed his hands off the whole controversy. This Court is not inclined to go into the issue as to why the suit was instituted in 2009 and why it was compromised. It has to be borne in mind that a suit for permanent injunction was instituted by Mrs. Soni so was a divorce petition pending. One can imagine the plight of Mrs. Aggarwal who executed the agreement to sell and parted with Rs.10.20 lakhs. Still further, the argument that since it had been mentioned in the sale deed that possession of the suit property had been handed over to Mrs. Aggarwal, it proves that the agreement to sell and sale deed were collusive is also devoid of merit. Such covenants are added with a view to avoid legal complications and no benefit of the same can be given to Mrs. Soni and merely because of the said covenant, there cannot be said to be collusion between Brig. Soni and Mrs. Aggarwal.

20.6 Under the circumstances, this Court is of the considered opinion that there was no collusion between Brig. Soni and Mrs. Aggarwal.

21. Now we come to the issue as to whether, Mrs. Soni would have a right to continue to reside in the suit property, the same being a shared

household.

21.1 Having considered the matter in its entirety, the said argument is found to be completely devoid of merit and preposterous.

21.2 Before adverting to the said issue on merits, it would be apposite to refer to Section 2(a), 2(f), 2(q), 2(s), 17 and 26 of the DV Act:-

“2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

xxx xxx xxx

(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;

xxx xxx xxx

(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;

xxx xxx xxx

(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 house hold 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;

xxx xxx xxx

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.

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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 proceeding 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.”

21.3 The law on the subject is no longer *res integra*. In ***Prabha Tyagi vs. Kamlesh Devi*** (supra), the Apex Court held that right to residence under the DV Act was not restricted to the actual residence. In the said case, the marriage of one Prabha Tyagi had been solemnized with one Kuldeep Tyagi on 18.06.2005. Immediately after the wedding, she was residing at the ancestral home of her in-laws in a joint family. Thereafter, she started living with her husband and her in-laws in Village Jhabreda. Her husband Kuldeep Tyagi unfortunately expired less than one month after the wedding on 15.07.2005 in a car accident. As it normally happens, her in-laws started maltreating her after which, she instituted a petition under the provisions of the DV Act. The same was allowed by the trial Court. Appeal against the said decision was allowed and the decision of the trial Court was set aside. The High Court maintained the decision of the appellate Court where after, the matter finally reached the Hon’ble Apex Court. After discussing the

issue in *extenso*, the Hon'ble Apex Court upheld the order of the trial Court after setting aside the order of the High Court and the first appellate Court. It was held that there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed vis-a-vis allegation of domestic violence. However, it would not be necessary that at the time of filing of an application by an aggrieved person, the domestic relationship should be subsisting. There can absolutely be no quarrel with the said proposition, either on merits and more so, keeping in view the fact that the said law has been laid down by the Hon'ble Apex Court.

21.4 Then there is the judgment of the Hon'ble Apex Court in the case of **Satish Chandra Ahuja vs. Sneha Ahuja** (supra). There are a number of other judgments also on the issue.

21.5 We shall first examine the matter on the first principles.

21.6. Concededly, Brig. Soni unfortunately expired on 25.05.2019. In the considered opinion of this Court, the domestic relationship, therefore, came to an end, though Mrs. Soni remained an aggrieved person. For that, she can avail her remedies against the legal representatives of Brig. Soni. Concededly, her son Sandeep Soni is very well settled and has his own flat in Delhi. Not only this, Mrs. Soni herself alienated two of her properties viz. an 1100 sq. yds. plot at Morni and a property at Bhopal. Still further, in the considered opinion of this Court, Section 17 of the DV Act will not come to the aid of Mrs. Soni since the suit for mandatory injunction will be taken to be an action in accordance with the procedure established by law. Under the circumstances, the aggrieved person i.e. Mrs. Soni can always be evicted in accordance with the procedure established by law. The right of an aggrieved person in a shared household cannot be stretched to mean that the said household can never be alienated and that such a person cannot be evicted

even in accordance with the procedure established by law. If this interpretation was to be given, it will create chaos in the society. In **Satish Chandra Ahuja vs. Sneha Ahuja** (supra), question 6 was answered by the Hon'ble Apex Court wherein, it was held that in case, the shared household of a woman is a tenanted/allotted/licensed accommodation where tenancy/allotment/license is in the name of the husband, father-in-law or any other relative, the DV Act does not operate against the landlord/lessor/licensor in initiating appropriate proceedings for eviction of the tenant/allottee/licensee qua shared household. It was held that however, in case the proceedings are due to any collusion between the two, the woman, who is living in the shared household has the right to resist the proceedings on all grounds which a tenant/lessor/licensee could have taken in the proceedings. It was further held that the embargo under Section 17(2) of the DV Act of not to be evicted or excluded, save in accordance with the procedure established by law, operates only against the "respondent" i.e. one who is respondent within the meaning of Section 2(q) of the DV Act. Once this Court has arrived at a conclusion that there was no collusion between Brig. Soni and Mrs. Aggarwal, it would not be open for Mrs. Soni to resist her eviction initiated at the instance of Mrs. Aggarwal. Even otherwise, Mrs. Aggarwal cannot be termed to be a respondent in terms of the definition as given in Section 2(q) of the DV Act. A respondent would either be Brig. Soni or his relative. Concededly, Mrs. Aggarwal is not a relative of Brig. Soni and, therefore, would not be a respondent.

21.7 As regards Section 26 of the DV Act, no doubt, claims can be raised in any proceedings. However, in view of the findings that the sale of the suit property was not collusive and that Mrs. Aggarwal is not a respondent and that if at all some action was to be initiated, it could have

been against Brig, Soni or his relatives, Section 26 would not come to the aid of Mrs. Soni.

21.8 In the case of *Archana Goindi Khandelwal vs. Rajesh Balkrishnan Menon and others* (supra), the Hon'ble Apex Court held that in a dispute between husband and wife under the DV Act, the landlord, who otherwise is entitled to a decree of eviction, should not be made to suffer. It was held that a dispute between husband and wife under the DV Act shall not preclude or affect the right of the landlord to get the possession if otherwise he was entitled to the same. It was held that if the wife had any grievance against the husband, may be in respect of the alternative accommodation, the same would be required to be adjudicated in the proceedings under the DV Act and or any other remedy which may be available to her against the husband. This ratio would be applicable to the facts of the present case.

22. Now we come to the issue as to whether a suit for mandatory injunction was maintainable.

22.1 No doubt, Mrs. Aggarwal issued a notice to Mrs. Soni cancelling her license. However, this alone would not mean that Mrs. Soni was a licensee. It is well settled that a license is not heritable nor is it transferable. In fact, even Mrs. Soni also does not claim herself to be a licensee. She emphatically denies the same. Once she was the legally wedded wife of Brig. Soni, she would be taken to be in permissive possession of the suit property. Concededly, there is no cloud over the title of Mrs. Aggarwal since she became owner of the suit property by way of a registered sale deed dated 24.01.2012. Even re-allotment letter dated 30.01.2012 was issued in her favor. Once there was no cloud over her title, there was no dispute as regards the identification and the boundaries of the

suit property and further, Mrs. Soni was in permissive possession, a suit for mandatory injunction was very well maintainable.

In a very recent judgment, titled as ***Sanjay Paliwal and another vs. Bharat Heavy Electricals Limited, 2026 (1) RCR (Civil) 510 (Civil Appeal No.6075 of 2016, decided on 15.01.2026)***, the Hon'ble Apex Court took the said view. While arriving at the said conclusion, the Hon'ble Apex Court referred to the judgments of the Hon'ble Apex Court in the cases of ***Anathula Sudhakar vs. P. Buchi Reddy (Dead) by LRs, (2008) 4 SCC 594, Joseph Severance vs. Benny Mathew, (2005) 7 SCC 667 and Sant Lal Jain vs. Avtar Singh, (1985) 2 SCC 33***, it was held by the Apex Court as under: -

“21. The principles enunciated in Anathula Sudhakar govern cases where there exists a dispute as to title and rival claims of possession, whereas the decisions in Sant Lal Jain and Joseph Severance apply to situations where the defendant is a terminated licensee or permissive occupant, having no independent or competing right in the property. In cases such as Sant Lal Jain and Joseph Severance, there was no cloud over title or possession, or where the defendant's occupation flows from a licence or permissive arrangement, a suit for mandatory injunction is maintainable as the most efficacious remedy. Viewed thus, there is no inconsistency between the aforesaid judgments, each operating in its own distinct factual and legal sphere.”

22.2 In the considered opinion of this Court, the issue in the present case would squarely be covered by the said ratio of law laid down by the Hon'ble Apex Court.

22.3 In view of the above, the judgments relied upon by learned Senior Counsel representing Mrs. Soni as regards the issue of licence and the maintainability of a suit for mandatory injunction would not come to her aid.

23. Having answered the main issues, we now come to the feeble attempt made on behalf of Mrs. Soni to contend that the suit property was ancestral.

23.1 There is absolutely no evidence on record to even *prima facie* suggest that the suit property was ancestral. It has come on record that the suit property was purchased by Brig. Soni out of the funds received by him on account of sale of the house at Delhi which was owned by his father. The house devolved upon Brig. Soni and his brother by way of testamentary succession. Even otherwise, it was duly admitted in the cross-examination that the suit property is the self acquired property of Brig. Soni. The findings of the Courts on the said issue are, therefore, upheld.

24. Now we come to the issue of *mesne* profits.

24.1 Whereas the trial Court did not grant any *mesne* profits, the first appellate Court granted the same @ Rs.20,000/- per month. Concededly, no evidence was led by any side as regards the same. However, it has to be borne in mind that the suit property is 1 *Kanal* house in Sector-8, Panchkula. Rs.20,000/- per month is in fact too less, if the current rentals are seen. Even when it was assessed, it was not on the excessive side. The Court referred to inflationary trends and assessed the *mesne* profits. In such matters, certain guess work also has to be made which was rightly made. Nobody can be permitted to stay put in a property forcibly, that too without paying anything.

24.2 Under the circumstances, the assessment of *mesne* profits @ Rs.20,000/- per month is upheld.

25. Now coming to the issue of permanent injunction out of which RSA-3580-2013 arises, keeping in view the discussion in the preceding paragraphs, no *prima facie* case is made out in favour of Mrs. Soni. The suits were, therefore, rightly dismissed by both Courts.

26. As a upshot of the discussion in the preceding paragraphs, all three appeals are found to be devoid of merit and are accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

Pronounced on:23.01.2026
vcgarg

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No