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Women's Right to Reside in Shared Household

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ABSTRACT

Domestic violence is the violence or abuse happening in the marriage. The women and children are the mainly the victims of this. Domestic violence is the serious crime due to which many women commit suicide or die. The society needs to get aware of this society evil that is happening in every next house with women. Main reason of this can be illiteracy, discrimination, dowry death, male dominated society and so on. The list of the causes increased but due to enactment of the protection of women from domestic violence act 2005, it safeguards the right of women. Initially the right to reside in shared household was in question in the case SR Batra vs Taruna Batra.

This right to reside in matrimonial home of the husband is given in section 17 of domestic violence act 2005. Under this section the home shared by the women and her husband is referred as matrimonial home and none can evict or ousted her from there women's property right in India a women have a equal right to hold or dispose of the property inherit or self-acquired under Hindu succession act.

I. INTRODUCTION

S.R. Batra And Anr vs Smt. Taruna Batra

Bench: S.B. Sinha, Markandey Katju

CASE NO.: Appeal (civil) 5837 of 2006

PETITIONER: S. R. Batra and Anr.

RESPONDENT: Smt. Taruna Batra

DATE OF JUDGMENT: 15/12/2006

BENCH: S. B. Sinha & Markandey Katju JUDGMENT: JUDGMENT MARKANDEY KATJU, J.

Leave granted.

Facts: The respondent Smt. Taruna Batra married to the appellant son, Amit Batra and lives in

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the house which belongs to appellant 2 i.e. respondent mother-in-law. Amit Batra filed a divorced petition and shifted to another house. Appellant expelled respondent from the house. The respondent Smt. Taruna files a suit for the right to live in her matrimonial house under section 466/498/406 and 34 of Indian penal code.

Issue: Is she entitled to live in that household?

Decision: no (the house belongs to appellant2)

Domestic violence is the violence or abuse happening in the marriage. The women and children are the mainly the victims of this. Domestic violence is the serious crime due to which many women commit suicide or die. The society needs to get aware of this society evil that is happening in every next house with women. Main reason of this can be illiteracy, discrimination, dowry death, male dominated society and so on. The list of the causes increased but due to enactment of the protection of women from domestic violence act 2005, it safeguards the right of women. Initially the right to reside in a shared household was in question in the case SR Batra vs Taruna Batra.

II. RIGHT TO LIVE IN MATRIMONIAL HOME

This right to reside in matrimonial home of the husband is given in section 17 of domestic violence act 2005. Under this section the home shared by the woman and her husband is referred as matrimonial home and none can evict or oust her from there. Women's property right in India a woman has an equal right to hold or dispose of the property inherited or self-acquired under Hindu succession act.

(A) Provisions involved:

Section 406 of Indian penal code 1860, serves with the clause of criminal breach of trust. According to this section whoever commits criminal breach of trust shall be punished. Criminal breach of trust occurs when the accused commits a crime in the best interest of the property by making or converting another person's property for his own use.

Section 498a of the Indian penal code 1860, deals with penalty clause of criminal offence of "cruelty by husband or relatives of husband". This section was introduced for growing concern of domestic violence and harassment faced by married women in India. According to this section husband and his relatives can be punished for cruelty against women.

What is shared household?

Under section 2(s) of domestic violence act 2005 which deals with the shared household. According to this section shared household is where the aggrieved person or a woman lives in

a domestic relationship, either singly, or along with the man against whom the complaint is filed or the woman is thrown out and includes all kinds of situations where the house is owned by respondent. The domestic violence act 2005 recognizes a woman's right to reside in a shared household.

Conditions must be fulfilled for shared household:

- Aggrieved person lives in domestic relationship
- such household owned or tenanted by aggrieved person and the respondent
- Household belonged to the undivided family where aggrieved person is member.

The use of the expression "at any stage has lived" immediately after words "person aggrieved lives" has been used to protect the woman from denying the benefit of right to live in a shared household on the ground that on the date when application is filed, she was excluded from possession of the house or temporarily absent.

Section 19 of domestic violence act 2005 stated the residing orders, i.e. the magistrate may on being satisfied that domestic violence has taken place, pass a residence order restraining the respondents from dispossessing or disturbing the possession of the aggrieved person from the shared household.

III. FACTS OF THE CASE

The facts of the case are that the respondent, Mrs. Taruna Batra married the Appellant son's Mr. Amit Batra, dated 14.04.2000.

1. The respondents began leaving in the appellant house located in B-135, Ashok Vihar, Phase-I, Delhi which belongs to the appellant no.2, i.e. respondent mother-in-law.
2. The appellant son, Mr. Amit Batra filed a divorce petition. In the counter attack to divorce petition Mrs. Taruna Batra filed a F.I.R under section 466/498/506 and 34 of Indian Penal code. After three days of arrested they get bailed.
3. As a result of the disputes with her husband, Mrs. Taruna Batra resided to Her's parents' house.
4. Later on, Mrs. Taruna Batra tries to enter the house which was locked. Consequences to the act, Suit no.87/2003 was filed for the mandatory injunction.
5. *The case of the appellants was that before any order could be passed by the trial Judge on the suit filed by their daughter-in-law, Mrs. Taruna Batra, along with her parents forcibly broke open the locks of the house at Ashok Vihar belonging to*

appellant No. 2, the mother- in-law of Mrs. Taruna Batra. The appellants alleged that they have been harassed by their daughter-in-law and for some time they had to stay in their office.

6. The Appellantson,Mr. AmitBatra shifted to other flat located in Mohan Nagar, Ghaziabad.
7. Both the applications for temporary injunction filed in suit no. 87/2003 by the parties was decided by the learned Trial Judge by his order dated 04.03.2003. It was held that the petitioner was in possession of the second floor of the property and a temporary injunction restraining the appellants from interfering with the possession of the respondent, Mrs. Taruna Batra, was granted.
8. An appeal was filed against the order before the Senior Civil Judge, Delhi who by his order dated 17.09.2004, held that ***Mrs. Taruna Batra was not residing on the second floor of the premises in question.*** It was further claim that her husband Mr.***Amit Batra was not living in the suit property and the matrimonial home could not be said to be a place where only the wife was residing.*** As mentioned in the order of the fact that no right to the properties other than that of her husband was possessed by Mrs. Taruna Batra, subsequent to which the appeal was allowed and the temporary injunction application was dismissed.
9. Aggrieved to order, a petition, under Article 227 of the Constitution of India, was filed by Mrs. Taruna Batra. As a result of petition, the order was dismissed by the Delhi High Court.

IV. DECISION

(A) High court

The judgement was adjudicated on the need to have a law on matrimonial home of the women. The court observed that if a women does not have a right to proprietary interest still she can live in the house.

(B) Supreme court

Supreme Court findings were:

1. Property was in the name of in laws so it cannot be claimed.
2. Property can be claimed in three circumstances:
 - Property registered in the name of husband.

- Property belongs to undivided family and husband is member of it.
 - Husband is the rent payer of the property.
3. Section 2 (5) shared household doesn't apply here.

V. LATEST CASE JUDGMENT ON “SHARED HOUSEHOLD “

Firstly, this case was overruled by **Satish Chander Ahuja v/s Sneha Ahuja 2021 SC**, it was observed that even if the house belonged to her father-in-law (appellate) and Raveen (appellate son) had no share in the house belongings but Sneha (appellate daughter in law) had been living in the first floor of the house since her marriage in a domestic relationship.

The supreme Court held that a wife is entitled to claim the right to residence in a shared household belonging to either the husband or the relatives of the husband where he stays during the divorce proceedings.

Recently in the case of **Prabha Tyagi v. Kamlesh Devi, Criminal Appeal No. 511 of 2022 (Division Bench)**, the aggrieved person was widowed immediately after her marriage and was subjected to domestic violence and was forced to leave the matrimonial home, even though she was entitled to properties owned by her husband after his death.

The court held that a victim of domestic violence can enforce her right to reside in a shared household, irrespective of the fact she lived in the shared household or not. The court introduced the concepts of “**constructive residency**” and “**non-existence of marital connection**” to conclude that the wife is entitled to relief under the DV Act, include the expression ‘right to reside in the shared household’ would exist with not only actual residence but also constructive residence in the shared household.

In absence of domestic relationship can a woman enforce right to reside in shared household supreme court states that a woman is entirely to the right to reside in the shared household even in the absence of domestic relationship. She cannot be evicted or excluded from the household even in the absence of domestic violence. This was observed in the case **Prabha Tyagi Versus Kamlesh Devi, Cr. A.No. 511 of 2022): Supreme Court of India**. The Supreme Court held that every woman in a domestic relationship has a right to reside in the shared household even in the absence of any act of domestic violence.

VI. ANALYSIS

The protection of women from domestic violence act 2005 was enacted by the parliament of India which aims to protect the right of women specially in cases of domestic violence.

Many law has been formulated by the parliament to protect the women from any kind of violence or discrimination in society.

The supreme Court of India increased the virtue of this act by giving various case laws in the regard of shared household rights of women under the act. Later on, came the verdict that safeguard the interest of women victims of domestic violence and given the right to reside in shared household property. Every women in domestic relationship has right to reside in shared household whether or not she has any right, title or beneficiary interest in same.

There should be an aware programs for women to know their rights and to safeguard them. The progress of society is still the matter of fact as there are other matter of fact and question of law that needs to be addressed by the court for the betterment of right of women as to totally eradicate the domestic violence from the society.

VII. CONCLUSION

Women have to bear a lot in terms of their liberty and due to discrimination on the basis of gender inequality. Earlier women s doesn't infer any right in inheritance succession but after the verdict of supreme Court it's been legalized. However, many laws have already added and right to resides is one of them. These laws provide not only the protection to women's but also safeguard the interest of women in society.

The constitution has provided the justice to women in case of gender discrimination which are enshrined in article 14 and 15 of Indian constitution act. Right to reside in shared household is now been legalized after the 7 years of the case *Batra vs Batra* which was now in 2022 overruled. The right in the matrimonial home is the women right to reside even after the divorce as it is the matter of right to her.

As we need more stringent laws to upbringing the women's right as men. Laws that are related to poor women, widow having lack of family support which can upheld the women in today's society by providing rights. As the impact of the right to reside on shared household, women's have the right and due to this the have a legal capacity or position in the family.

National commission for women (NCW), the commission was introduced to deal with the problems faced by women in the country. It recommends remedial measures, facilitates the redressal of grievances and advises the government on all policy matters affecting women and consist all the powers of a civil court.
