

SHARED HOUSEHOLD UNDER THE DV ACT:RECENT TRENDS

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The Courts in India especially the Hon'ble Supreme Court of India is known to give purposive and wide interpretation to the social welfare legislations like the Protection of Women from Domestic Violence Act, 2005. The Definition of the term " shared household" has also been liberally interpreted by the Apex Court in order to do justice to the object and purpose of the Act.

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1. INTRODUCTION

Domestic violence is a pervasive and deeply rooted issue that affects individuals across the globe, transcending cultural, social, and economic boundaries. In the context of India, domestic violence remains a significant concern, impacting the lives of many individuals and families. The term "domestic violence" encompasses a range of abusive behaviors within intimate relationships, including physical, emotional, psychological, sexual, and economic abuse. Domestic violence is alarmingly prevalent in India, affecting women, men, and children. Despite efforts to address the issue, it continues to be underreported due to social stigma, fear of reprisals, and a lack of awareness about available support services.

India's diverse cultural landscape contributes to varying perceptions of gender roles and power dynamics within relationships. Traditional norms and patriarchal structures sometimes perpetuate attitudes that normalize or tolerate domestic violence.

The legal response to domestic violence in India has evolved over the years. The Protection of Women from Domestic Violence Act (PWDVA) was enacted in 2005 to provide legal recourse and protection for victims. However, enforcement and awareness of these laws remain challenges.

Domestic violence has severe physical and psychological consequences for victims. It can lead to physical injuries, mental health issues, and economic dependence, trapping individuals in cycles of abuse. Addressing domestic violence in India requires a multi-faceted approach involving legal reforms, community awareness, and support services.

It involves challenging deeply ingrained cultural attitudes and fostering an environment that promotes healthy relationships, respect, and equality.

The "Protection of Women from Domestic Violence Act" (or PWDVA) under the act defines , the term "shared household" in Section 2(s). The definition is as follows:

"Shared household" means "*a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the*

aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household" .

This definition is comprehensive and encompasses various living arrangements, whether owned or rented, and also includes households that may belong to the joint family of which the respondent is a member. The primary intent is to provide protection to the aggrieved person, typically a woman facing domestic violence, within the context of a household where she has lived or is living in a domestic relationship with the respondent.

2. SR BATRA V. TARUNA BATRA JUDGMENT³

The case's background involves Mrs. TarunaBatra, who was married to Mr. Amit Batra, and together they had a son. Initially residing in a property under Mr. Amit's mother's name in Ashok Vihar, they all lived on the property's ground floor. However, following the birth of their son, marital relations between Mrs. Taruna and Mr. Amit soured, prompting her to move to the building's second floor. Alleging cruelty, Mrs. Taruna filed a divorce petition, incorporating sections 406, 409, and 498A. Subsequently, when attempting to re-enter the home, she discovered it locked. In response, she filed a case seeking a mandatory injunction to regain access to her matrimonial home. Mr. Amit Batra, the respondent, countered this claim, asserting that he had acquired a new property in Ghaziabad, now considered their matrimonial home.

2(s) of the domestic violenceact defines a shared household where there existed a domestic relationship with the husband who owns the property, is paying the rent of the property and is the joint owner of the Hindu undivided family.

The primary concern in this case revolved around the interpretation of matrimonial rights, a term not explicitly defined. However, Section 2(s) of the Domestic Violence Act provides a definition for a shared household. The legal proceedings extended through the trial court, the high court, and

³SrBatra v. TarunaBatra (2007) 3 SCC 169

ultimately reached the Supreme Court. During the trial court phase, Shri Amit Batra argued that he had acquired real estate in Ghaziabad, constituting their matrimonial home. He also claimed that, during the pending injunction suit, his wife trespassed onto the property, where only one blanket was found. The trial court's conclusions were as follows:

- 1) The petitioner (wife) owned the second floor, granting each party the right to access the common passage.
- 2) The second floor did not qualify as her matrimonial home since the wife resided elsewhere.
- 3) The wife's petition seeking a mandatory or interim injunction was dismissed.

Both parties expressed dissatisfaction with the trial court's decision, leading them to file an appeal in the high court.

The high court's ruling was unclear and centered on the necessity for legislation regarding matrimonial homes. The bench emphasized the need for India to approach this issue pragmatically and advocated for the creation of laws similar to the Matrimonial Homes Act of 1983 in England. This legislation stipulates that even if a spouse lacks proprietary rights, they can still reside in the house.

The case proceeded to the Supreme Court, which overturned the high court's decision, asserting that laws from England cannot be directly applied in India. The Supreme Court's findings were as follows:

The bench determined that the property, registered in the mother-in-law's name, couldn't be claimed by the wife.

Property could only be claimed in three scenarios: if registered in the husband's name, if the husband is a member of the Hindu undivided family, or if the husband is the rent payer residing in the property.

In accordance with Section 2(s) of the Domestic Violence Act, the Act did not apply in this case as the property did not belong to the husband, nor was it considered family property.

3. SATISH AHUJA V. SNEHA AHUJA JUDGMENT ⁴

SatishChander Ahuja, the appellant, is the father-in-law of Sneha Ahuja, the respondent. The

appellant's son, Raveen Ahuja, and the respondent Sneha Ahuja were married in holy matrimony in 1995 and initially lived on the first floor of a house owned by the appellant of the case in his own name in the year 1983. In the month of July of the year 2014, due to marital discords and issues, Raveen left from the first floor and began living with his parents on their occupied ground floor. Subsequently, in November of year 2014, Raveen filed for divorce and termination of all matrimonial ties between him and his wife, Sneha on grounds of cruelty. On November 20th, 2015, Sneha initiated legal action under the provisions of Section 12 of the Domestic Violence (DV) Act, involving Raveen, the appellant, and her mother-in-law, PremKanta. She alleged severe emotional and mental abuse, seeking various reliefs under the DV Act. The court of first instance that is the Trial Court passed an interim order thereby forbidding the respondents of the case from excluding and removing her from the "shared household".

The appellant, in response, filed against Sneha, an independent suit for a mandatory and perpetual injunction. Citing his advanced age and poor health, he argued that Sneha had falsely accused his family, and he wished for her to vacate the household for his peaceful living. His claim asserted that, being the single and only title holder of the house in dispute, and not Raveen, he, as a father-in-law, had no duty to provide for the maintenance and upkeep for her while her husband lived. In her reply, Sneha referenced her pending complaint under Section 12 of the DV Act. Additionally, she asserted that the house qualified as a 'shared household' as defined in Section 2(s) of the DV Act, granting her the right to reside in it. The Trial Court ruled in favor of the appellant, granting the injunction.

Sneha, dissatisfied with the decision, lodged an appeal with the Delhi High Court. The High Court overturned the decree and referred the matter back to the Trial Court with specific instructions. It abstained from delving into the question of whether the disputed property qualified as a 'shared household' under Section 2(s) or not. Nevertheless, it instructed the Trial Court to consider Sneha's rights under the Domestic Violence (DV) Act when making decisions in the case.

Unhappy with this ruling, the appellant sought recourse with the Supreme Court. He invoked the Court's decision in S.R. Batra (2006), wherein it was established by way of decision that a wife could exercise the right to a residence within the provisions of 17(1) of the DV Act in a scenario

⁴(2021) 1 SCC 414.

where the property was owned or rented out in his name by the husband, or where such property was a part of the joint family where the husband resided. The respondent in response to this averment, contended and averred that the Hon'ble Court in S.R. Batra misinterpreted the provisions of the DV Act. She contended that the definition of 'respondent' under provision 2(q) of the Act encompasses within itself, the husband and also his relatives who have subjected the "aggrieved person" to domestic violence. She further averred that as the appellant is named as a 'respondent' in Sneha's DV Act complaint, her right to reside in the "shared household" was protected, contending that it falls within the definition of a 'shared household' under Section 2(s).

Revoking its earlier ruling in S.R. Batra, the Court reexamined the definition of 'shared household' within the provisions of Section 2(s) of the Domestic Violence (DV) Act. In alignment with the respondent's stance, the Court determined:

- 1) The definition of 'shared household' is comprehensive and not restrictive.
- 2) To qualify as a 'shared household,' it must be demonstrated that the property is either owned, co-owned, or has been taken on rent by a 'respondent' named in a DV Act complaint, and that the aggrieved person has resided in that "shared Household" at any point in her domestic relationship.
- 3) The aggrieved person is not obligated to be an owner or tenant of the premises, either individually or in conjunction with the family.
- 4) A 'shared household' includes one that may belong to a joint family of which the aggrieved person is a member, regardless of their specific rights, titles, or interests in the shared household.

The Court reasoned that accepting the appellant's interpretations and construction of Section 2(q) and 2(s) of the DV Act would thwart the legislature's intent. Disregarding its prior observations in S.R. Batra, the Court upheld the High Court's decision and rejected the appeal.

4. CONCLUSION

An expansive interpretation of the Domestic Violence (DV) Act involves understanding and applying its provisions broadly to achieve the legislative intent of protecting victims of domestic violence comprehensively. The Domestic Violence Act in India, enacted in 2005, aims to address and

prevent domestic violence against women by providing legal remedies and protection. An expansive interpretation involves going beyond literal or narrow readings of the law and taking into account its overarching purpose. Rather than confining interpretations to strict definitions, an expansive approach may involve considering the broader context of terms like "domestic relationship," "shared household," and "aggrieved person." This recognizes the diverse forms that domestic relationships can take and the various ways in which domestic violence can manifest.

Protective Measures: An expansive interpretation would involve recognizing and endorsing the protective measures available under the Act. This includes not only physical abuse but also emotional, verbal, economic, and sexual abuse. It acknowledges that domestic violence can take various forms and may not always be evident in physical harm.

Inclusive Application: An expansive interpretation encourages an inclusive application of the Act, ensuring that all individuals falling within its protective ambit receive due consideration. This includes not only wives but also women in live-in relationships, mothers, and sisters who may face domestic violence.

Addressing Unique Circumstances: Domestic violence situations can be complex and varied. An expansive interpretation allows for addressing unique circumstances and evolving family structures. This may involve considering factors such as economic dependence, emotional abuse, and the impact on children within the domestic relationship.

Preventive and Remedial Measures: The DV Act incorporates both preventive and remedial measures. An expansive interpretation recognizes the importance of preventive measures to stop violence before it escalates and provides effective remedies for victims to seek redress.

Court Orders and Relief: An expansive interpretation of court orders and reliefs under the Act involves considering a wide range of measures, such as protection orders, residence orders, and monetary relief. This ensures that the court has the flexibility to tailor its orders to the specific needs of the aggrieved person.

An expansive interpretation of the DV Act aligns with the legislative intent of providing comprehensive protection to victims of domestic violence. It acknowledges the dynamic nature of relationships and the need for a legal framework

that can effectively address the multifaceted aspects of domestic violence. The highly celebrated judgment of the Apex court balances the interests of not only the petitioners but also that of the respondents in the case of domestic violence instances. The court via its judgment established that every right has to be tested on the touchstone of the legislative intent and the enactment itself. Justice often lies in balancing the rights of the petitioners and the respondents. This is what was done by Hon'ble Apex Court in Satish Ahuja Judgment.

REFERENCES

- [1]. Myneni , S.R. “ *Law Relating to Women*” Asia Law House , Hyderabad, 4th edition, 2020
- [2]. Tripathi, S.R. et al, “ *law relating to women and Children*”, Central Law Publication, Allahabad , 6th ed. 2019
- [3]. Rai, Kailash “ *The Constitutional Law of India*” CLA, Allahabad, 6th ed., 2005
- [4]. Bakshi, P.M. , *The constitution of india* , New Delhi : Universal Publishing Co. 12 ed.
- [5]. Protection of Women from domestic violence Act, 2005

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