

07.01.2026
Pet: Sri. HMA Adv.,
Res: Sri. MA Adv.,
Orders

**ORDER ON APPLICATION FILED UNDER SECTION 17 OF
THE PROTECTION OF WOMEN FROM DOMESTIC
VIOLENCE ACT, 2005**

The petitioners have filed the present application under Section 17 of the Protection of Women From Domestic Violence Act, 2005 (Hereinafter referred to as 'DV Act', for brevity) seeking to order of residence in a shared house.

2. The excerpts of the petition in this case is as follows, the respondent has not taken care of the petitioners during their stay in a shared house and failed to discharge his duties as a husband to the first petitioner and as a father to the second petitioner. The respondent No.1 colluding with respondents No.2 to 4 ill treated the petitioners and abused them mentally and physically. On 11.07.2019 the respondents forcefully threw them out of the shared house. Thereafter, the first petitioner along with her child stayed in her parental house. The respondent No.1 and 2 are staying in their own house situated at No.8, 7th Block, Jayanagar, Durgaparameshwari Temple Street, Yedyur, Bengaluru-70. With these, prayed to allow the application.

3. Per contra, the respondent No.1 resisted the application by filing objection and specifically contended that the averments made in the application are false, frivolous and concocted one.

He and his family members never ill-treated the petitioners as averred in the application. After the marriage, the first petitioner and first respondent stayed with second respondent. Due to torture and galata made by the first petitioner, a separate residence was made at Balaji Nagar, Bangalore though the respondent does not have sufficient source of income. But, the petitioner herself left the matrimonial home. The alleged house belongs to the second respondent. The first petitioner lodged a false police complaint against the respondents and as such, the second respondent was not allowed the first respondent to stay with her. Now, the first respondent is staying with her friends house situated at Bangalore. Hence, the first respondent prayed to dismissal of the application.

4. The points that would arise for my consideration are:

1. Whether the petitioners are entitled for residence order as sought?

2. What Order?

5. I have heard the learned counsel for the parties to the lis and meticulously perused the materials on record.

6. My answers to the above points are as follows:

Point No.1 : In the Affirmative;

Point No.2 : As per final order, for the following:

:- REASONS :-

7. **Point No. 1:-** After hearing, careful perusal of affidavit, objection and materials placed on record, the petitioners have filed the present application for order of residence in a shared house. The Learned Counsel for the petitioners submitted that, the petitioner has placed substantial materials to show that the first petitioner was forcefully threw them out of the shared house. The first respondent has not provided being husband had a statutory obligation to maintain her. As such, she prayed to award interim maintenance as prayed in the application. **Counter to that,** the learned counsel for the respondent submitted that the application is not maintainable and liable to dismissed in limine. The first respondent has provided a separate residence to the petitioners at Balaji Nagar. Despite that, the first petitioner left the house and staying in her parental house. The house now sought for a residence order is a separate property of the second respondent. As such, he prayed to dismissal of the application.

8. It is worth to refer Section 17 of DV Act, which is recapitulated 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.

9. The above provision manifest that 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 it. Further provides that she shall not be evicted or excluded except by procedure established by law. It is worth to refer decision of the Hon'ble Apex Court in the case of Satish Chander Ahuja -Vs- Sneha Ahuja reported in (2021) 1 SCC 414 wherein the Hon'ble Apex Court have held at para No.68 that, **The Act, 2005 has been enacted to provide for more effective protection of the rights of the woman who are victims of violence of any kind occurring within the family. The Act has to be interpreted in a manner to effectuate the very purpose and object of the Act. Section 2(s) read with Section 17 and 19 of Act, 2005 grants an entitlement in favour of the woman of the right of residence under the shared household irrespective of her having any legal interest in the same or not. It is further held at para No.91.1 that The definition of shared household given in Section 2(s) cannot be read to mean that shared household can only be that household which is household of the joint family of which husband is a member or in which husband of the aggrieved person has a share. It is also worth to refer decision**

of the Hon'ble High Court of Delhi in the case of Khushwant Kaur -Vs- Smt. Gagandeep Sidhu reported in 2025:DHC:9240 wherein the Hon'ble High Court held at para 12 that **residence brings the premises within Section 2(s): it is a household where she lived in a domestic relationship. Once that threshold is crossed, Section 17(1) confers a right of residence irrespective of title, and Section 17(2) forbids eviction except by due process. The contention that the husband moved out in 2011, or that the parents-in-law "disowned" him, does not denude the house of its character as a shared household.** A perusal of petition and order sheet of MC No.5541/2017 shows that the first respondent has filed a petition for restitution of conjugal rights against the first petitioner and the said petition ended in a compromise. It further substantiates that the first petitioner agreed to reunion with the first respondent and reside in a shared household. It is admitted fact that after the marriage the first petitioner accompanied the first respondent in a shared household. Therefore, the first petitioner has the right to reside in the shared household until evicted with due process of law. Curiously, the respondent has not placed any materials to substantiate that he has provided a separate residence to the first petitioner. Accordingly, I answer point No.1 in the **'Affirmative'**.

10. **Point No.2**:- In view of discussion and the findings arrived at point No.1, I proceed to pass the following:

ORDER

Application filed by the petitioners under Section 17 of the DV Act is allowed.

Consequently, the respondents are directed to provide residence to the petitioners in a shared household i.e., house No.8, 7th Block, Jayanagar, Durgaparameshwari Temple Street, Yediyur, Bengaluru-560 070.

Call on :

**(Satisha B.)
Pri. Civil Judge & JMFC.,
Hoskote.**