

**CNR No. : MHWR030016062024****PWDVA A. No. 42/2024****Neema V/s. Shila + 1****ORDER BELOW EXH. 14**

(Passed on 10/02/2026)

This is a proceeding under the provisions of Protection of Women from Domestic Violence Act (in short '*the D.V. Act*'). Applicant through present application is seeking interim relief of shared household against respondents. Respondents filed say at Exh. 16 and resisted the application.

2. Considering the rival submissions, following points arise for my consideration; My findings thereto with reasons thereof are as follows :

Sr. No.	<u>Points For Consideration</u>	<u>Findings</u>
1.	Whether applicant <i>prima facie</i> proves that, she is / was in domestic relationship with the respondents ?	... No.
2.	Whether she <i>prima facie</i> prove that, she was subjected to domestic violence by respondents ?	... No.
3.	Whether applicant is entitled for the interim relief of shared household as prayed ?	... No.
4.	What order ?	... Application is rejected.

REASONS FOR THE FINDINGS

3. Ld. Advocate for applicant in furtherance of her written notes of arguments (Exh. 19) vehemently argued that, relationship between the parties is not disputed. Further, it is also not disputed

that applicant & her husband were residing with respondents in the shared household. However, due to the continuous harassment & domestic violence by respondents, applicant & her husband were compelled to leave the matrimonial houses and stay in a rented premises.

4. She further argued that, husband of the applicant is currently jobless and therefore, substantial part of her salary goes in rent. Hence, they are unable to maintain themselves in the meager salary of the applicant. Applicant & her family has right to reside in the shared household with respondents. Hence, prayed for the relief sought. She relied on the judgments of the Hon'ble Supreme Court in S. R. Batra Vs. Taruna Batra, (2007) 3 SCC 169 & in Satish Chander Ahuja Vs. Sneha Ahuja, (2021) 1 SCC 414 and of the Hon'ble Bombay High Court in Vaishali Abhimanyu Joshi Vs. Nanasaheb Gopal Joshi, 2017 (2) MhLJ 801 & in Ashish Chandrakant Chauhan Vs. Mohini Mukesh Chauhan & Anr., 2025 ALL MR (Cri) 4229.

5. *Per contra*, Ld. Advocate for respondents in furtherance of her written notes of arguments (Exh. 20) categorically contended that, applicant & her husband were not ready to stay in the joint family and therefore, they themselves left the matrimonial house. They had demanded amounts from respondents and on refusal, they threatened to file false cases. Both applicant & her husband have their earning sources and thus, they can easily maintain themselves. Moreover, her husband has also filed a suit (R.C.S. No. 118/2025) for partition of said house. Respondents are ready for amicable settlement, but applicant filed present false case only to pressurize.

6. She further argued that, as applicant is residing with her husband, she has no right to claim any residence in the house of respondents. Further, it is the duty of her husband to procure for her shelter. Thus, the applicant has no right to claim any residence in the house of respondents. Hence, prayed for rejection of the application. She relied on the judgment of the Hon'ble Supreme Court in Satish Chander Ahuja Vs. Sneha Ahuja, (2021) 1 SCC 414.

AS TO POINT NOS. 1 to 3 :

7. Considering the inter-relativity of facts & arguments, the points are discussed together to avoid repetition.

8. Perused the application, say filed and the record. Heard both sides at length.

9. Perusal of the say (Exh. 16) reveals that, the relationship between the parties is not disputed. Further, it is also not disputed that applicant, her husband & respondents were residing together in her house i.e. the disputed shared household. Hence, as per the provisions of Sections 2(f) & 2(s) of the D.V. Act, applicant & respondents appear to be in domestic relationship & were living together in a shared household respectively.

10. It is pertinent to note that, *admittedly*, applicant & her husband started residing separately from respondents since 28/05/2023 in a rented premises. Applicant contended that, she had to leave the matrimonial house because of the harassments & violence by respondents. However, there is not a single complaint on record to *prima facie* support the allegations of domestic violence against respondents.

11. On the contrary, the copy of N.C. filed on record by applicant dated 25/05/2023 *prima facie* reflect that, the dispute was regarding partition of the house & agricultural property. Thus, the dispute *prima facie* appears civil in nature.

12. If there was a continuous harassment and applicant was subjected to domestic violence by respondents, why her husband, who was living with her in the same house, had not taken any action for her protection is not mentioned by the applicant. Ultimately, her husband is legally & morally liable to maintain & protect the applicant, but there are no allegations of applicant against her husband to that effect. Hence, it raises doubt on the allegations and the possibility that the same arose due to the property dispute between her husband & in-laws cannot be ruled out.

13. *Secondly*, as applicant & her husband are residing separately, the subsequent rented premises becomes her shared household. Thus, her domestic relationship with respondents ended when she shifted to separate accommodation.

14. The Hon'ble Delhi High Court in Shilpa Aggarwal Vs. Ruchika Gupta (2019), SCC OnLine Del 10239, relying upon its judgment in Adil & Ors. Vs. State Vs. Anr., (2010) SCC OnLine Del 3272, observed that -

'6. A perusal of this provision makes it clear that domestic relationship arises in respect of an aggrieved person if the aggrieved person had lived together with the respondent in a shared household. This living together can be either soon before filing of petition or 'at any point of time'. The problem arises with the meaning of phrase "at any point of time". Does that mean that living together at any

stage in the past would give right to a person to become aggrieved person to claim domestic relationship ? I consider that "at any point of time" under the Act only means where an aggrieved person has been continuously living in the shared household as a matter of right but for some reason the aggrieved person has to leave the house temporarily and when she returns, she is not allowed to enjoy her right to live in the property. However, "at any point of time" cannot be defined as "at any point of time in the past" whether the right to live survives or not. For example, if there is a joint family where father has several sons with daughters-in-law living in a house and ultimately sons, one by one or together, decide that they should live separate with their own families and they establish separate household and start living with their respective families separately at different places; can it be said that wife of each of the sons can claim a right to live in the house of father-in-law because at one point of time she along with her husband had lived in the shared household. If this meaning is given to the shared household then the whole purpose of Domestic Violence Act shall stand defeated. Where a family member leaves the shared household to establish his own household, and actually establishes his own household, he cannot claim to have a right to move an application under Section 12 of Protection of Women from Domestic Violence Act on the basis of domestic relationship. Domestic relationship comes to an end once the son along with his family moved out of the joint family and established his own household or when a daughter gets married and establishes her own household with her husband. Such son, daughter, daughter-in-law, son-in-law, if they have any right in the property, say because of coparcenary or because of inheritance, such right can be claimed by an independent civil suit and application under Protection of Women from Domestic Violence Act cannot be filed by a person who has established his separate household and ceases to have a domestic relationship. Domestic

relationship continues so long as the parties live under the same roof and enjoy living together in a shared household.'

15. In the present case also, applicant & her husband are residing separately and thus, as mentioned above, the subsequent place of her residence with her husband, is her *prima facie* shared household. Now, whether applicant was compelled to live separately and whether she & her husband are unable to maintain themselves, will be a matter of trial and cannot be decided at this stage.

16. Further, in view of the observations made in authority cited above, *prima facie* applicant ceases to be in domestic relationship with respondents and hence, she is not entitled for the relief of living in the said shared household of respondents. Hence, facts being different, authorities relied by the Ld. Advocates for both parties, are not applicable at this stage.

17. *Thirdly*, it is also difficult to gather that why the applicant wants to live in the same house where she was alleged to be subjected to domestic violence. Further, applicant is praying for residence in the said house along with her family i.e. she wants to live in the same with her husband and along with respondents. However, the D.V. Act entitles for the reliefs only to the aggrieved persons i.e. applicant in the present case and her husband will not get any such right to reside in the said house.

18. Therefore, if the relief so prayed is granted, only the applicant will be living with respondents in the said house and it will mean separating her from her husband, which is not the purpose or object of the D.V. Act. Thus, in the said scenario also, it will not be in the best interest of the applicant.

19. Applicant's husband is already agitating his right in the said house and thus, the parties have already approached the appropriate forum. As observed in Adil (supra), present proceedings *prima facie* appears to be an attempt to agitate the coparcenary right and thus, the same is not *prima facie* tenable.

20. Therefore, in view of the reasons mentioned above, in my view, applicant *prima facie* failed to show the continuous domestic relationship and that she was subjected to domestic violence by respondents. Thus, she is not entitled for the relief of residence in the shared household as prayed, at this stage. *Needless to mention*, the observations are *prima facie* in nature and both parties will be at liberty to adduce their respective evidence in support of their case and the rights can be adjudicated on merits at the time of final conclusion. Accordingly, I answer point Nos. 1 to 3 in the negative.

AS TO POINT NO. 4 :

21. In view of reasons discussed above and findings arrived, I am not inclined to allow the application at this stage and hence, it is liable to be rejected. Accordingly, to answer point No. 4, I proceed to pass the following order :

ORDER

1. Application is hereby rejected.
2. Copy of this order be given to both parties free of costs.

Place : Wardha.

(Vickrant P. Khandare)

Dated : 10/02/2026

Judicial Magistrate First Class, Wardha.

(Court No. 1)