

Misc. Case no. 257 of 2020

Swapna Mondal, wife of Nikhil Chandra Mondal  
residing at present house of Ramesh Chandra Das, son of late Sarat  
Chandra Das of 241/3, G.T. Road, PO & PS Shibpur, District Howrah

VS

- 1) Bubun Mondal, son of late Mahadeb Mondal,
  - 2) Khokan Bag, son of Swapan Bag
  - 3) Swapan Bag, son of late Anath Bag
  - 4) Purnima Mondal, wife of late Mahadeb Mondal
- All are residing at Village & PO Joargori, PS Rajapur, District Howrah

Order dated 19/01/2023

Today is fixed for further hearing.

Both the parties have filed their separate haziras.

Receipt of cost of Rs.200/- is filed. Let the same be kept with the record.

The petitioner has filed an MC for her treatment as well as the xerox copy of charge sheet of GR case no.1265 of 2020 and FIR of Rajapur PS case no. 255 of 2020. The OP has filed a zeonology issued by the Pradhan of Joargori Gram Panchayat. Let all these documents be kept with the record.

Now the record is taken up for hearing.

Heard both sides.

It appears to me that there is allegation and counter allegations in respect of shared household and domestic relationship between the petitioner and the respondents. It is the specific case of the respondents that they are in no way connected with the petitioner by blood, consanguinity or marriage or a relation in the nature of marriage and the petitioner never resided with the respondents under the same roof at any point of time. The petitioner and the respondents are neighbours and the house of the respondents are situated beside the house of the petitioner. On the contrary, the Ld. Advocate for the petitioner has submitted that the houses are adjacent and the respondents are related to the husband of the petitioner but he has no document to show the same. He has pressed upon the criminal cases pending between the waring parties.

It is the settled principle of law that to avail the relief under PWDV Act, 2005 the petitioner has to prove prima facie the domestic relationship as well as shared household with the respondents at any point of time. To adjudicate the maintainability petition herein, this Court do not come into the conclusion that the petitioner has shared house with the respondents at any point of time and to clarify the position in the field a local enquiry is required.

Considering the facts and circumstance of the case, I am of the opinion that the Protection Officer is the best person to visit the locale and make an enquiry to ascertain whether the houses are adjacent and it can be termed as one household or whether the houses are separate from each other and it cannot be termed as shared household. By invoking the power under section 28(2) of PWDV Act, the Protection Officer is directed to make an enquiry at the locale i.e. Village Joargori, PS Rajapur, District Howrah to ascertain the above mentioned points after issuing notice to both the parties.

Both the parties are directed to be remain present at the locale on the date fixed by the Protection Officer for conducting the enquiry.

Let a copy of this Order sheet be sent to the Protection Officer, Howrah for necessary arrangements and compliance.

Fix 18/04/2023 for report from the Protection Officer, Howrah

D/C by me

Judicial Magistrate, 1<sup>st</sup> Class,  
3<sup>rd</sup> Court, Howrah

Yesmin Ara Khatun, (JO Code WB01335)  
Judicial Magistrate, 1<sup>st</sup> Class  
3<sup>rd</sup> Court, Howrah