

Misc. Case No. 290/2024

ORDER DATED : 02.08.2025

Today is fixed for passing order.

Both parties are present by filing their respective hajiras.

Heard both sides in full.

Perused the materials available in the record.

Considered.

Record is taken up for passing order after hearing of the petition under section 23 of the Protection of Women from Domestic Violence Act, 2005.

The fact of the case of the Aggrieved person in brief is that the Aggrieved person Taniya Seth is the married wife of Debjyoti Sadhukhan. She has filed this case against three Respondents namely, Tapan Kumar Sadhukha and Kanika Sadhukhan, who are the father in law and the step mother in law of the AP and also against the respondent namely, Baisakhi Garai, i.e the step sister in law of the AP. The marriage of the AP and her husband was solemnized in the year on 15.12.2023 according to Hindu rites and customs. In the said marriage several valuable articles along with gold ornaments were given by the father of the AP and after marriage the AP had given all those gold ornaments to the respondents and soon after the marriage the respondents started torture upon the AP and also used to torture her both physically and mentally. Then lastly on 08.05.2024 the respondents had again physically assaulted the AP and ousted her from her matrimonial house by snatching away all her stridhan articles. Because of the alleged incident the petitioner had lodged complaint before the Court of Ld. ACJM, Ranaghat and after that took her shelter at her paternal house.

Therefore, the aggrieved person prays for protection order, Residence order by restraining the respondents from dispossessing the AP from the share household of her matrimonial home and passing another order restraining the respondents from entering into the said share household and another order restraining the respondents from selling out the said share household to any third person as interim relief.

Respondents have filed a written objection and denied all allegations against them made by the Aggrieved person but the fact of marriage has been admitted by the respondents. It has been submitted that Respondent no 1 and 2 are the parent in law of AP. The respondents further contended that this is the second marriage of the AP and in his previous marriage she had left her matrimonial house by lodging false case and had also obtained mutual divorce. The son of respondents no. 1 and 2 was also married earlier and got divorced from her first wife paying Rs. 6,00,000/-. The AP is a school teacher and her husband is an employee of Indian Railways but they never provided any maintenance towards their aged parents. Since marriage the AP used to physically assault them and when it increased its limit then they had lodged one GDE on 07.05.2024 before Ranaghat PS and after that the AP took shelter at her paternal house and her husband asked the Respondent no. 1 to handover his house to him. The AP had also lodged a case u/s 498A/406/506/34 of IPC where the respondents had taken bail and after that when the respondent no. 1 had expressed his wish to sell the house as the house is the main reason

of all dispute then out of grudge the AP had lodged this case. During hearing Ld. Advocate on behalf of the respondent had submitted copy of LRROR, GDE copy dated 07.08.2024 and medical slip.

Ld. Advocate on behalf of the respondent had referred some case laws,

1. **Chandra Kumar Sharma vs. State (CRL Appeal No. 42/2022)**
2. **Vimalben Ajitbhai Patel vs. Vatslabeen Ashokbhai Patel and others (AIR 2008 SC 2675)**

Therefore, Ld. Advocate for the Respondent submits for rejection of the application praying for Interim relief u/s 23 of P.W.D.V. Act.

Perused the D.I.R. kept in the record. From D.I.R., it appears that protection officer has done hearing with the AP and from the perusal of the petition as well as the DIR it appears before the Court that at present the petitioner resides at her paternal house, i.e at 2 no. Mahaprabhupara, Ranaghat, Nadia.

Now, during hearing, it has been submitted that the house in question is of the Parent in law of the AP. Previously Hon'ble Apex Court in **S.R.Batra -Vs- Taruna Batra (2007)3 SCC 169.** has held that a household in which the Aggrieved person's husband has neither any ownership nor any interest of any kind, can not be construed as a shared household within the meaning of clause (s) of section 2 of PWDV Act.

Overruling its own decision in S.R. Batra (Supra) the Apex Court in ***Satish Chander Ahuja v Sneha Ahuja (AIR ONLINE 2020 SC 784)*** reinterpreted the term 'shared household' under Section 2(s) of the DV Act. Siding with the respondent, the Court held that:

- "The definition of the term 'shared household' is exhaustive and not enumerative.
- For a property to be considered as a 'shared household', it has to be proved that it is either owned/co-owned or rented by a 'respondent' in a complaint under the DV Act and that the aggrieved person has resided in the said house at any stage of her domestic relationship.
- The aggrieved person is not required to own or rent the premises, either by themselves or jointly with the family.
- A 'shared household' is also one that may also belong to a joint family of which the aggrieved person is a member irrespective of whether they have any right, title or interest in the shared household"

AP has prayed for interim relief u/s 18/19 of PWDV Act. The AP had not adduced any document wherefrom prima facie it can be ascertained that the case scheduled property is the matrimonial house of the AP allegedly owned by the Respondent no. 1 and neither the AP had adduced any material prima facie to prove that since marriage she had ever resided there as share household. Moreover, the AP had prayed for protection of her possession in the shared household whereas she had herself stated that she had driven out from her matrimonial house on 08.05.2024 and thereafter not mentioned that when her such possession at the shared household had been restored. There is allegation and

counter allegation by and against both side in this case and if at this stage without adducing any evidence any residence order is being passed, then the same will arise multiplicity of proceedings and increase number of litigation pending between the parties to this case.

Considering all, this court is of the view that consideration of evidence which will be adduced by both parties to this case is necessary before passing any appropriate order in this case relating to the interim residence order.

Hence, prayer for Interim relief is rejected at this stage.

The ad interim order passed by this Court vide order dated 29.06.2024 thus stands vacated.

Fix 14.10.2025 for evidence by the AP.

Dictated & Corrected

Sd/-

Judicial Magistrate 2nd Court
Ranaghat, Nadia.

Sd/-

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Ranaghat, Nadia.
JO code- WB01493