

Order dated 09.07.2026

Today is fixed for hearing, W/O and asset and Vakalatnama.

OP no.2 to 6 had filed Vakalatnama and also filed a petition for expunging the name of OP no. 3 to OP no. 6 from the record and filed W/O against the petition. Let the same be kept with the record.

Now the record is taken up for hearing of petition filed by the respondent no 3 to 6 for expunging their name from the case record.

Petitioner is present before the Court filing hajira.

The expunge petition is taken up for hearing.

Heard both sides in full.

Perused the petition filed by the respondent no. 3 to 6 and materials on record.

The respondents no. 3 to 6 filed the petition of striking out their name on the ground that respondent no. 3 and 5 are the married sister in laws of the petitioner and respondents no. 4 and 6 are their husband and they do not reside together with the aggrieved person at the shared household and prayed for striking out of the name of the respondent no. 3 to 6 from the record.

The aggrieved party had not filed any WO and had submitted that respondent no. 3 to 6 used to visit the house of the AP and also used to provoke the other respondents for causing domestic violence upon AP and thus prayed for dismissal of the instant petition.

During hearing Ld advocate for the respondent no. 3 to 6 submitted that the aggrieved person does not have any domestic relation with the respondents no. 4 to 6, as they have never resided together at the shared household since 2005 and 2010 respectively, except the occasional visits of the respondents. Ld advocate for the aggrieved party raised strong objection and contended that the respondents used to visit the shared household and at that time committed domestic violence upon her.

During hearing the petitioner had also admitted the fact that respondent no. 3 got married in the year of 2005 and respondent no 5 got married in the year of 2010 and they reside their respective matrimonial house.

Section 2(q) in The Protection of Women from Domestic Violence Act, 2005 defines the term Respondent. Here in this Act, respondent means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act. *Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.*

To understand what, precisely was at issue, it is also important to set out the definitions of “aggrieved person” and “domestic relationship”. Section 2(a) defined an “aggrieved person” to mean “*any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent.*” Section 2(f) defined domestic relationship as “*a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.*”

The effect of Section 2(q), therefore, was that insofar as a domestic relationship was concerned, an aggrieved woman could proceed only against *male* perpetrators of domestic violence. However, if the domestic relationship was a marriage or a relationship in the nature of a marriage, the aggrieved woman could file complaints against the relative of her husband/male partner. It is important to note that it is, by now, settled law, that under the proviso to Section 2(q), women could be respondents.

The D.V. Act provides relief to an aggrieved woman who is subjected to “domestic violence.” The “aggrieved person” has been defined by Section 2(a) to mean any woman who is, or has been, in a domestic relationship with the Respondent, and alleges to have been subjected to any act of domestic violence.

Section 2(f) defines “domestic relationship” to include a relationship between two persons who live, or have at any point of time lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption, or are family members living together as a joint family.

The next definition, which is relevant to be noticed is Section 2(s), which defines shared household. Shared household is defined in following words:- “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.

From the conjoint reading of the above mentioned provision it can be stated that for the purpose of treating a person as a respondent she should have lived in the shared house of the AP maintaining a domestic relationship. In this case the AP had not mentioned in the petition as to whether the Op no. 3 to 6 used to reside at the shared household as defined under section 2(s) of PWDV act along with the AP at the time of the cause of action of the instant case. Moreover, in the cause title of the petition, the petitioner had mentioned the address of Respondent no. 3 to Respondent no. 6 separate than her matrimonial shared household. Thus it can be assumed that the petitioner herself admits the fact that respondents no. 3 to 6 do not reside at the shared household and neither has a domestic relationship as envisaged in the Act.

On perusal, I find the aggrieved person brought allegations of domestic violence against her matrimonial relatives and had not made any specific allegation of domestic violence against the respondent no. 3 to 6. The aggrieved party only alleged that said respondent used to taunt and tease her. Moreover, the AP had not mentioned anything about the alleged torture inflicted upon her by the respondent no.3 to 6 in front of the Protection officer which can be found from perusal of the DIR submitted by the protection officer. But I do not find any direct allegation of torture against the petitioner/ respondent no. 3 to 6 in the application u/s 12 of PWDV Act of the aggrieved party.

Considering the above discussion, I am inclined to expunge the names of respondent no. 3 to respondent no. 6 from this case.

Hence, it is

ORDERED

That the petition dated 09.07.2026 is considered and allowed on contest.

The respondent no. 3 to respondent no.6 are expunged from this case.

Later,

Now the record is taken up for hearing of petition u/s 23(1) of PWDV Act.

Heard both sides in full.

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.

Both the sides had submitted certain copies of documents by the way of firisti and let those documents be kept with the record.

The fact of the case of the Aggrieved person in brief is that the respondent no. 1 is the father in law of the AP who had already died and respondent no. 2 is the mother in law of the petitioner. Since the marriage of the petitioner in the year of 2002, the petitioner resides at her matrimonial house situated at Bora, Mamudpur, Shibdaspur and out of the said wedlock one male child took birth and since marriage the OP used to inflict torture upon her by several ways. The OP used to threat her to oust her from her matrimonial house and on several occasion had ousted her from her matrimonial 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.

Respondents have filed a written objection and denied all allegations against them made by the Aggrieved person and stated that the AP never kept any cordial relation with the respondent no. 1 and 2 and also used to misbehave with them. The respondents also alleged that the petitioner has an intention to grab the joint property and after that respondent no. 1 had already gifted another property to his son, ie the husband of the petitioner and they had also lodged cases against the petitioner and she is already residing

at her respective share. 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 matrimonial house.

Thus, keeping in view the benevolent nature of the Act, the provisions under the act should be interpreted liberally. Unless the contrary is shown by the respondent, the provision made in favour of the women will be interpreted in their favour. Since the burden upon the victim of domestic violence is to show by way of an affidavit that she was subjected to domestic violence, the Court would pass the order at the ad interim stage which appears to be justified and necessary.

In this case, the documents submitted by the petitioner it appears that the petitioner had already obtained one injunction order against the respondents so that they could not be dispossessed from the shared household of the petitioner and as the said order passed by competent Court is already in force therefore at this stage the possession of the petitioner appears to be safe in respect of the shared household. Moreover, she had prayed for protection of her possession in respect of a specific portion of property in the shared household and the same cannot be granted by this Court without adducing evidence. 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.

Accordingly, the prayer under section 23(1) is considered and allowed in part in respect of protection order only as the other relief prayed by the aggrieved person are to be decided after hearing the side of the respondents. The respondents are directed not to do any kind of domestic violence towards the petitioner and her son in any manner whatsoever.

The officer-in-charge of Shibdaspur Police Station is hereby directed to provide all necessary legal assistance to the petitioner so that the order passed herein be implemented by the respondents.

Let a free copy of the order be given to the petitioner, respondents and I/C of concerned P.S. free of cost for compliance.

Fix 23.12.2026 for evidence by the AP.

Dictated & Corrected

Judicial Magistrate 2nd Court
Barrackpore, North 24 Parganas.

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Barrackpore, North 24 Parganas
JO code- WB01493