

Aggrieved wife's right of residence in a 'shared household': 10 things you need to know

A landmark judgement by the Supreme Court that will have an indelible impact on the jurisprudence surrounding "The Protection of Women from Domestic Violence Act, 2005"

By Sunil Tyagi

Source: Moneycontrol.com

Aggrieved wife's right of residence in a 'shared household': 10 things you need to know

The Supreme Court had delivered a landmark judgement in the case of Satish Chander Ahuja vs Sneha Ahuja wherein it was held that an estranged wife can claim a right to reside in a household belonging to the husband's relatives. This judgement overrules the earlier precedent of the Supreme Court as laid down in SR Batra vs Taruna Batra and will have an indelible impact on the jurisprudence surrounding "The Protection of Women From Domestic Violence Act, 2005" (hereinafter referred to as 'Act').

Here are some questions related to the judgment.

What is a 'shared household' wherein right of residence may be claimed by an estranged wife?

In simple words, a shared household is a household where an estranged wife has lived at any stage in a domestic relationship. Such a household may be owned or rented jointly between the estranged wife and her husband. It also includes a household that is owned or rented by either one of the disputing couple. A shared household may belong to the joint family of which the husband is a member, irrespective of whether the husband or the estranged wife have any right, title or interest in the said household.

What was the position of an aggrieved wife's right to residence in a shared household prior to the recent Supreme Court Judgement?

As per the judgment of the Supreme Court in Taruna Batra's case, the aggrieved wife's right to residence in a shared household was limited to properties that belonged to her husband or joint family property in which the husband was a member or had a share. Therefore, it was held that the estranged wife could not claim the right to reside in a house that belonged to her mother-in-law or father-in-law, as the case may be.

What is the opinion of the Supreme Court in its ruling with respect to an estranged wife's claim to reside in a shared household?

The estranged wife's right to claim residence in a shared household has been enlarged by virtue of the recent judgement of the Supreme Court. In the recent ruling, it has been held that an estranged wife is entitled to the right of residence in a shared household, irrespective of her having any legal interest in the same or not. This includes the right to reside in a shared household belonging to the husband's relatives as well.

What are the preliminary conditions that need to be fulfilled by the aggrieved wife in order to claim the right to residence in a shared household?

There are certain preliminary conditions that need to be fulfilled as contemplated by the Supreme Court in the recent judgement.

(i) The aggrieved wife has to satisfy by providing evidence that domestic violence has taken place. Only once the court is convinced that domestic violence has taken place can the above-mentioned relief be granted.

(ii) The aggrieved wife has to live or have lived at any stage in the household in question. In cases where she was excluded from the premises or temporarily absent, such considerations would not deny her protection under the Act.

Would a shared household include any and all places the estranged wife lives or has lived at any stage in a domestic relationship?

A shared household will not include any and all places the estranged wife lives or has lived at any stage in a domestic relationship. It would refer to places where she lives or has lived with some degree of permanency. A mere fleeting or

casual living at different places shall not make it a shared household. The intention of the parties and the nature of the living, including the nature of the household, have to be considered.

If the ownership of the house is in the name of the mother-in-law or father-in-law then would it have any implications on the daughter-in-law's right to claim residence in the said house?

The ownership of the house may be in the name of the mother-in-law or father-in-law but it will not impact the right of a daughter-in-law to claim residence in such a house. The definition of a shared household emphasises on the establishment of a domestic relationship and investigation into the ownership of the said house has been deemed unnecessary by the Hon'ble Supreme Court.

Can the right to residence in a shared household be enforced only against the husband with whom the estranged wife has been in a domestic relationship with?

The right to residence in a shared household can be enforced against the husband as well as the mother-in-law, father-in-law and/ or any other relative of the husband as the case may be if the aggrieved wife has been in a domestic relationship with such persons.

Will the right to reside in a shared household conferred by the recent judgement and the Act, be applicable only to estranged wives/ daughter-in-law?

The right to reside in a shared household is applicable to every woman in a domestic relationship, whether they are related by blood, marriage or through a relationship in the nature of marriage, adoption or are living together as part of a joint family. The right to reside can be claimed by such persons whether or not they have any right, title or beneficial interest in the said house.

Can an aggrieved wife claim an alternate accommodation under the provisions of the Act?

The competent court may provide for alternate accommodation or order for payment of rent to an aggrieved wife as contemplated under the provisions of the Act. The Supreme Court in its recent judgement has opined that in order to claim such right to alternate accommodation or payment of rent, the husband would have to be a party to the petition as the right to maintenance can only be claimed from the husband.

Is the right to residence granted to women under the Act an indefeasible right of residence?

The right to residence is not an indefeasible right of residence in a shared household especially when the daughter-in-law is pitted against an aged father-in-law and mother-in-law. As extrapolated in the recent Supreme Court judgement, senior citizens are also entitled to live peacefully, not where there is marital discord between their son and daughter-in-law. Therefore, the Supreme Court has held that the court has to balance the rights of both parties.