

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MRS. JUSTICE M.R.ANITHA

THURSDAY, THE 18TH DAY OF MARCH 2021 / 27TH PHALGUNA, 1942

Crl.Rev.Pet.No.3079 OF 2009

AGAINST THE ORDER/JUDGMENT IN CMP 344/2007 DATED 14-05-2007 OF
JUDICIAL MAGISTRATE OF FIRST CLASS ,CHANGANACHERRY

AGAINST THE ORDER/JUDGMENT IN CRA 441/2007 DATED 27-04-2009 OF
ADDITIONAL SESSIONS COURT (SPECIAL COURT), KOTTAYAM

REVISION PETITIONER:

MR.RAMACHANDRA WARRIOR
AGED 46 YEARS
RESIDING AT SUBHADRA NIVAS, PUZHAVATHU KARA,,
CHENGANACHERY TALUK, KOTTAYAM DISTRICT, NOW, RESIDING
AT ROOM NO.4, VYAPARI BHAVAN,, KURAVILANGADU P.O.,
KURAVILANGADU.

BY ADV. SMT.C.G.PREETHA

RESPONDENTS :

- 1 JAYASREE
W/O.RAMACHANDRA WARRIOR,AGED 42 YEARS, RESDING AT
SUBHADRA NIVAS,, PUZHAVATHU KARA, CHENGANACHERY
TALUK,, KOTTAYAM DISTRICT.
- 2 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,, HIGH COURT OF
KERALA, ERNAKULAM.

R1 BY ADV. SRI.SHAJI THOMAS PORKKATTIL
R1 BY ADV. SRI.T.V.VINU
SENIOR PUBLIC PROSECUTOR SRI.S.U.NAZAR
ADV.SRI.P.VIJAYABHANU [SR.], AMICUS CURIAE
ADV.SRI.S. SREEKUMAR [SR.], AMICUS CURIAE

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
10-03-2021, THE COURT ON 18-03-2021 PASSED THE FOLLOWING:

CR

K. Vinod Chandran & M.R. Anitha, JJ.

Cr1.R P 3079 of 2009

Dated, this the 18th day of March, 2021

O R D E R

Vinod Chandran, J.

The above revision is placed before us by virtue of a reference order made by a Single Judge finding conflict in the decisions rendered by two other Single Judges in Sulaiman Kunju v. Nabeesa Beevi [2015 (3) KHC 5] and Bipin v. Meera [2016(5)KHC 367]. The apparent conflict is with respect to the rights of a divorced woman to invoke the provisions of Protection of Women from Domestic Violence Act, 2005 ('DV Act' for brevity). In the course of hearing, from facts, we perceive a further question, which is as to whether the order of residence obtained by a wife in a shared household would seize automatically on a divorce being granted subsequently. This question arises both from the facts of this case and Sulaiman Kunju. In Bipin there was no order of residence sought by the divorced wife, but the declaration was insofar as a divorced woman being entitled to invoke the provisions of DV Act as against her husband. The declaration if applicable to the other reliefs that could be obtained under the DV Act, would equally apply to an

order of residence sought under S.19, is the argument of the respondent herein.

2. Considering the complexity of the questions raised and its ramifications, particularly in seeking an order of residence, we requested Sri.S Sreekumar and Sri. P.Vijaya Bhanu Senior Counsels who were present in Court at the time of the earlier hearing to assist us. Smt. C.G Preetha appeared for the appellant/husband and Sri. Shaji Thomas appeared for the respondent/wife. Going by the dictum of Kallara Sukumaran v. Union of India [1987 (1) KLT 226] the reference being of the case itself, we need to answer the questions posed first and then decide the revision itself.

3. Smt. C G Preetha argued for sustaining the dictum in Sulaiman Kunju. If a divorced wife is allowed to reside in the divorced husband's home, even if it be a shared household when the marriage subsisted, it could lead to absurd results. It would almost amount to the Magistrates Court interfering with the order of divorce which in this case has been passed by the High Court itself as is evident from Annexure VIII produced in the revision; as held in Inderjit Singh Grewal v. State of Punjab [2011(12) 588]. The definition of 'aggrieved person' and 'domestic relationship' as available in the DV Act clearly indicates that only a person having subsisting domestic relationship can invoke the provisions of the Act. Sri Shaji Thomas submitted that Annexure VIII order

of divorce could not be challenged due to the penurious circumstances in which the respondent is living, along with her daughter. It is pointed out that the definition of 'domestic relationship' takes in every relationship of consanguinity, marriage, a relationship in the nature of marriage, adoption and members of a joint family. If Sulaiman Kunju is upheld it would be absurd insofar as a women having relationship in the nature of marriage, will perpetually have the right to invoke the provisions of the DV Act, while one legally married would be denied that remedy by reason of a divorce granted. The legislative intention is otherwise and the decisions of the Hon'ble Supreme Court and the High Courts lean in favour of the divorced wife, is the argument.

4. Sri. Vijaya Bhanu specifically referred to S.17 by which the right to reside in a shared household is conferred on 'every woman in a domestic relationship'. This requires a subsisting relationship as distinguished from the definition of 'aggrieved person'. The employment of the words 'is or has been' as used in the definition clause of 'aggrieved person' is absent in S.17; which confers the right to reside. S.19 also speaks of restraining the respondent from dispossession (a), directing him to remove himself from the shared household (b) and restraining the respondent or his relatives from entering any portion of the shared household in which the aggrieved person resides (c). S.19 does not enable a

divorced wife who is no more living in the shared household to be put back in possession. It is also pointed out that S.25 provides the respondent with a remedy to apply to the Magistrate for discharge on grounds of change in circumstances. Even this Court, in this revision could take 'cautious cognizance' of subsequent changes of fact and law and mould the relief and proceed beyond the rights and obligations of the parties as obtained at the commencement of the *lis*, as held in Ramesh Kumar v. Kesho Ram 1992 Supp (2) SCC 623. Sri.Sreekumar refers to Inderjit Grewal to further buttress the argument and points out that S.17(2) only bars an eviction of an aggrieved person other than in accordance with law.

5. Sulaiman Kunju was a case in which the wife made an application under S.12 to restrain the husband from causing any obstruction to the peaceful life of herself and her children in the shared household. The facts as discernible from the narration indicates the application under S.12 having been filed in 2009 and the same having been allowed with additional monetary relief of maintenance. Subsequent to that a divorce petition filed by the husband, also in the year 2009, was allowed by the Family Court in 2012, against which no appeal was filed by the wife. Looking at the definition of 'aggrieved person' and 'domestic relationship' under S.2(a) and (f) of the Act it was held that the latter definition has two limbs. For finding 'domestic relationship' between two,

firstly they should be persons who live or have at any point of time lived together in a shared household and secondly they should be related by one of the forms of relationship enumerated in the definition clause. It was declared that the applicant seeking residence order has to be in a subsisting relationship and in the event of severance of such relationship by virtue of a decree of divorce issued by a competent Court, she would be excluded from the definition of aggrieved person.

6. Bipin again considered the question whether the subsistence of a matrimonial relationship is the *sine qua non* for seeking relief under the DV Act. There the spouses, after a child was born to them, divorced under S.13B of the Hindu Marriage Act 1955 [HMA], on mutual consent. Later the wife approached the Magistrates Court under S's.18 and 20 seeking a protection order, return of gold ornaments, passport and an injunction from operating the bank locker. The contention that a divorced wife cannot seek relief under the Act was repelled relying on Priya v. Shibu [2008(3)KHC 125] and Juveriya Abdul Majeed Patni v. Atif Iqbal [2014(10)SCC 736]. The learned Judge observed that though it is a paradox to permit a divorced woman to invoke the provisions of the DV Act; instances where the need arise would not be rare, especially relating to obligations arising from the past matrimonial relationship like maintenance, custody of children, liability to return amounts or assets received from the

wife, operation of bank accounts and personal safety of wife and children born in the wedlock. While Priya upheld the order passed under S.19(8) and S.20, Bipin extended it to S.18. In Priya the contention raised to non-suit the divorced wife was that the words employed in the definition clause of 'aggrieved person', 'is' or 'has been', is in the present perfect continuous tense. The learned Judge held that this only indicates the past relationship and there is no requirement for the relationship to be continuing on the date of application.

7. Juveriya Abdul Majeed held that a subsequent decree of divorce will not absolve the liability of the husband under the DV Act for an act of domestic violence committed earlier. The wife sought protection under S.18, monetary relief under S.20, custody order under S.21, and compensation under S.22. Therein the husband asserted a divorce in accordance with the Muslim Personal Law, for which no evidence was placed before Court. It was authoritatively declared that even if it is presumed that there was a divorce, the claim of the wife with respect to the obligations arising under the past relationship will not stand effaced; to enforce which the provisions of the DV Act could be invoked. In fact the learned Judges distinguished the decision in Inderjit Singh Grewal where an identical issue on different facts was considered. Therein the spouses had applied under S.13B of the HMA and after the statutory period their statements were

recorded based on which the marriage stood dissolved. Later, contention was raised by the wife that the decree obtained was a sham, insofar as the spouses lived together even after the decree of divorce. The complaint filed before the Police was referred, finding no case made out against the divorced husband. The divorced wife invoked the provisions of the DV Act and also filed a civil suit for declaration of the decree of divorce as null and void; having been obtained by fraud. The Hon'ble Supreme Court found that the respondent wife had been consistently before the Family Court, admitted to the marriage having broken down and there was enough evidence that they were living separately after the divorce, with the custody of the only child conceded to the husband. It was held that the Magistrates Court, under the DV Act cannot sit in appeal from the decree of divorce. Allowing the appeal the proceedings before the Magistrate were found to be incompetent, but leaving open the divorced wife's remedy before the civil court.

8. Having gone through the precedents of the Hon'ble Supreme Court, we pertinently notice that in none of these decisions the question arose, as to whether a divorced wife would be entitled to seek a residence order so as to continue living in the shared household, which was shared at the time of the subsisting marital relationship ie, when the relationship was cordial or rather it had not broken down completely. We specifically

observe so since rare would be cases where the spouses approach the Family Court to file and contest a divorce petition, when they are living together in the same house. But we are conscious that there could be such instances also since human conduct can never be put in a strait jacket. If after divorce the wife is allowed to invoke the right conferred under S.17 then it could lead to absurd results. But we have to keep in mind that the Hon'ble Supreme Court had time and again held that a divorced wife could invoke the provisions of the DV Act for the purpose of enforcing obligations arising from the past relationship like custody, maintenance and other monetary reliefs, compensation and even orders ensuring personal safety of the wife and children. In that context the definition of 'aggrieved person' cannot be given a restrictive meaning only in cases where a residence order is sought under S.19. The definition clause of 'aggrieved person', as per the dictum of the Hon'ble Supreme Court includes a divorced woman and Sulaiman Kunju to that extent is not good law.

9. In this context we refer to Satish Chander Ahooja v. Sneha Ahooja 2021(1) SCC 414 wherein a three Judge Bench of the Hon'ble Supreme Court examined the Statement of Objects and Reasons of the DV Act and opined that the enactment was a mile stone for protection of women in the country. The learned Judges noticed that domestic violence in this country is rampant and often the

woman resigns to her fate, suffering violence and discrimination, while discharging the different roles she plays in a family. Often the women are cowed down, for reason of the patriarchal society still demanding her to be subservient to the man coupled with the social stigma attached to any measure of retaliation. The Statement of Objects and Reasons, it was observed, refer to three International Conventions recommending participating States to take measures including legislation to protect women against violence; even that occurring within the family.

10. The learned Judges referred to Capt.Ramesh Chander Kaushal v. Veena Kaushal [1978 (4) SCC 70] and quoted the following paragraph from the decision authored by Krishna Iyer. J, on the objectives of enacting S.125 Cr.P.C:

9. This provision is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39. We have no doubt that sections of statutes calling for construction by courts are not petrified print but vibrant words with social functions to fulfil. The brooding presence of the constitutional empathy for the weaker sections like women and children must inform interpretation if it has to have social relevance. So viewed, it is possible to be

selective in picking out that interpretation out of two alternatives which advance the cause – the cause of the derelicts.

11. The interpretation of the provisions of the DV Act also should advance the cause it seeks to serve; that of destitute women subjected to domestic violence. The DV Act attempts to fulfill an amalgamation of civil rights available to an aggrieved woman, with the intention to protect women against violence of all kind, including that occurring within the family, especially in the context of the civil laws having not addressed the phenomena in its entirety (Kunapareddy v. Kunapareddy Swarnakumari [2016(11)SCC 774]). This overwhelming social function which the Act attempts to fulfill restrains us from denying a divorced woman the right to approach a Magistrate under the DV Act. Especially when the remedy under the Civil Laws, either before the civil Court or the Family Court, for reason of the cumbersome procedure and the delay in realizing the cause, would frustrate the very life of a woman deserted by her husband; even if it is by permissible legal modes.

12. Having found, on the strength of binding precedents that even a divorced woman could avail the remedy under the DV Act, we are still faced with the question of whether a divorced woman can seek an order of residence under S.19, as per the right conferred under S.17. The reliefs available under the DV Act are

protection orders under S.18, residence orders under S.19, monetary reliefs under S.20, custody orders under S.21, compensation orders under S.22 as also interim and *ex parte* orders under S.23. As has been held by the Hon'ble Supreme Court in Kunapareddy the remedies provided under the DV Act enable realization of a number of civil rights available to a distressed woman. Pertinently with respect to the right of residence there is specific conferment of that right under the DV Act itself by S.17. As we noticed, the precedents we discussed above did not specifically deal with the question of a divorced woman enforcing the right of residence under S.17. We have not discussed the numerous decisions of the various High Courts produced before us, because most of them, again, are on the aspect of whether a divorced woman would fall under the definition of 'aggrieved person'. We have come across two decisions of Single Judges of the High Courts of Bombay and Chhattisgarh High Courts, (Bharati Naik v. Ravi Ramnath Halamkar and another[2011 CriLJ 3572] and Ajay Kumar Reddy and others v. State of Chhattisgarh and another [2018 CriLJ 1155]), where the specific question of a residence order claimed by a divorced wife came to be considered. In both the said cases the divorced wife was living in the shared household, when the Magistrates Court was approached, under the DV Act.

13. As we noticed, the right to reside in a shared household is specifically conferred under S.17 of

the DV Act, which is a *non obstante* provision and reads as under:

"17. Right to reside in a shared household-

(1)Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law."

We discern a perceptive legislative exercise having gone into the design of the specific provision. As per sub-section (1), the right to reside in the shared household has been conferred on 'every woman in a domestic relationship'. There is substantial variation insofar as the words 'has been' 'had' or 'have' not having been used in the above provision and the right conferred is on a woman in a subsisting relationship. However, sub-section (2) of S.17 and S.19 speaks again of 'aggrieved person', which takes in a divorced wife. A divorced wife continuing in a shared household would be entitled to seek the remedy under S.19 and can be evicted therefrom only in accordance with law (S.17(2)). The order passed under S.19 would be subject to any proceedings in accordance with law. This takes in circumstances in which the divorced woman, who is

at the time of the divorce or thereafter, residing in the shared household itself being enabled to approach the Magistrate under the DV Act. Insofar as a divorced wife, who is no longer living in the shared household, she cannot be put back in possession. The perceptive legislative exercise is in so far as conferring a woman in a domestic relationship, the right of residence in the shared household, while a divorced wife who is continuing in the shared household at the time of divorce though entitled to seek for a residence order under S.19, can continue only till she is evicted by due process of law.

14. In this context, we also notice that the absurdity pointed out by the learned Counsel for the petitioner, insofar as a divorced wife being allowed to continue in the house of the divorced husband can be avoided by resorting to Clause (f) of S.19, which enables the Court to direct the respondent to secure the same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same. This comes within the scope of maintenance entitled to a distressed woman. In addition, the Court will also be empowered to grant compensation as provided under S.22 and continued maintenance, which even a divorced wife who remains unmarried, is entitled under S.125, for which S.20 of the DV Act can be invoked. Thus the legislation advances the cause of destitute and derelict women and ensures that they are not left to the

vagaries of life only for reason of a divorce obtained by the husband.

15. Now we come to the second question, which has to be looked at on the particular facts as available in the instant case as also Sulaiman Kunju. In both the instances, the complainant was in a domestic relationship as a wife at the time the application was filed before the Magistrate's Court under the DV Act. In the present case an order granting residence was passed by the Magistrate and the same confirmed in appeal by the impugned orders dated 14.05.2007 and 27.04.2009. Annexure-VIII judgment of this Court in Mat.Appeal No.136 of 2008, dissolving the marriage at the instance of the petitioner-husband, came to be passed on 22.08.2017, long after the residence order was passed. Hence the impugned orders have to be tested as on the date of application. We have already noticed the decision of the Hon'ble Supreme Court in Ramesh Kumar, wherein the Hon'ble Supreme Court permitted 'cautious cognizance' of the subsequent changes of law and fact to mould the relief; travelling beyond the rights and obligations of the parties as obtained at the commencement of the *lis*. We are of the opinion that the present case is not one, where such cognizance can be taken, especially when there is available a remedy to the petitioner-divorced husband under S.25(2), which is extracted here under:

"25. Duration and alteration of orders-

(1)x x x (2) If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate."

Hence the respondent-husband is entitled to approach the Magistrate Court for alteration, modification or revocation of the order passed on the ground that there is a change in circumstances.

16. Now we come to the merits of the matter. The complainant approached the Magistrate and there is a report filed by the Protection Officer also. The marriage of the parties was solemnized on 01.04.1998 and a daughter was born in the wedlock. The wife complained of constant ill-treatment at the hands of the husband and on 09.01.2007 she was evicted from the matrimonial home. The husband filed objection contesting the marriage, but admitting to have lived together for four days and denying the parentage of the child born. It was also alleged that they were residing separate for almost 9 years and the present residence of the husband named 'Subhadra Nivas' was not the matrimonial home or the shared household.

17. The learned Magistrate found that 'Ananthapurath Warriam' was the shared household of the

parties and there was clear admission of the respondent that there was a form of marriage with exchange of garlands and tying of the Thali in front of a lighted lamp, in the presence of relatives of both. It was also noticed that in any event domestic relationship as defined in S.2(f) takes in a relationship in the nature of marriage, which, definitely, the parties had gone through. The contention of the wife was that due to constant ill-treatment for reason of doubts raised on her chastity, she had to leave the matrimonial home with the child and approach the Family Court with a maintenance case. The respondent then came for rapprochement and took back the petitioner to her matrimonial home and their child was enrolled at a nearby School. The domestic violence continued and on 09.01.2007 again the wife and child were evicted from the house and they had to take shelter in a neighbouring house of an aged couple. The husband had made wild allegations of the wife having very many relationships outside the marriage and even alleged that the present house in which she was staying was rented out by her paramours. From the facts and circumstances pleaded, the learned Magistrate accepted the grounds raised by the wife. None of the allegations raised by the husband stood substantiated and even Ext.D1, Building Permit produced by the husband was found to be for a reconstruction or alteration. It was found that the subject house was the shared household of the parties and

the domestic violence was specifically spoken of by the wife. The wife alleged that she was ill-treated and her chastity was questioned and even the daughter's parentage was disowned. Finding domestic violence having been proved, the learned Magistrate passed an order under S.18 prohibiting the respondent-husband from committing any act of domestic violence and also restrained dispossession of the wife from the shared household, under S.19 of the DV Act. The Appellate Court concurred with the judgment of the Magistrate.

18. The learned Counsel for the husband, on the merits of the case, argued that the finding as to shared household is incorrect. The Courts below did not properly appreciate the report of the Protection Officer, wherein it was reported that the allegations of domestic violence are suspicious in nature. It was also argued that the pleadings in the complaint were vague and the additional evidence produced as Annexure-III to VII were ignored by the lower courts. Per contra it was pointed out that the revision petitioner had no consistent case before the Magistrate's Court and the order as affirmed by the Appellate Court ought to be sustained.

19. We agree with the respondent-wife that there was no consistent case for the revision petitioner-husband before the lower courts. The marriage was disputed and it was also alleged that the couple stayed together only for four days but, obviously a child was born in the wedlock.

Before Court, the husband, who was examined as DW1, spoke of a ceremony akin to marriage having been conducted and relatives of both parties having attended the same. We are convinced that there was a valid marriage between the parties, which fact is further fortified by the petition filed before the Family Court by the husband for divorce, which has culminated in Annexure-VIII judgment, dissolving the marriage at the instance of the husband.

20. The petitioner has relied on Annexure-III to VII to contend that the subject house was not a shared household. Annexure III is the voter's list and Annexure VI the husbands Voters ID. Merely because the voters list does not disclose the name of the wife along with the husband, it is not established that the wife was not living along with the husband, since it is not compulsory that every citizen should enroll themselves in the voter's list. Annexure-IV is an application for Building Permit, which speaks of a new construction having been intended and Annexure-V is the Completion Certificate issued by the Municipality. The Building Permit as such has not been produced and from Annexure-V it is not clear as to whether the construction was a new one or there was only alteration. Be that as it may, the husband having admitted cohabitation of at least four days; does not specify the building in which they were residing together. As rightly found by the lower courts, 'Ananthapurath Warriam', in all probability, is the ancestral house of the husband and

there is no such residential building pointed out by the husband as distinct from the newly constructed house named 'Subhadra Nivas'. Annexure-VII puts to peril the contention of the husband, since it shows three residences having the name 'Ananthapurath Warriam'. Obviously, every family member takes the family (Tharavadu) name for their individual residences as is the custom in the State. If at all a new building was constructed, Annexure-VII only indicates that it has been named 'Subhadra Nivas', probably to defeat the claim made by the wife.

21. The next contention is with respect to the report of the Protection Officer, which we have looked into from the records. We see from the report that under Serial No.4 'Incidents of domestic violence' it is written 'suspicious nature'. As made out by the Counsel for the respondent, this is not a report of the allegation raised of domestic violence by the wife, being suspicious. What it indicates is that the domestic violence alleged is for reason of the 'suspicious nature' of the husband. This is more than evident from the objection filed by the husband, which questions the wife's' chastity at every point and even extends to disowning the parentage of the daughter born in the wed lock. There is nothing in the report of the Protection Officer to disbelieve the version of the wife. We are not satisfied that the impugned orders are in any manner illegal or improper and consideration of Annexure-II to VII would not have resulted in a different

result in the complaint filed under Section 12 of the DV Act.

22. Looking at the facts and the law as discussed above, we are of the opinion that the respondent was entitled to file the application before the Magistrate's Court as she was in a domestic relationship with the respondent at that point of time. We have also held that on the facts and circumstances the order passed against the revision petitioner is perfectly in order. We do not find any reason to interfere with the impugned orders considering the rights of the parties as obtaining at the time of initiation of the *lis*. As we noticed above, we find that the judgment in Sulaiman Kunju has not been correctly decided, wherein the facts were identical; of the wife having applied under the DV Act, when there was a subsisting domestic relationship. As we already noticed, we are not intending to take cognizance of the subsequent facts and circumstances, especially of the dissolution of marriage by Annexure-VIII; since there is ample remedy available for the revision petitioner as per the DV Act itself. Sub-section (2) of S.17 enables the respondent to seek for eviction in accordance with law. Like wise, sub-section (2) of S.25 enables the revision petitioner-respondent to approach the Magistrate on satisfactory grounds of change in circumstances requiring alteration, modification or revocation of any order passed under the DV Act.

23. On the above reasoning, we answer the reference as follows:

- (i) A divorced wife would not be entitled to the right of residence conferred under S.17 under the Protection of Women from Domestic Violence Act, 2005, for reason of that right being available only to a woman in a domestic relationship.
- (ii) A divorced wife would be included under the definition 'aggrieved person'. A divorced wife occupying a shared household can be evicted only in accordance with law. A divorced wife can approach the Magistrate's Court for an order under S.19 if she is residing in the shared household. The residence orders passed in such cases, would be subject to any proceeding for eviction in accordance with law, initiated by the husband, as contemplated under S.17(2).
- (iii) There can be no order to put a divorced woman in possession of a shared household, from where she had separated long back, and the relief can only be of restraining dispossession.

24. Going by the above declaration, we find the application filed by the wife against the husband before the Family Court to be maintainable, since she was in a domestic relationship at the time the jurisdiction was invoked. We find the impugned orders to be perfectly legal and sustainable. We reserve the right of the revision

petitioner-husband to approach either the Civil Court as permitted under sub-section (2) of S.17 or the Magistrates Court, which passed the order, under sub-section (2) of S.25. If under S.25(2) any modification or revocation is caused, we make it clear that the Magistrate would be entitled to pass further orders on the application under S.12 for monetary relief including maintenance under S.125 of the Code of Criminal Procedure or compensation under S.22 of the DV Act.

We answer the question referred as above and dismiss the revision with the above reservations.

Sd/-
K.VINOD CHANDRAN
JUDGE

Sd/-
M.R.ANITHA
JUDGE

Jma/sp