

PROPERTY RIGHTS OF MARRIED WOMEN IN INDIA WHERE THE HUSBAND HAS NO OWNERSHIP

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Abstract

This paper examines the rights of women in property where the husband does not have ownership rights. In Indian society, many women reside in matrimonial homes owned by in-laws or joint families. When disputes arise, women often face eviction, matrimonial relationship problem and denial of shelter and if after divorce the women does not have a house to live in. This paper analyzes statutory provisions, especially the Protection of Women from Domestic Violence Act, 2005, some landmark cases of the supreme court (Satish chander Ahuja vs Sneha Ahuja 2020) and relevant judicial pronouncements that recognize a woman's right of residence. The paper also highlights the limitations of these rights and suggests reforms for better protection of women.

In this paper we will discuss the sharehouse and residential status of women with the help of SK Batra vs Taruna Batra 2006 civil appeal 5837 of 2006 supreme court and Prabha Tyagi vs Kamlesh Devi 2022 criminal appeal no 511 of 2022 supreme court.

Introduction: The property rights of women in India are recognized under various statutes and personal laws, including Hindu law, Muslim law, and other personal laws. The legal status of women with respect to holding and inheriting property varies across different religious communities. Property rights constitute an essential component of individual autonomy, economic security, and human dignity. In the Indian socio-legal context, marriage often leads to a woman residing in the matrimonial home, which is frequently owned not by the husband but by his parents, relatives, or the joint Hindu family. In such circumstances, the absence of proprietary interest of the husband raises complex legal issues concerning the rights of a married woman, particularly when matrimonial discord arises. Women are often denied residence or threatened with eviction on the ground that they have no legal right in property not owned by their husband.

by recognizing a woman's right to reside in a "shared household," irrespective of the title or ownership of the property. Under Indian property laws, a married woman does not acquire ownership rights in the property of her in-laws merely by virtue of marriage. Ownership rights are governed by personal laws and arise only through inheritance, gift, or transfer. However, recognizing the vulnerability of women to dispossession and domestic abuse, the Indian legal framework has evolved to provide protective rights aimed at securing shelter and dignity rather than ownership. The enactment of the Protection of Women from Domestic Violence Act, 2005 marked a significant development in property.

In many cases, the husband strategically alienates property in favour of his parents or other relatives so as to defeat the wife's potential claims over the property in the event of matrimonial breakdown.

This research paper seeks to critically analyze the rights of women in property where the husband has no ownership interest. It examines the statutory provisions, relevant judicial decisions, and the evolving legal interpretation of the concept of shared household. The study further identifies practical challenges in the enforcement of these rights and underscores the need for a balanced legal approach that protects women's right to residence while respecting established principles of property law.

So the Question is :What is the legal rights of the married women in India with respect to property in which the husband has no ownership? And ,

Can a women claim rights in property after divorce when her husband has no ownership interst in the property?

Yes, in both cases, a woman can claim the right to reside in the shared household under Section 17 of the Protection of Women from Domestic Violence Act, 2005, which deals with the right of residence. This section provides that every woman who is in a domestic relationship has the right to reside in the shared household, irrespective of whether she has any legal title, ownership, or beneficial interest in the property.

Section 17 further recognizes that a woman has the right to reside in the shared household even if the house is owned by her husband or by any of his relatives. The right of residence under this provision is independent of ownership rights, and its primary objective is to protect women from dispossession and homelessness. However, this right does not confer ownership of the property; it only ensures the woman's right to reside in the shared household.

Literature Review

The right to women to reside in the shared household has been given under the section 17 of "Protection of women from domestic violence act 2005" that is

- (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.

In simple words: This section provides that;

- Every woman has the right to live in the shared household.
- This right exists even if she has no ownership or legal title over the house.
- The husband, in-laws, or any other person cannot forcibly remove her from the shared household.

-A woman cannot be evicted from the shared household without an order of the court.

Shared household: The term ‘share household’ is defined under the section 2(s) of the DV Act 2005. That is –

“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.

In simple words – A shared household means the house where:

- A woman lives or has lived with her husband, or
- with the husband’s family(in-laws)after marriage.

The house can be: -Owned by the husband ‘s parents

- A rented house
- A joint family property.

In *S.R. Batra v. Taruna Batra* (2007), the Supreme Court adopted a narrow interpretation of the term “shared household,” limiting it to property owned or rented by the husband. This judgment was widely criticized by legal scholars for undermining the protective intent of the DV Act. Scholars argued that such an interpretation diluted women’s rights and reintroduced ownership-based restrictions that the Act sought to eliminate.

Subsequent academic commentary welcomed the corrective approach taken by the Supreme Court in *Satish Chander Ahuja v. Sneha Ahuja* (2020), where the Court overruled *Batra* and adopted a broader interpretation of shared household. Legal scholars such as Aparna Chandra have noted that this judgment realigned judicial interpretation with the constitutional values of equality and gender justice. The Court clarified that a woman’s right to residence is not dependent on ownership and can extend even to property owned by in-laws, provided it qualifies as a shared household.

In *Prabha Tyagi v. Kamlesh Devi* 2022, the Supreme Court held that to claim the right of residence in a shared household, the wife is not required to prove actual physical residence in the shared household; constructive residence is sufficient.

Conclusion

The examination of the property rights of married women in India, particularly in circumstances where the husband holds no proprietary interest in the property, reveals a decisive shift in Indian jurisprudence from rigid ownership-based doctrines to a more inclusive, rights-oriented framework grounded in social justice and constitutional morality. The law increasingly acknowledges that marriage should not render a woman vulnerable to homelessness or economic insecurity merely due to the absence of formal property ownership.

The Protection of Women from Domestic Violence Act, 2005, has emerged as a transformative statute in this regard. Through Sections 2(s) and 17, the Act deliberately detaches the right of residence from ownership, recognizing shelter as a fundamental requirement for dignity, safety, and survival. Judicial interpretations, particularly in *Satish Chander Ahuja v. Sneha Ahuja* and *Prabha Tyagi v. Kamlesh Devi*, have significantly expanded the scope of the concept of a “shared household,” thereby reinforcing the protective intent of the legislation and correcting earlier restrictive approaches that undermined women’s rights.

From a constitutional perspective, the recognition of residence rights aligns seamlessly with the guarantees of equality, non-discrimination, and the right to life with dignity under Articles 14, 15, and 21 of the Constitution of India. By situating housing security within the broader framework of fundamental rights, the judiciary has underscored the need to interpret family and property laws in a manner responsive to social realities, particularly the systemic disadvantages faced by married women.

Bibliography:

<https://www.sci.gov.in/>

<https://indiankanoon.org/>

https://www.indiacode.nic.in/bitstream/123456789/15436/1/protection_of_women_from_domestic_violence_act%2C_20

https://www.indiacode.nic.in/bitstream/123456789/15436/1/protection_of_women_from_domestic_violence_act%2C_2005.pdf

<https://www.ijllr.com/papers>

CASES:

Prabha Tyagi vs Kamlesh Devi 2022 –Criminal Appeal No -511of 2022 Supreme court.

S R Batra vs Taruna Batra 2006 – civil Appeal no – 5837of 2006SC

Satish chander Ahuja vs Sneha Ahuja –Civil Appeal no – 2483of 2020 and SLP(civil) no – 1048 of 2010