



**REVISITING THE BOUNDARIES OF SHARE HOUSEHOLD UNDER THE DV
ACT: CASE COMMENT ON SRINWATI MUKHERJI V. STATE OF
MAHARASHTRA & ANR (2025)**

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ABSTRACT

The Bombay High Court's decision in Srinwati Mukherji v. State of Maharashtra & Anr (2025) raises pivotal questions concerning the scope of the "shared household" under the Protection of Women from Domestic Violence Act, 2005 (DV Act). At the heart of the case lies the debate between the literal and purposive interpretation of statutory provisions meant to secure the residential right of women facing domestic abuse. This article critically analyses the decision, explores its doctrinal implications, and argues that the court missed an opportunity to reinforce the DV Act's social justice mandate by adopting an overly technical view of what constitutes a "shared household."

Keywords: Domestic Violence Act 2005, Shared Household, Constructive Residence, Joint Ownership.

INTRODUCTION

The Protection of Women from Domestic Violence Act, 2005, was designed as a socially beneficial legislation, intended to provide swift civil remedies to women facing abuse in a domestic relationship. Sections 17 and 19 of the act protect a woman's right to reside in the "shared household", a term defined under section 2(s). However, judicial interpretation of this term has often oscillated between liberal purposive reading and narrow, property-law-driven construction. In Srinwati Mukharji V. State of Maharashtra & Anr, the Bombay High Court was confronted with a situation where a woman, alleging domestic violence, sought enforcement of her residence right in a flat jointly purchased with her estranged husband, even though the flat was under construction and never occupied. The court dismissed her

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claim, holding that the property could not be classified as a shared household due to the absence of natural or constructive residence.

FACTUAL BACKGROUND

The petitioner, Srinwati Mukherji, married the respondent, Prateek Thukrak, in 2013 and resided with him in Maharashtra. Alleging emotional and physical abuse, she filed a domestic violence complaint in 2022. Before the breakdown of the relationship, the couple had jointly purchased an under-construction flat in Malad, Mumbai. Prateek (respondent) took a home loan for the property and executed a sale agreement in both their names. However, following his departure to the United States, Srinwati (petitioner) was left without financial support or residential stability. The developer demanded further instalments from both parties as joint owners. In response to the demand, Prateek sent an email to the developer stating that he is not interested in purchasing the flat anymore and unilaterally asked the developer to sell the flat to someone else. Srinwati approached the trial court under sections 19(d) and 19(e) of the DV Act, seeking that the Malad flat was a shared household. Both the magistrate and the session's court rejected this claim, prompting her to approach the high court under Article 227 of the Constitution.

LEGAL ISSUE

Can a property jointly owned by a wife and husband, through under construction and never occupied, qualify as a shared household under the DV Act, thereby entitling the woman to seek protection and financial relief under sections 17 and 19?

JUDICIAL REASONING

The Bombay High Court ruled in the negative. Justice Manjusha Deshpande held that since that flat was neither in possession of the petitioner nor had either party ever resided there, it could not be considered a shared household. The court adopted a literal interpretation of section 2(s), emphasising the word lives or has lived in a domestic relationship. The court reasoned that residence rights under the DV Act must be linked to an existing and habitable household, and not an aspirational or future property. Since the petitioner had never occupied or resided in the Malad flat, and the construction was incomplete, her claim lacked the foundational requirement for invoking section 19. Further, the court expressed concern that compelling the husband to fulfil financial obligations related to a civil transaction (such as a

property sale agreement) would amount to judicial overreach beyond the remedial scope of the DV Act.

CRITICAL APPRAISAL

Positives-Judicial Discipline and Jurisdictional Clarity: The judgment deserves recognition for its doctrinal discipline. It clarifies the limits of the DV Act and prevents its misuse as a mechanism to enforce financial or contractual obligations. The ruling draws a clear distinction between matrimonial rights and obligations under property or contract law ensuring that civil courts retain exclusive jurisdiction over sale agreements and EMIs.

Narrow Reading of shared household: Hon'ble Supreme Court in the case of Prabha Tyagi Vs. Kamlesh Devi (supra) has held that, even when a woman in a domestic relationship is residing elsewhere and she has never resided in the "shared household" either with her in-laws or with her husband on account of reasonable cause, she has the right to reside in the "shared household". A woman who has resided in a domestic relationship has the right to reside not only in the house of her husband, if it is located in another place, but also in a shared household, which may be in a different location in which the family or husband resides. Even if the aggrieved person has never resided in the shared household, her constructive right to reside in the shared household has been recognized by this judgment. However, the court's reluctance to adopt a broader, purposive interpretation of shared household" undermines the protective ethos of the DV Act. The reliance on the possession of women is forcibly excluded from newly acquired or jointly planned homes before occupation. But in the present case, the Bombay High Court gave a narrow interpretation that the flat, which is booked by the husband, is claimed to be the shared household by the petitioner. The right of the aggrieved person is essentially based on the right to live in a household that is in existence.

Implications for Gender Justice: From a gender justice standpoint, the ruling risks reinforcing a patriarchal structure where the economic dependency and housing insecurity of women are left unremedied. Joint ownership- especially in an urban context – is often symbolic unless backed by the husband's financial contributions, ignoring this dynamic and denying residential right on the grounds of non-possession devalues the economic agency of women in a matrimonial relationship. Moreover, such rulings may discourage women from

asserting their rights in jointly purchased properties- thus tilting the balance of power further in favour of the economically stronger spouse.

COMPARATIVE JURISPRUDENCE

The ruling also appears out of sync with broader trends in jurisprudence across high courts and the Supreme Court, which have moved towards inclusive and liberal interpretations of shared household”. In *S. Vanitha v. Deputy Commissioner, Bengaluru Urban District* (2020) and *Satish Chandar Ahuja vs. Sneha Ahuja* (2020), the apex court recognised **the residence-**based right over ownership, emphasising that even if a woman had no legal title, her right to reside could not be extinguished arbitrarily.

CONCLUSION

The judgment is that *Srivanti Mukharji* reinforces statutory boundaries, but arguably at the cost of substantive justice. It reflects a formalistic reading of the DV Act – overlooking the complex realities of modern urban matrimonial housing and the vulnerabilities of women's separation. While preventing the misuse of protective legislation is a legitimate concern, the court must remain sensitive to underlying power asymmetries in a matrimonial relationship. More balanced approach – recognising constructive residence, especially in jointly booked homes – would align better with the DV Act's shared household in light of evolving housing patterns, joint ownership, and women's right to matrimonial property.