

Protection of Rights of Women in Matrimonial Home— An Overview in the Light of Relevant Judicial Decisions

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Abstract

On marriage, it is the primary duty of the parties to live together for the performance of their marital obligations. The contract of marriage creates a legal obligation upon the husband and his family members to provide a shelter, maintenance and comfort to the wife. There are various legal provisions which are meant to safeguard the rights of the wife in her husband's home and to ensure that she can live there with dignity and safety and it includes the protection of all rights and interests of the wife. It is ironical that most women in our society are unaware of their legal rights, and thus they are not in position to exercise their rights. International human rights treaties mandate state parties to take proactive steps to ensure that women's rights are respected discriminations are eliminated by laws. The judiciary in India has been playing commendable role and shown much enthusiasm to promote and protect the rights of women in all spheres of society. To achieve the constitutional goal of equality it is equally important to safeguard the rights of women in the matrimonial home.

Keywords: Matrimonial Home, Constitution, Maintenance, Property, Religious Practice, Domestic Violence

INTRODUCTION

The institution of marriage is the foundation of peace and order in the society and is considered as sacred even though some religious authorities consider it as a civil contract. Marriage is the deepest as well as the most complex of all human relations because it is a difficult task for two people to lead their life together when they have their independent thinking and way of living. In India, there are certain purposes and expectations attached with the institution of marriage and a woman's role in family has remained multifarious. Marriage and family, as a set of institutions, also include formal and informal objective and subjective aspects. Every religion has certain laws and conditions for marriage and marriage related other matters.

In India, it is a traditional belief that after marriage, women leave their parental homes and started living in the home provided by the husband or in the home where husband and other in-laws live. This home is called her matrimonial home. In fact customarily it is believed that after marriage a woman

gets rights only in her matrimonial home and not in her parental home, though from legal point of view this position has now been changed and today women have a right of residence in both parental as well as the matrimonial home.

The contract of marriage creates a legal obligation upon the husband and his family members to provide a shelter and maintenance to the wife. In our society, a woman is perceived as a home maker, in addition to all other roles she may be required to perform. So while women have the

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burden of managing the house, cooking for the family, bringing up the children and tending to the sick, their chances of earning an adequate income to support themselves or even the chances of retaining their pre-marriage jobs are constrained. Hence when economic support is withdrawn due to a matrimonial conflict, most women are rendered destitute. The situation becomes dismal when they have the additional burden of caring for their children. Women's right to shelter and maintenance is located within this conceptual framework.

There are various legal provisions which are meant to safeguard the rights of the wife in her husband's home and to ensure that she can live there with dignity and safety. The husband and his family cannot deprive her of these rights. They cannot harass a wife for dowry and inflict violence upon her. If a situation of domestic or sexual violence arises, the wife can avail of legal remedies under criminal as well as civil laws. The wife also has a right to file for divorce and can terminate the marital tie. She also has a right to custody of her children. During the pendency of judicial proceedings or after dissolution, in most of the cases she is entitled for maintenance.

CONSTITUTIONAL PROTECTION

It is ironical that most women in our society are unaware of their legal rights, and thus they are not in position to exercise their rights. In order to fight injustice, it is important to have thorough knowledge about the rights. The Constitution of India, Article 14, supports women and their rights in the country. It ensures women equality and equal protection of the laws. Article 15(3) empowers the state to take affirmative action in favour of a daughter-in-law.

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, inter alia, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 23, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard [1].

INTERNATIONAL RESPONSE

International human rights treaties require State parties to take proactive steps to ensure that women's human rights are respected by law and to eliminate discrimination, inequalities, and practices that negatively affect women's rights. As a particularly vulnerable group, women have special status and protection within the United Nations and regional human rights systems. International human rights treaties prohibit discrimination on the basis of gender and require States to ensure the protection and realization of women's rights in all areas—from property ownership and freedom from violence, to equal access to education and participation in government [2].

The United Nations (UN) Convention on the Elimination of Discrimination against Women, 1979 (CEDAW) is the most comprehensive treaty on the rights of women. It condemns any form of discrimination against women and reaffirms the importance of guaranteeing equal political, economic, social, cultural and civil rights to women and men.

The relevant provisions of the CEDAW stated that, during a marriage and at its termination, women have the same rights as their male spouses under international human rights law. It specifically protects the rights of women to administer property and to enjoy property rights equal to those of a male spouse under law [3].

The 1993 UN Declaration on the Elimination of Violence against Women, it explained that violence against women signifies physical, sexual and psychological harm or suffering to women

including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life.

RIGHTS OF WOMEN IN MATRIMONIAL HOME

Right to Live with Dignity and Respect

A wife has the legal authority to live with proper dignity and self-respect with her in-laws. She also has the right to have the same lifestyle that her husband's and in-laws have. This legal right provides married woman independence after marriage. The married woman also has the right to voice out against any physical or mental torture.

Right to Reside in Marital Home

According to the Hindu Adoptions and Maintenance Act, wives have the right to live in their matrimonial home. A matrimonial home is basically a house, which a woman shares with her husband. The husband or his parents may own the house. It can also be a rented property or officially provided to him. Regardless, whether it is an ancestral or a joint family house, the daughter-in-law has the right to reside in it. She can also reside in her matrimonial home, even if her husband is not there or is dead.

Right to get Maintenance while living in the Matrimonial Home

Maintenance, as a concept, has its roots in the social justice system of a civilized society. In India, the right to claim maintenance is statutorily available under both personal and general laws, and such a right cannot be taken away by way of an agreement to the contrary. The right to claim maintenance is available to wives, children and parents. Under Hindu Marriage Act, 1955 and Parsi Marriage & Divorce Act, 1936, even husbands (who are unable to maintain themselves) are entitled to claim maintenance. Under section 18 of the Hindu Adoption and Maintenance Act, 1956 a Hindu wife is entitled to claim separate residence and maintenance from her husband in case if he is guilty of cruelty, desertion, polygamy, keeping concubine or conversion.

Right to Enjoy her Property

A married woman has exclusive right over her individual property, and she has absolute right to enjoy her property. If she is denied to enjoy her property it may amount to mental cruelty and she may file petition for divorce. Under Dissolution of Muslim Marriage Act, 1939 it is clearly stated if the husband or in-laws disposes of her property or prevents her from exercising her legal rights over it, she may file petition in court for obtaining divorce decree.

The 2005 Amendment of the Hindu Succession Act, 1956 claims that a daughter regardless of her marital status, has equal right to inherit her father's property. A woman can also legally inherit her husband's property as Class I heirs. Not only that, if the husband subsequently marries without legally divorcing her first wife, then the first wife is entitled to get her equal share together with her children and husband's mother depriving the second wife.

Right to Profess and Practice her Religious Activities

It is also equally important that a wife while living in the matrimonial home has absolute right to observe and perform religious practices. If the husband obstructs her in the observance of her religious profession or practice it may amount to violation of her right. If the husband compels his wife to do something which is against her religious practice or faith, it may be considered as mental cruelty.

Judicial Response

The Supreme Court said, "A daughter-in-law is to be treated as a member of the family with warmth and affection and not as a stranger with respectable and ignoble indifference. She should not be treated as a house maid. No impression should be given that she can be thrown out of her

matrimonial home at any time. The manner in which sometimes the bride is treated in many a home by the husband, in-law and the relatives creates a feeling of emotional numbness in society” [4].

The Supreme Court, explaining the rationale behind providing maintenance in the *case of Badshah v. Urmila Badshah Godse and Anr.* [5] has held that the “provision of maintenance aims at empowering the destitute and achieving social justice or equality and dignity of the individual. The law regulates relationships between people. It reflects the values of society.”

In *Mangatmul V. Punni Devi*, [6] the apex court held that maintenance must necessarily signify a provision for residence. Maintenance is given so that the lady can live in a healthy manner more or less to which she is accustomed. The concept of maintenance must therefore include provision for food and clothing and the like and take into account the basic need of a roof over the head.

The Supreme Court in this case observed that right of a wife to reside in the matrimonial home under personal laws. A wife is entitled to be maintained by her husband. She is entitled to remain under his roof and protection. She is also entitled to separate residence if by reason of the husband’s conduct or by his refusal to maintain her in his own place of residence or for other just cause, she is compelled to live apart from him. Right to residence is a part and parcel of wife’s right to maintenance. For the purpose of maintenance, the term wife’ includes a divorced wife [7].

The apex court has held that a deserted wife has right to occupy the matrimonial home not only against her husband but also against the landlord. Thus, where a husband, who was statutory tenant of the matrimonial home, deserted his and left the house the landlord could not turn her out so long as she paid the rent and performed the conditions of tenancy.

In *Ruma Chakraborty v. Sudha Rani Banerjee*, [8] the issue involved in this case where a divorced wife has a right to be impleaded as a respondent in eviction proceeding by a landlord against her husband?

The Court emphatically analyzed the case of *B.P. Achala Anand v. S. Appi Reddy*, [9] and differentiated between divorced wife and deserted wife and opined that a divorced wife stand on a different footing than deserted wife, as divorce brings an end to the status of a wife as such. In *Ruma Chakraborty’s* Case there was divorce by mutual consent and there was a maintenance order passed by the court in favour of children. Wife waived her right to maintenance by her consent.

The court held that as the wife was a divorcee and had no claim interest in the suit premises, therefore, she was neither a necessary party nor a proper party to be added in the proceedings. This judgment by the apex court indicates the need and urgency of adequate and effective law to protect a wife’s requirement for shelter after divorce. Award of nominal amount by way of maintenance does not meet such need [10].

Overruling the earlier judgment given in *S.C. Batra* case, the Bombay high court has held that a woman is entitled of the right to live in her matrimonial home or a shared household irrespective of the fact that whether it belongs to or is owned by her husband [11].

In a significant verdict, the Supreme Court held that the relief granting right to residence to a married woman under the domestic violence law by a criminal court is ‘relevant’ and can be considered even in civil proceedings seeking her eviction from the matrimonial home.

Deliberating in detail about the provisions of the Protection of Women from Domestic Violence Act, 2005, the apex court said, “the progress of any society depends on its ability to protect and promote the rights of its women” [12]. “Guaranteeing equal rights and privileges to women by the Constitution had marked the step towards the transformation of the status of the women in this country,” it said [13].

An aggrieved wife is entitled to receive maintenance under Section 20 of the PWDA in addition to an order of maintenance under Section 125 of the Cr. PC or any other law in force. Such maintenance amount must be adequate, fair, reasonable and consistent with the standard of living to which the aggrieved person is accustomed. Further, in *Lalita Toppo v. The State of Jharkhand and Anr.* [14] the Supreme Court has recognized the right of a woman in a live-in relationship to claim maintenance from her partner under the PWDA.

CONCLUSION

The Constitution of India is enlivened with the trinity of justice—liberty, equality and dignity of person. These could only be achieved when there shall be no exploitation of human being and when there shall be no discrimination between man and woman.

The judiciary in India has adopted a considerate attitude and shown much enthusiasm to promote and protect the rights of women living in the matrimonial home. In addition to this, gender-neutral laws are required to be enacted and implemented. Despite countless pieces of legislation that protect the interests of women contrary practices still exist in the country.

The advancement of gender equality and empowerment of women, the elimination of all kinds of prejudices against women are the cornerstones of comprehensive socio-legal development and should be the priority objectives of all the national and international communities.

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