INDIALAW



FAMILY LAW

Delhi HC Upholds Equal Co-Ownership in Jointly Purchased Property, Limits Scope of Shared Household Rights

AUTHOR Ayush Shukla

PUBLISHED 12 August 2025

Introduction

The Delhi High Court in Smita Jina v. Amit Kumar Jina, decided on a case about dividing a home jointly owned by a husband and wife. The Court agreed with the Family Court that both were equal co-owners and each had a 50% share. The wife had argued that her right to live in the "shared household" under the Protection of Women from Domestic Violence Act, 2005, should stop the husband from seeking partition. The Court ruled that while a woman's right to residence is protected, it does not give her ownership and cannot block a co-owner's legal right to partition. This decision makes clear how co-ownership laws and residence rights under the PWDV Act work together.

Factual Matrix

Smita Jina (the wife and **appellant**) and Amit Kumar Jina (the husband and **respondent**) were married on 30 January 2005 in Bhilai, Chhattisgarh, as per Hindu rites and customs. In July 2006, they shifted to London, where they lived for nearly eight years and acquired British citizenship. During the subsistence of their marriage, they jointly purchased a residential flat located at C-5/18, 2nd Floor, Grand Vasant, near DPS, Vasant Kunj, New Delhi, by virtue of a Sale Deed dated 28 June 2010. The property was financed through a joint housing loan of Rs. 2 crores from State Bank of India, Bhilai, for which the appellant's father acted as guarantor. The wife contributed GBP 58,000 (approximately Rs. 50 lakhs) and both parties paid equal EMIs. They returned to India on 31 July 2014.

Due to increasing matrimonial discord, the couple began living separately from 30 July 2020. Thereafter, both parties filed proceedings including a complaint under the protection of women from domestic violence act 2005 PWDV Act by the wife, a guardianship petition by the husband, and cross divorce petitions which culminated in a decree of divorce by mutual consent on 20 March 2025. The respondent-husband later instituted a suit seeking partition of the jointly owned property, claiming equal share, and filed an application under Order XII Rule 6 CPC relying on alleged admissions made by the appellant.

Appellant's Submissions

The appellant challenged the Family Court's order dated 17 April 2025, arguing that the decision to pass a preliminary decree based on Order XII Rule 6 CPC was erroneous and premature. It was submitted that the Family Court had overlooked the absence of any clear, categorical or unequivocal admission of equal ownership. The appellant asserted that she had, in fact, contributed over 60% of the purchase and furnishing costs of the property and that the sale deed did not specify any ratio of ownership. It was argued that the Family Court erroneously presumed equal co-ownership solely based on joint registration and equal EMI payments, without appreciating the material factual disputes.

Furthermore, the appellant contended that the property constituted her only matrimonial home and therefore qualified as a "shared household" under Section 17 of the PWDV Act. She submitted that as per the said provision, a woman cannot be evicted from the shared household irrespective of ownership, and that her right to reside could not be defeated through partition proceedings. Reliance was placed on various precedents, including Preeti Satija v. Raj Kumari, S.R. Batra v. Taruna Batra, Satish Chander Ahuja v. Sneha Ahuja, and Sapna v. Pravim Patel, to support the claim that residence rights must be protected until adjudication is complete.

Respondent's Contentions

The respondent opposed the appeal and supported the Family Court's findings, asserting that the appellant had admitted, in paragraph 2 of her written statement, that the property was jointly purchased from joint funds, which constitutes a clear and unequivocal admission. The sale deed, which lists both parties as purchasers without indicating unequal ownership, was also relied upon. It was argued that no credible evidence had been provided by the appellant to establish any disproportionate contribution or exclusive ownership.

The respondent submitted that he had made a fair offer to either buy out the appellant's 50% share for Rs. 4 crores or to invest an equal sum into an alternative residence for her and the minor child, both of which were refused. It was highlighted that the appellant is professionally successful, with an annual income of over Rs. 1 crore and therefore was not financially dependent on the property for residence. According to the respondent, the PWDV Act could not be invoked to bar lawful partition between co-

owners, particularly where alternative arrangements were possible.

Relying on Ajay Kumar Jain v. Baljit Kaur Jain and Sunita Shankar Salvi v. Shankar Laxman Salvi, the respondent argued that a co-owner's right to partition cannot be indefinitely frustrated by asserting mere hardship or residence.

Court's Analysis

The Court began its analysis by examining the scope of Order XII Rule 6 CPC, which permits courts to pronounce judgment on admissions made in pleadings or otherwise, where such admissions are clear, unambiguous, and unequivocal. It observed that the purpose of the provision is to expedite the process where no factual dispute remains as to a party's entitlement. Upon examining the pleadings, the Court found that the appellant had indeed admitted joint purchase of the property and joint servicing of the loan.

Her claim of greater financial contribution was found to be vague, unsupported by documents, and insufficient to rebut the presumption of equal ownership under Section 45 of the Transfer of Property Act, 1882. The Court further held that in the absence of any specified share in the sale deed, the law presumes equal ownership.

On the issue of shared household, the Court acknowledged that Section 17 of the PWDV Act grants women the right to reside in the matrimonial home irrespective of ownership but clarified that such right is not absolute and does not create any proprietary interest. The Court held that the right to residence under the PWDV Act cannot override a co-owner's legal right to seek partition, especially when such proceedings are lawful and do not involve forceful eviction. The Court emphasized that the statute is intended to protect vulnerable women from dispossession and not to arm them with an indefinite right to retain entire possession of jointly owned property.

Conclusion

The Delhi High Court confirmed that when a property is jointly bought and no ownership share is specified in the sale deed, the law presumes equal ownership. A woman's right to live in a "shared household" under the PWDV Act protects her residence but does not give her ownership rights or prevent lawful partition by a co-owner. In this case, the Court found the wife financially independent and not solely dependent on the property for shelter. It upheld the Family Court's order for equal division, while ensuring that her right to live in the home would remain protected until the partition is carried out. The judgment provides clarity on balancing co-ownership rights with statutory residence protections.

For more details write to us at: contact@indialaw.in

Related Practice Areas

Family Law Dispute