



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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Case Comment: B P Achala vs Appi Reddy

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Received 26 August 2022; Accepted 16 September 2022; Published 23 September 2022

INTRODUCTION

Women's property rights have changed over time all over the world. While some of the most significant advancements and reforms occurred in the twentieth century, women in the twenty-first century still have unequal property rights versus men. One of the key reasons why women have fewer rights than men is that India, as a varied country, has failed to implement a Uniform Civil Code; the struggle between progressive forces and the existing quo continues. Religious groups are currently controlled by their own personal laws, as well as local conventions and norms in a variety of areas, including property rights. As a result, there is no one body defending women's property rights. As a result, religious schools and marital status play a major role in determining property rights.¹

Under Hindu Law, A wife has complete control over her personal property. Unless she gives a portion of her property to someone, she has complete control over her assets, which can be

¹ Shruti Pandey, 'Property Rights of Indian Women' <<https://www.womenslinkworldwide.org/en/files/1290/property-rights-of-indian-women.pdf>> accessed 24 August 2022

earned, inherited, or gifted. Her husband is also obligated to provide her with support and shelter. And if the husband comes from a joint family, she is entitled to whatever the family has to offer. If the family is divided, for example, between the husband and the son, the wife is entitled to an equal share of the property. Similarly, upon the husband's death, the wife has the same right to his property as his children and mother.²

FACTS OF THE CASE

The facts of the case state that, the Appellant, Miss B.P. Achala Anand was legally wedded to Mr. H.S. Anand, Respondent 2. Their marriage came to an end in 1998, through mutual consent. Prior, Mr. H.S. Anand (Respondent 2) had deserted Miss B.P. Achala Anand in 1983, making way for divorce proceedings, which were initiated in 1991. The dispute arises with their matrimonial home. The landlord, Respondent 1, had given the ground floor of the property to H.S. Anand, as a tenant. As this property was in despair, respondent 2 had submitted a significant part of the property to Respondent 1, for repairs, leaving Respondent 1 with one bedroom, an attached washroom, and a verandah. This agreement was not fulfilled.

The landlord then filed a suit against Respondent 1, for not paying the rent on due time. Although respondent 1 was defending himself well after deserting his wife he let loose, the court further the court passed the decree for eviction, leading Miss B.P. Achala (Appellant) prone to being homeless. Seeking justice, the Appellant under Rule 10³ of the Code of Civil Procedure, moved an impleadment application against eviction proceedings which was rejected by the Trial Court. Moving matters to the High Court, she filed a revised application for the same, which was then contested by the landlord. The High Court granted the application, the Appellant was brought on record as Defendant 2, in the original case of payment of rent, the appellant deposited Rs. 10,000 for the matter of rent, thereafter contesting the suit in Trial Court.

² Rakesh Kumar, 'Property Rights of Women in India and Maintenance' (*Vikaspedia*, 26 April 2015) <<https://vikaspedia.in/social-welfare/women-and-child-development/women-development-1/meera-didi-se-poocho/property-rights-of-women-in-india-and-maintenance>> accessed 24 August 2022

³ Code of Civil Procedure 1908, r 10

The Trial Court as its final judgment granted B.P. Achala Anand partial eviction, she was allowed to have one bedroom, attached toilet, and veranda. Aggrieved by the Trial Court's decision the landlord (Respondent 1) filed a revision petition in High Court. The High court concluded that Smriti B.P. Achala did not embody the landlord-tenant relationship, thus setting aside the Trial Court's order, the High Court ordered complete eviction. Displeased with the High Court's judgment, the Appellant filed an appeal by special leave to the honourable Supreme Court⁴.

ISSUE INVOLVED IN THE CASE

Whether a divorced wife's right to residence is covered by the right to maintenance even if the spouse was living in a rented house as their matrimonial home?

OBSERVATIONS OF SUPREME COURT

It was held that, under two conditions, a deserted wife, who is or has been entitled to be in occupation of a matrimonial home, can contest a suit of eviction against her husband, in the tenant's capacity. Under the first condition, if the husband doesn't contest, by giving up or losing interest, and by doing so the husband shall prejudice the deserted wife residing on the premises. Under the second condition, the scope of the wife's defence does not increase the scope of the husband's defence. Upon satisfying the conditions above, a wife will be eligible to contest a suit filed against her husband. This means, at the trial, she will be entitled to raise all pleadings and claims that the husband would be entitled to and no more. So, the wife too can, along with her husband, exercise her right to a residence which is a part of the right to maintenance, requiring legal payment of the rent and fulfillment of all such legal obligations. But the right to a residence can only be accessed by the wife as long as the husband would have been entitled to stay on those premises, as per the Transfer of Property Act and rent control legislation.

⁴ Anjaly Ann Joseph, 'B.P. Achala Anand v S. Appi Reddy & Anr on, on 11th February, 2005 [(2005) 3 SCC 313]' (*BNW Journal*, 12 March 2021) <<https://bnwjournals.com/2021/03/12/b-p-achala-anand-vs-s-appi-reddy-anr-on-11-february-2005-2005-3-scc-313/>> accessed 24 August 2022

A deserted wife cannot be deprived of a roof over her head just because her husband has deserted her to the default date of eviction or at the threat of eviction due to his negligence. So it is laid out that a deserted wife who is in occupation of the property cannot be put into a position that is worse than, a sub-tenant contesting a claim for eviction on the grounds of sub-letting. Further, a deserted wife during her right of residence in her matrimonial home, occupies a position of kin, if she continues to occupy the premises, initially leased by her husband. So if the husband loses interest in occupying the leased premises, the tenancy rights enjoyed by him will be available to the wife till she continues to live on the premises.

As per the Hon'ble Supreme Court, the legislation immediately requires suitable changes and until then the matters of social and gender justice dealt with by the court should proceed under Article 142⁵, judiciously while providing adequate relief. The purpose of this reasoning is to provide meaningful efficiency to the wife's right to residence in modern times. It is very crucial for the wife's right to residence and the landlord's right of eviction to coexist, and in no way should one be superior to the other in the right circumstances.⁶

The Hon'ble Supreme Court stated that Divorce is the end of the contract of a matrimonial relationship between the parties to the contract. This means that the term husband and wife comes to an end at divorce. So the case of a divorced wife has a different status in comparison. At the time of divorce, the decree on which the divorce has been granted along with the maintenance and the residence which comes under maintenance itself, a wife's right to reside in her matrimonial home is decided. In case when the husband makes provision in regards to the residence of the divorced wife and that residence is her matrimonial home which is tenanted by the husband, the wife, in this case, would enjoy the equal right as her husband to defend her right to a residence which will include suit for eviction, tenancy rights and right to occupation and further her eviction would be of the same manner as her husband would be entitled under

⁵ Constitution of India 1950, art. 142

⁶ 'B.P. Achala Anand v S. Appi Reddy, (2005) 3 SCC 313' (SCC Online, 11 February 2005)
<<http://www.sconline.com/DocumentLink/W67moitd>> accessed 25 August 2022

the circumstance. The rights enjoyed by the divorced wife and the liabilities would not exceed or be lesser than those of her husband.⁷

DECISION

The Hon'ble Supreme Court concluded that a divorced wife has a right of residency that is conditional on the divorce decision after analyzing the facts. The award of residence, whether held by a husband/family member or rented, as well as maintenance, must be explicitly stated in the divorce settlement. In this case, however, no such event was reported, or at least not brought to the court's knowledge. The appellant was then banned from continuing her appeal and defending her right against eviction by the Court. The appeal was, as a result, dismissed. Even if the wife refuses to leave, she is legally present, and the residence is subject to the Rent Acts as long as she is lawfully present. The landlord can only take ownership of the property if all of the Act's requirements are completed.⁸

CRITICAL ANALYSIS

The Hon'ble Supreme Court declared in *Satish Chander Ahuja v Sneha Ahuja*⁹ that a woman's entitlement to maintenance can also be sought in properties owned and rented by relatives. If the woman and her husband have lived in their in-laws' house with some permanence following their marriage, the woman can also seek residence concerning the in-laws' property. This privilege of women also extends to rented houses; if the rented property is their matrimonial home, the wife can claim it as well.¹⁰

CONCLUSION

In matrimony, the right to residency is accompanied by several other rights. This entitlement extends to divorced spouses as well; the matrimonial home can be rented, held by in-laws, or rented by the husband. The right of a wife to live in a shared household is mentioned in Section

⁷ *Ibid*

⁸ Anjaly Ann Joseph (n 4)

⁹ *Satish Chander Ahuja v Sneha Ahuja* (2020) Civil Appeal No. 2483/2020

¹⁰ Anjaly Ann Joseph (n 4)

17¹¹ of the Protection of Women from Domestic Violence Act, 2005, but divorced wives have a different position in this matter because their marriage has been ended by divorce and there are no obligations of both partners other than those stated in the divorce settlement. Maintenance should be specified expressly in the divorce settlement and granted at the time of divorce so that the divorced wife can take advantage of it. As a result, the decision was modified.¹²

¹¹ Protection of Women from Domestic Violence Act 2005, s 17

¹² Anjaly Ann Joseph (n 4)