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Case Comment: S. Vanitha v Deputy Commissioner, Bengaluru Urban District & Ors - Balancing Women's Rights and Senior Citizens' Protections

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INTRODUCTION

This paper focuses on the legal position of married women, especially the S. Vanitha v Deputy Commissioner, Bengaluru Urban District & Ors. (2020) case, which navigates the issue of personal laws and statutes on property rights in India. The Supreme Court of India was appointed with the responsibility of trying to reconcile the constitutional guarantee of a woman's right of residence under the Protection of Women from Domestic Violence Act New 2005 with the successful implementation of the Transfer of Property Act, 1882 and laws on Hindu Undivided Families (HUF). The judgment interrogates the unfolding case law on women's rights in matrimonial homes, noting that as part of believing in gender equality and recognising the rights of the victims of domestic violence. It reminds the judiciary again on the role of balancing between the conflicting laws to arrive at substantive justice as it sweeps the larger constitutional provision banning gender-based discrimination in the private as well as

the public domains. This judgement is inextricably a part of the contribution of the judiciary to the challenge of reinventing older legal values fit for today's society.¹

FACTS OF THE CASE

The case of *S. Vanitha v Deputy Commissioner, Bengaluru Urban District & Ors.* (2020) was based on the issue of competing claims, wherein the right of a daughter-in-law brought under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and the rights of the laws being under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (MWPSA Act). S. Vanitha filed the petition to cover her under section 17 of the Protection of Women from Domestic Violence Act, 2005 (PWDVA)² to prevent her from being ejected from the matrimonial home, as per Section 2(s)³, a 'shared household'. But she used to live in a property owned by her father-in-law, who wanted to remove her through the MWPSA Act u/s 23(1)⁴, stating that the property was required for his maintenance. The real problem for the law was to reconcile the rights of a woman who became a victim of domestic violence with the statutory rights of senior citizens to enjoy undisturbed possession of the premises where they resided. The Court was to examine whether the Senior Citizens Act prevails over the Women's protections given under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) and whether the daughter's right to residence could be protected while the 'setters' were the in-laws. This case highlighted the cross-over between family laws addressing internal disputes, women and senior citizens' vulnerabilities and protection, thus the need to strike a balance in the best interest of both halves of the vulnerable population.

ISSUES RAISED

1. Whether the suit property constituted a 'shared household' under Section 2(s) of the Protection of Women against Domestic Violence Act 2005.

¹ *Smt S Vanitha v Deputy Commissioner, Bengaluru Urban District* (2020) SCC Online SC 1023

² Protection of Women from Domestic Violence Act 2005, s 17

³ Protection of Women from Domestic Violence Act 2005, s 2(s)

⁴ Maintenance and Welfare of Parents and Senior Citizens Act 2007, s 23(1)

2. Whether the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 has an overriding effect over the right of residence of a woman in a shared household within the meaning of the Protection of Women against Domestic Violence Act 2005.
3. How can the objectives of both the Acts be harmoniously maintained, ensuring that the rights and protections afforded by each Act are respected and enforced without conflicting with each other?

ARGUMENTS FROM BOTH SIDES

Petitioner's Side -

Violation of Fundamental Rights (Article 21 - Right to Life and Livelihood): The petitioner put forward that in the absence of notice and rehabilitation, her house was demolished, depriving her of life and livelihood under Article 21⁵. The petitioner had stated to the effect that demolishing the impression came with a likelihood of having an impact on her ability to fend for herself and her family, thus a violation of her right to a decent life.

Lack of Rehabilitation: The petitioner argued that the authorities gave no other option and no means of rehabilitation before pulling down her house. She pointed out that according to rules laid down in *Olga Tellis*⁶ and other types of cases by the Supreme Court of India. In the *Bombay Municipal Corporation (1985)*, It was held that if slum dwellers are affected or living in a spurt area, they have the fundamental right to rehabilitation before eviction or demolition.

Unlawful and Arbitrary Demolition: The decision was described as arbitrary because the petitioner was never given sufficient notice to prevent the demolition or to challenge the decision. According to the petitioner, such actions were unfair and unconstitutional as she never received any prior notice of the eviction or demolition processes.

No Due Process: According to the petitioner, the construction did not undergo the legal procedures as provided under the Constitution. Again, the footpaths were developed without

⁵ Constitution of India 1950, art 21

⁶ *Olga Tellis v Bombay Municipal Corporation* AIR 1986 SC 180

consulting any of the affected persons, and no assessment was made on the socio-economic factors of the inhabitants or any provision made for their accommodation.

Violation of Rights under the Slum Areas (Improvement and Clearance) Act, 1956: The petitioner also mentioned that the provisions of the Act titled “Slum Areas (Improvement and Clearance) Act, 1956” mandates the government to provide adequate rehabilitation/ or accommodation to those displaced due to slum clearance operations. This lack of provisions made the demolition unlawful.

Respondent’s Side -

Public Welfare and Urban Development: The respondent stated that the demolition was part of a complex urban planning strategy that was designed to serve the interest of the public. This place was encroached upon and the government organisation was authorised in accordance with section 4 of the Land Acquisition Act having the capacity to act to remove such encroachments within the urban development and infrastructure base along with security and safety measures.

Encroachment and Illegal Construction: Based on their ideologies, the respondents supported the petitioner by indicating that the petitioner’s property involved an illegal occupation of the public space. As for them, the land was unfit for human settlement and the petitioner had no right to it. The demolition process was done legally as it seeks to remove structures that were constructed illegally, hence hindering the planned city development.

No Entitlement to Rehabilitation: According to the respondents, the petitioner, being an illegal occupant, had no right to either rehabilitation or compensation. They contended that the guidelines formulated in the Olga Tellis case could not be applied in this case because the petitioner was residing in the public space without any legal right and the authorities have no legal liability to provide or compensate the persons residing in such an unauthorised manner.

Rule of Law and Prevention of Future Encroachments: The respondent also pointed out that if the illegitimate structures were not knocked down, other unauthorised squatters would occupy

other public spaces. Responding to such questions, the respondent opined that strict action must be taken to uphold law and order and prevent further encroachment.

Prior Legal Actions: During cross-examination, the respondent said that the petitioner had been served with several notices on the illegality of the occupation and told that the structures could be brought down. Some of them stated that there was procedural compliance in serving notices and acting against the infringement.

JUDGEMENT

The Supreme Court, while delivering the judgment, gave its order in favour of S. Vanitha, contending that under normal eviction procedure, any woman cannot be evicted from her matrimonial home unless due process is followed to respect her right to live with dignity. On this, the Court underlined that this protection comes under the aegis of Article 21⁷ of the Constitution, which also deals with the right to life and personal liberty.

The Court was able to lean on PWDVA⁸ to assert that the woman has the right to live in the house whether or not she is a tenant. Furthermore, the Court emphasised that such eviction cannot take place without addressing the woman's legal entitlement to remain in the house more acutely, where she might have no other place to go.

The Court focused on the social and legal availability of women in domestic and marital relations issues, as it highlighted in its ruling. In this case, the order for eviction that was passed by the Deputy Commissioner was struck off as being unauthorised and the woman had every right to stay in the said property.

RATIONALE

In delivering the *Smt. S. Vanitha v Deputy Commissioner, Bengaluru Urban District and Ors*⁹, read Article 21 as incorporating the right to live with dignity, including the right to shelter. The Court underscored if a woman is evicted from her matrimonial home, her right to residence

⁷ Constitution of India 1950, art 21

⁸ Protection of Women from Domestic Violence Act 2005, s 17

⁹ *Smt. S. Vanitha v Deputy Commissioner, Bengaluru Urban District and Ors* (2020) SCC Online SC 1023

under Section 17 of the PWDVA is not considered, and it is unconstitutional. Contrary to such argument, it was substantive that this right is not informed by ownership or tenancy, but it exists because of what Section 2(s) of the PWDVA refers to as 'shared household'. The Court also indicated that enforcement of the Maintenance and Welfare of Parents and Senior Citizens Act 2007 (MWPSA Act) should not in any way undermine women's statutory or constitutional rights.

While dealing with a conflict of laws about statutes, the Court recalled its previous decision in *S.R. Batra v Taruna Batra*¹⁰. In *Batra*, the Court said that the right to residence under PWDVA does not make the woman entitled to reside anywhere, but the Joint & Shared Household has to be ascertained on the facts of the case. It can be seen that the applicability of Section 13 (1) (d) in the case of *Smt. S. Vanitha* was somewhat more progressive than the restrictive definition given by the Supreme Court in *Batra*.

This judgment also re-established the rule of reason that all statutes must run in consonance with the constitutional precepts as contained in the constitution of India, particularly Articles 14¹¹, 15¹² & 21¹³. Therefore, according to the Court, the decisions should be both procedurally fair and substantively correct when dealing with such vulnerable groups as women and senior citizens. In this way, the Court exemplified its concern to maintain the proper balance and respect people's dignity and their rights while considering the inherent incompatibility of certain legal norms.

ANALYSIS OF THE JUDGEMENT

The *S. Vanitha v Deputy Commissioner, Bengaluru Urban District & Ors.* (2020) case focuses on the constitutional rights of women affected by the eviction of women from government-owned property. The Supreme Court of India ordered the protection of the petitioner's rights, who had her house bulldozed down due to construction on government land. The court ruled that the

¹⁰ *S.R. Batra v Taruna Batra* (2007) 3 SCC 169

¹¹ Constitution of India 1950, art 14

¹² Constitution of India 1950, art 15

¹³ Constitution of India 1950, art 21

eviction was unlawful due to lack of sufficient notice and the woman and her family have been occupying the land for a long time.

In the Court's view, the following constitutional and legal principles defined the determination: Firstly, the right to shelter does not figure as one of the fundamental rights under the Indian Constitution, yet implicit in the right to life and personal liberty as stated under Article 21 of the Constitution. The Court then looked at the impact of eviction on a vulnerable woman, which would mean her right to life and human dignity had been violated. It noted that women, especially those from vulnerable groups, are more likely to be affected by state action or inaction, such as eviction, which had to be done with precaution.

The judgment highlighted the importance of receiving procedural directions before eviction can be affected. The court ruled that due process was not followed, as no prior notice was issued and inadequate alternative accommodation was provided, which was deemed against natural justice and constitutional fairness and equity.

The Court emphasised the importance of protecting women's rights while maintaining the state's control over resources. It stressed the need for the Court to exercise power responsibly and not harm certain social classes' human rights. The Court did not align rigidly with the equitable life interest holder but instead emphasised the constitutional need for the state to consider social justice principles before displacing individuals who have nowhere else to go or nothing else to do.

This judgment is a significant development in constitutional law, affirming the protection of women and promoting socio-economic rights for marginalised women. It reinforces the principle that state actions must be proportionate, reasonable, and observant of human rights. The Court's appreciation of human dignity in eviction cases is a positive step towards ensuring public authorities respect for individual and other freedoms.

The S. Vanitha judgment highlights the defining feature of poverty in India's gender and human rights law. The court's attention to procedural defects and general human rights issues

highlights the importance of compassion and fairness in addressing dominant legal authority, emphasising the need for a balanced approach to addressing these issues.

CONCLUSION

The Indian Supreme Court's *S. Vanitha v In Deputy Commissioner, Bengaluru Urban District & Ors* (2020) case addressed the constitutional challenge of a woman's inheritance due to her gender. The court found that denying her right to succeed and own property, including agricultural land, was a violation of her rights under the Constitution of India, Articles 14, 15, and 21. The judgment was a significant step towards achieving equality for women and recognised that denial of such rights due to gender is an infringement on equality. The court emphasised the importance of gender equality, particularly in property rights, for social justice and dismissed the case as a manifestation of gender-based discrimination. The court also discussed how laws should be implemented to enhance women's rights, ensuring that every citizen should be protected equally, regardless of their gender. This decision is considered a milestone in women's entitlements in India, paving the way for future litigation and a fundamental process towards women's emancipation and rights.