

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE- II, MAVELIKKARA**Present: Anandhu.J.B, Judicial First Class Magistrate.****Thursday, 06th day of April 2026****M.C. No.74/2024**

- Applicants : 1. Raji K.R, Aged 37/24, W/o Anilkumar.G
Kaithavilayil, Panayil Muri, Panayil P.O,
Palamel Village.
2. Adrinath, Aged 13/24,S/o Anil Kumar -do-
(By Adv.P. Rajeev)
- Respondent : 1. Vinod, Aged 58/24,Harichandanam,
Edappon Muri, Iranikudy, Iranikudy P.O,
Mavelikara.
2. Sindhu, Aged 50/24, W/o Vinod
-do-
3. Sandhya, Aged 47/24, W/o Ajith, Ajith
Bhavanam, Near Railway station, Paravoor
P.O, Paravoor Village, Kollam.
(By Adv.T. Radha)
- Section of law : U/s 12 of the Protection of Women from
Domestic Violence Act, 2005.

The above petition came up for hearing on 12.03.2026 and this court on 26.03.2026 has passed the following:-

ORDER

1. Petition filed by the aggrieved person under section 12 of the Protection of Women from Domestic Violence Act, 2005. (hereinafter referred to as 'the Act').

2. **The averments of the petitioner are as follows:**The husband of the 1st petitioner, Mr. Anil Kumar has passed away. The first respondent is the brother-in-law of Mr. Anil Kumar. Second and third respondents are the sisters of late Mr. Anil Kumar. The marriage between the 1st petitioner and Mr. Anil Kumar was solemnized on 28.03.2011 as per Hindu religious rites. After the marriage, they

resided together as husband and wife at Kaithavalayal Veedu situated in Palamel Village. On 09.12.2012, the 2nd petitioner was born out of the wedlock. While so, difference of opinions and quarrels arose between the 1st petitioner and Mr. Anil Kumar, and the petitioner was forced to file petition under the Protection of Women from Domestic Violence Act before the Judicial First Class Magistrate Court, Kottayam. She has also filed petitions before the Hon'ble Family Court, Ettumanoor. The litigation between the petitioner and Anilkumar was settled and they thereafter resided together. Thereafter, the petitioner and Mr. Anilkumar along with their child resided at house named Kaithavilayil situated in Palamel Village. On 02.08.2024, Mr. Anil Kumar passed away. After the death of Mr. Anil Kumar, the respondents have tried to oust the petitioners from the above-mentioned house and from the property comprised in Palamel Village. The respondents are trying to somehow obtain the rights of the property. Respondents have no right over the property comprised in Palamel Village and in the house named Kaithavilayil. On 05.08.2024 and 06.08.2024, the respondents have tried to oust the petitioners from the above-mentioned house. First respondent has committed physical assault upon the first petitioner. The respondents have intimidated the petitioners that they would kill them if not evicted from the house. They further intimidated to commit physical assault upon them. The petitioners seek to restrain the respondents from committing any acts of domestic violences. They also seek to restrain the respondents from causing any obstruction to the peaceful living of the petitioners in property comprised in Survey Nos. 223/10, 223/11, 226/20, 226/36, comprised in Palamel Village. There also seeks to restrain the respondent from encroaching into the aforementioned properties. Hence this petition.

3. Respondents 1 and 2 entered appearance and filed objection.

4. The contentions of the respondents are as follows: Petition is not maintainable either in facts or in law. All the allegations raised by the petitioners are denied by the respondents. The first petitioner is not the husband of late Mr. Anil Kumar. The marriage between the first petitioner and Mr. Anil Kumar was dissolved as per the judgment in OP HMA No. 85 of 2015 filed by late Mr. Anil Kumar before the Hon'ble Family Court, Mavelikara. The marriage was dissolved as per the order dated 30.01.2018. Petitioner has filed this petition, concealing this material aspect. The allegation that the petitioners were domestically assaulted by the respondents is false and hence denied. The first petitioner and her later husband Mr. Anil Kumar were residing separately for years. Mr. Anil Kumar has filed a petition as OP (others) 138 of 2012 before the Family Court, Mavilikara, for return of gold and money. The court has directed the first petitioner to return 14 sovereigns of gold ornaments or its corresponding market value along with 6% interest. Even 10 years before the death of Mr. Anil Kumar himself, the first petitioner and Mr. Anil Kumar were living separately. The petitioners have concealed material facts before this court. The property mentioned in the petition belongs to respondent no. 2 as per a settlement deed dated 27.12.2011. The respondent no. 2 is the absolute owner and in possession of the property. The property and the house situated therein belonged originally to the father and mother of Mr. Anil Kumar. While the parents of the respondent no. 2 and the late Anil Kumar was alive, they have filed a suit as OS No. 10 of 2013 before the Munsiff Court, Mavalikara, for a permanent prohibitory injunction against the 1st respondent and Anilkumar. It is true that they have resided in the house named Kaithavilayal 11

years ago. After the filing of the suit against the first respondent and Mr. Anil Kumar by the parents of Anil Kumar, they never resided in that house. Thereafter, the old house situated in that property was demolished and the second respondent has constructed a house therein. Even before the dissolution of the marriage between the first petitioner and Mr. Anil Kumar, that house was never a shared household. The property comprised in re-survey numbers 223 of 10, 223 of 11, 226 of 20, 226 of 36 belongs to the respondent no. 2 as per the settlement deed dated 27.12.2011. The second respondent, along with her ailing mother, is residing in that property. A suit as OS 267 of 2024 was filed by the second respondent before the Munsiff Court, Mavalikara against the first respondent herein to restrain her from encroaching into the property. There exists an injunction order against the first petitioner and others from encroaching into the property belongs to the second respondent. The first petitioner visited the house when Mr. Anil Kumar passed away. The respondents never obstructed her when she visited the house to attend the funeral of Mr. Anil Kumar. Thereafter, the petitioners have tried to encroach into the house and reside there with the aid of her henchmen. The second respondent has filed a petition as WPC No. 28825 of 2024 before the Hon'ble High Court of Kerala against the petitioner herein for protection of her life. The Hon'ble High Court has granted protection order to the respondent no. 2. Even though the petitioner has filed different petitions before the Judicial First Class Magistrate Court, Kottayam and Family Court, Ettumanoor, they were dismissed. The allegations in the petition are false. She is not entitled for any reliefs sought by her. The petition is without any merits and liable to be dismissed.

5. During the evidence stage, petitioner was examined as PW1 and Exts. P1 to P7 were marked. From the side of the respondents, RW1 was examined and Exts.D1 to D8 were marked. Heard both learned counsels and perused the documents.

6. Following points arose for consideration:

1. *Whether the petitioners have undergone instances of domestic violences from the side of the respondents, as alleged?*
2. *Are the petitioners entitled for a protection order, as claimed?*
3. *Are the petitioners entitled for a residence order, as claimed?*
4. *Orders as to relief.*

7. **Points 1 to 3:** Since the evidence involved are common, these points are considered together, for brevity. The husband of the first petitioner is late Mr. Anil Kumar. Second and third respondents are the sisters of late Mr. Anil Kumar. First respondent is the husband of the second respondent. Second petitioner is the minor child of the first petitioner and the late Mr. Anil Kumar. Mr. Anil Kumar passed away on 02.08.2024. The case of the petitioner is that the respondents are trying to evict the petitioners from the property and the house comprised in Re survey No. 223 of 10, 223 of 11, 226 of 20, 226 of 36 of Palamel Village, in which they have the right to reside. It is alleged that the petitioners have inherited the right over that property, being the legal heirs of the late Mr. Anil Kumar. It is also alleged that the respondents are trying to evict them from the house and property. According to the petitioners, the first petitioner was assaulted by the respondents and intimidated her to evict him from the above-mentioned property.

8. Per contra, respondents would contend that the petitioners have no manner of any right over the above-mentioned property. It is contended that the petition is filed after concealing material facts with respect to the marriage and relationship between the first petitioner and late Mr. Anil Kumar. According to the respondents, petitioners never resided in the house situated in the aforementioned property, at least 10 years before the date of death of Mr. Anil Kumar. According to the respondents, the first petitioner was not the wife of Mr. Anil Kumar as on the date of death of him. Further, it is contented that the petitioners have never resided in the above-mentioned property under a domestic relationship.

9. To establish the right of the petitioner, and to establish the case, petitioners rely on the oral evidence adduced by PW1 and the documents produced. The first petitioner was examined as PW1. She has reiterated the petition averments in the affidavit in lieu of examination-in-chief. It is stated by PW1 that the petitioners have right over the above mentioned property being the legal heirs of late Mr. Anil Kumar. She also claims right over that property since it is her shared household. Exhibit P2 is the tax receipt dated 08.08.2024, by which the petitioner has remitted land tax over the property comprised in Re-survey No. 223 of 10, 223 of 11, 226 of 20, and 226 of 36 in Palamel Village. On perusing Exhibit P2, it can be seen that the property mentioned in the above survey numbers is in the name of Mr. Anil Kumar, son of Ganghadharan, residing at Kaithavilayil House, Palamel Village. Exhibit P4 is the copy of payment receipt issued from Palamal Grama Panchayath for remitting property tax over the property of Mr. Anil Kumar. It was remitted on 30.03.2025.

10. The learned counsel for the respondent would argue that Exhibit P2 alone would not confer any proprietary right over the property in favour of the first and second petitioners. First argument raised by the learned counsel for the respondent is that as on the date of death of Mr. Anil Kumar, the first petitioner was not his wife. At the outset, it is pertinent to note that the petitioners in the petition as well as in the affidavit in lieu of examination in chief, the petitioners have suppressed the fact that the marriage between the first petitioner and the late Mr. Anil Kumar was dissolved by a decree of a court. Exhibit D1 is the judgment of the Hon'ble Family Court, Mavalikara, in OP HMA No. 85 of 2015 filed by G Anil Kumar against the first petitioner herein. The judgment was delivered on 30.01.2018. As per Exhibit D1 judgment, the marriage between Mr. Anil Kumar and the first petitioner herein was dissolved.

11. The petitioner would submit that she is not aware of the judgment in OP HMA No. 85 of 2015. During the cross-examination of PW1, she has specifically deposed before this court that she is not aware of that judgment. It is submitted that the above decree is an ex parte one. Even though the petitioners would argue that Exhibit D1 was an ex parte judgment and an uncontested one, on perusing the third paragraph of the judgment, it is seen otherwise. On the third paragraph of the judgment, it is mentioned that the first petitioner's here in was bearlier set ex parte in that case and an ex parte decree was passed on 24.07.2015. Subsequently, the first petitioner's herein has preferred an interlocutory application to set aside the ex parte decree, which was allowed and the OP was restored. Thereafter, the 1st petitioner herein has filed an objection to the OP. Thereafter, judgment was passed in that OP, since the first petitioner herein has failed to

adduce evidence even after giving sufficient chances. On perusing Ext.D1 judgment, it is evident that the case was contested by the 1st petitioner herein. Hence, the argument of the petitioner that Exhibit D1 judgment is an ex parte one and was passed without the knowledge of the first petitioner herein is not correct. It is also evident that the first petitioner when examined as PW1 has lied before this court. Hence, as per Exhibit D1 judgment of the Hon'ble Family Court, Mavalikara, the marriage between the first petitioner and the later Mr. Anil Kumar was dissolved on 30.01.2018. Therefore, the allegation and averment of the petitioners that as on the death of Mr. Anil Kumar, the first petitioner was his wife is totally incorrect. As stated above, the fact that the marriage between the first petitioner and Mr. Anil Kumar was dissolved was completely suppressed by the first petitioner before this court.

12. The respondents would contend that the property mentioned above is in the ownership and possession of the second respondent herein. It is contented that the property was settled by the father of the respondent no. 2 and the late Mr. Anil Kumar by executing a settlement deed dated 27.12.2011. Exhibit D4 is the copy of the settlement deed dated 27.12.2011 executed by Gangadharan and Mr. Anil Kumar. As per Exhibit D4, the above mentioned property was settled in favour of the 2nd respondent. When PW1 was cross-examined, details with respect to the transfer of this property in favour of the respondent no. 2 was suggested to her. She admits the existence of the above-mentioned settlement deed before this court. She deposed that that property was attached as per the order of the Hon'ble Family Court. She further submitted that she is aware about the fact that the second respondent herein has preferred a counter claim in the petition filed by the

petitioner herein and lifted the attachment of the court. Exhibit D2 is the judgment of OP 1097 of 2014, filed by the first petitioner herein before the Family Court at Ettumanoor. The petition was dismissed since the petitioner was not ready to adduce evidence. PW1 further admitted that the above mentioned property is now in the name of the respondent no. 2 herein and she is remitting land tax over it.

13. The main allegation raised by the petitioners to invoke Protection of Women from Domestic Violence Act is that, consequent to the death of Mr. Anil Kumar, the petitioners were ousted from the above-mentioned property. It is alleged that on 04.08.2024, 05.08.2024 and on 06.08.2024 respondents have encroached into the property and house named Kaithavilayil and tried to oust the petitioners. It is specifically alleged that the first respondent has tried to physically assault the first petitioner. According to the petitioners, the respondents have uttered obscene words and tried to intimidate the petitioners. The petitioner would allege that the petitioners were residing in the house of the house named Kaithavilayil situated at the Palamel Village.

14. According to the respondents, such an averment is an utter lie, and she has never resided in that property at any point of time 10 years before the death of Mr. Anil kumar. To discredit the allegations of the first petitioner, the respondents relied on the oral cross-examination of PW1. During the first paragraph of the cross-examination of PW1 itself, she admitted that she is residing at the Kottayam since 2015. Further, she admitted that her child, the second petitioner, is studying at Kottayam. It is specifically admitted that the second petitioner is studying in the school at Kottayam since his first standard and now he is studying in the eighth standard. As stated above. Mr. Anil Kumar passed away in 2024. From the

admission of PW1 itself, it is clear that at least from 2015, the first petitioner along with the second petitioner is residing at Kottayam. As per Exhibit D1 judgment, in OP HMA 08.05.2015, the marriage between the first petitioner and the Mr. Anilkumar was dissolved by 2018. Therefore, it is to be concluded that before the death of Mr. Anilkumar, the petitioners never resided in the above-mentioned property. It is pertinent to note that the petitioners have not taken any legal steps to challenge the decree of divorce.

15. On perusing the above discussion, it is clear that the petition has approached this court after suppressing material facts. The fact that the marriage between the first petitioner and late Mr. Anil Kumar was dissolved during 2018 is suspiciously suppressed before this court. The cause of actions raised by the petitioners to grant a relief to her happened after the death of Mr. Anil Kumar. The marriage between the petitioner and Mr. Anil Kumar was dissolved during 2018. Mr. Anil Kumar passed away during 2024. No incidents of any domestic violence before the death of Mr. Anil Kumar are mentioned either in the petition or in the affidavit in lieu of examination-in-chief. Even though the petitioners would allege that the petitioners have proprietary right over the above mentioned property, they have terribly failed to establish the same. As per the documents and evidence available before this court, it is to be concluded that the property belongs to the respondent no. 2. To analyze whether the petitioners have any right of shared household over that property, from the cross-examination of PW1 itself, it is evident that she never resided in the house and property in Palamel Village at least from 2015. Therefore, the petition has terribly failed to establish that she was in a domestic relationship with the respondents in a shared household at Palamel

Village. She also failed to establish the existence of any domestic violence. It is settled in law that existence of a domestic violence is a sine qua non for allowing any relief under the Protection of Women from Domestic Violence Act. Hence this court is satisfied that the petitioner is not entitled for any reliefs claimed by her, the petitioner has come before this court with utmost unclean hands. Therefore, points 1 to 3 are found against the petitioner.

16. **Point No.4:** In the result,

MC is dismissed.

Typed by me using Adalath AI using my personal laptop, corrected and pronounced by me in the open court, on this the 06th day of April, 2026.

Judicial First Class Magistrate- II,
Mavelikkara

Appendix

Witness examined for aggrieved person:

PW1	Raji	Complainant
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Exhibit filed for aggrieved person:-

1.	Ext.P1/PW1	Tax Receipt
2.	Ext.P2/PW1	Complaint
3.	Ext.P3/PW1	Tax Receipt
4.	Ext.P4/PW1	Payment Receipt
5.	Ext.P5/RW1	Complaint
6.	Ext.P6/RW1	Charge Sheet in Nooranad P.S Crime.No.1050/24

7.	Ext.P7/RW1	Charge Sheet Nooranad P.S Crime.No.977/24
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Witnesses Examined for Respondent:-

RW1	Sindhu	Respondent
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Exhibits filed for respondent:-

1.	Ext.D1/PW1	Judgment OP.No.85/15
2.	Ext.D2/PW1	Judgment O.P. 1097/14
3.	Ext.D3/RW1	Tax Receipt
4.	Ext.D4/RW1	Copy of Deed
5.	Ext.D5/RW1	Injunction Order in OS.267/24
6.	Ext.D6/RW1	Order in WP (C) 28825/24
7.	Ext.D7/RW1	Judgment O.P. 1097/14
8.	Ext.D8/RW1	Commission Report

Judicial First Class Magistrate II,
Mavelikkara.