

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-II,

ALUVA

Present: Smt. Anju Cletus, Judicial Magistrate of First Class

Dated this the 11th day of September, 2025.

C.M.P. 1216/2024 IN MC No. 29/2024

Petitioner : Jyothi V.S, Aged 53/24, W/o Thyagarajeshwaran, 33/70, Masters Abode, Sreyas Lane, (Edappally South Village, Kanayannur Taluk, Elamakkara, Ernakulam).
(By Adv. S. Sudarsanan)

Respondent : K. Thyagarajeshwaran, Aged 63/24, S/o. Krishnamurthy, 33/70, Masters Abode, Sreyas Lane, (Edappally South Village, Kanayannur Taluk, Elamakkara, Ernakulam).

Petition : U/s. 23 of Protection of Women from Domestic Violence Act, 2005

Order : Allowed in part

This petition coming for a hearing on 29.08.2025, the court today passed the following: **ORDER**

The petitioner has filed this application against the respondent under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the DV Act”).

2. Petition averments in brief are as follows: The respondent is the husband of the petitioner. The marriage between the respondent and the petitioner was solemnized on 19.01.1995. Two children were born in the wedlock and both children have attained majority. The respondent is an advocate and is currently engaged as the Central Govt. Standing Counsel and legal advisor of various nationalized banks. The petitioner was working as an accountant at Solitaire, an Electronic company at the time of marriage. After marriage the petitioner had resigned from her job due to the compulsion of respondent. The respondent used to abuse the petitioner physically and verbally after marriage. The respondent had extracted 14 sovereigns of gold ornaments that belonged to the petitioner. The respondent had availed a loan from the bank in the name of the petitioner and the petitioner was compelled to repay the same. The respondent refused to register the house in the joint name of the petitioner and the respondent. The petitioner and the respondent had been living in two different floors of the same house for the past 10 years due to their disputes. The respondent has neglected to take care of the petitioner and their children. The respondent has been threatening to expel the petitioner and her daughter from their shared household. Consequently, the petitioner had lodged a complaint with the Elamakkara P.S. on 20.04.24 and FIR No. 249/24 was registered against the respondent and their son. The respondent has closed certain bank transactions by forging the signature of the petitioner. The respondent is having extra marital relationships. The petitioner has been giving tuition in order to earn a living.

The respondent has been creating problems at the work place of the petitioner. The petitioner has also qualified LL.B. and enrolled as an advocate. The respondent has not been allowing her to practice as an advocate. Hence, the respondent shall be directed not to commit any act of domestic violence against the petitioner or her daughter, not to alienate the house where the petitioner and her daughter resides, not to cause any obstruction to the peaceful residence of the petitioner and give a monthly maintenance of Rs.10,000/- to her.

3. The respondent filed objection contending as follows: All the allegations of domestic violence raised by the petitioner are false and hence denied. The petitioner is residing with her daughter who is drawing a salary of more than Rs.20 Lakh per annum. The petitioner is currently working in a private firm at Thrissur and earns more than Rs. 40,000/- per month. The petitioner is younger than the respondent by more than 10 years and she is a qualified lawyer enrolled with Bar Council of Kerala. The respondent has been having frugal income from his profession for the past 4 years. He has been paying the installments of housing loan @ Rs. 33,000/- per month. He has other financial liability to pay off. He has been a chronic diabetic and also suffering from hyper tension. He has been spending more than Rs. 3,000/- for medicine alone. The petitioner is suffering from depression coupled with menopause syndrome and she is having suspicions towards the interactions of the respondent. Gold ornaments of the petitioner weighing 10 sovereigns along with an additional 4 sovereigns which was gifted by the

respondent has been retained with her. Not a single penny has been paid by the petitioner towards repayment of housing loan. The petitioner has been voluntarily residing separately for the past 10 years and she has not been showing any care and affection towards the respondent. The daughter of the respondent is not talking to him for the past 4 years and she is siding her mother with vested interests. The respondent has provided education to both the children and they are working professionals now. Allegations of extra marital life are denied. The respondent is a senior citizen and aged 64 years having good reputation in the society. The FIR was registered against the respondent based on the complaint of the petitioner with ulterior motive. The petitioner's intention is to tarnish the image of the respondent in the public. The present petition is not maintainable and is liable to be dismissed.

4. Heard both sides.

5. On filing this petition this court had found that prima facie case is in favour of the petitioner and the respondent was directed not to subject the petitioner to any physical or verbal abuse coming within the definition of domestic violence. Now the petitioner prays for monetary and other reliefs in the petition. From the facts and circumstances of this case, it appears that the petitioner and the respondent have been married for a considerable period and they are living separately in one house for the past 10 years for the reasons best known to them. The petitioner claims that the respondent is now trying to forcefully expel her from the house. Besides, the petitioner has raised

several allegations of domestic violence against the respondent. Admittedly, the parties are at loggerheads. The respondent is a senior citizen and practicing as a lawyer. The petitioner is a law graduate and capable of being employed. It appears from the facts that both the children of the parties are employed and well settled. The respondent claims that he is having age related ailments and liabilities to pay off. All allegations of domestic violence are denied by the respondent. It appears to this court at this stage it cannot be found that the petitioner is a women who is unable to take care of herself. Whether the respondent shall be directed to pay a monthly maintenance to the petitioner shall be a matter of evidence. Therefore, this court not inclined to grant maintenance to the petitioner at this juncture. However, the apprehension of the petitioner that she will be deprived of her right to reside in the shared household has to be given due weight at this stage. Therefore, there shall be a direction to the respondent not to commit an act of domestic violence against the petitioner, not to alienate the shared household where the petitioner resides and not to cause any obstruction to the peaceful residence of the petitioner in the shared household.

In the result, the CMP is allowed in part as follows.

1. The respondent shall not commit any act of domestic violence against the petitioner until further orders;
2. The respondent shall not alienate the present residence of the petitioner which is her shared household until further orders;

3. The respondent shall not cause any obstruction to the peaceful residence of the petitioner in her shared household.

Communicate this order to the SHO, Elamakkara P.S, SRO and the Protection Officer concerned.

Pronounced by me in Open Court this the 11th day of September, 2025.

Sd/-

**Judicial Magistrate of First Class-II,
Aluva**

//True Copy//

**Judicial Magistrate of First Class-II,
Aluva**