

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -III,
NEYYATTINKARA**

**Present: Sri. Albin J. Thomas,
Judicial First Class Magistrate – III**

Dated : Thursday, 07th August, 2025/ 16th Sravana, 1947

CMP No. 3522/2022 in M.C. No. 58/2022

Petitioners

1. Akhila.B.Pankajakshan, Aged 27, D/o Bindhu, S.S.Bhavan, Chamavila, Dalummugham.P.O, Anavoor Village.
2. Sravan Bibin, S/o Akhila.B.Pankajakshan, S.S.Bhavan, Chamavila, Dalummugham.P.O, Anavoor Village.
3. Saran Bibin, S/o Akhila.B.Pankajakshan, S.S.Bhavan, Chamavila, Dalummugham.P.O, Anavoor Village.

Represented by Adv. S.Murukan

Respondents

1. Sadasivan, Aged 65, S/o Bharathan, Biju Bhavan, Chamavila, Dhalummugham.P.O.
2. Binu, Aged 38, S/o Sadasivan, BCKS Bhavan, Chamavila, Dhalummugham.P.O.
3. Subhashini, Aged 62, S/o Sadasivan, BCKS Bhavan, Chamavila, Dhalummugham.P.O.

Represented by Adv. S.B.Rose Chandran

Petition

: U/s.23(2) of the Protection of Women from Domestic Violence Act, 2005.

Sentence/ order

Interim order is allowed in part.

ORDER

1. This is the application filed by the applicant u/s.23 of the Protection of Women from Domestic Violence Act.
2. The averments in the application is as follows: Petitioner is the lawfully

wedded wife of Bibin. Their marriage solemnized on 21.06.2017 as per Hindu rituals. In the wedlock two children were born to them. The husband of the petitioner died on 18.02.2022. At the time of marriage the parents of the applicant gave 30 sovereigns of gold ornaments to her. The late husband of the applicant pledged these gold ornaments and constructed S.S.Bhavan, Chamavila at Anavoor village. He also took loan of Rs. 25,00,000/- from HDFC bank for the purpose of construction of the house.

3. Initially, the applicant and her husband along with her minor children resided at BCKS Bhavan which is the parental house of the husband. She resided there along with all other respondents. The respondents used to harass the petitioner both physically as well as mentally after her marriage. After the death of her husband, the applicant met with thyroid cancer and underwent treatment at DDNMRC and Medical College Hospital, Thiruvananthapuram. When the applicant returned after treatment the respondents obstructed her from entering into the S.S.Bhavan, Chamavila at Anavoor village, which is the shared household. The 1st respondent locked the door of the house and the key was in his possession.
4. The applicant and her minor children have no other place of residence. The respondents also took possession of KL-01-CT-6363 numbered Innova car and KL-19-G-8691 numbered Bajaj Pulsar bike which originally belonged to her husband. The respondents also took possession of the mobile phone used by husband of the applicant. Now the applicant is residing at her parental house. Hence the application is filed seeking interim protection order, residence order and other ancillary reliefs.

5. Respondent entered appearance after receiving notice and filed objection as follows: The petition is not maintainable either in law or on facts. The parents of the applicant never gave any gold ornaments at the time of marriage. The S.S.Bhavan was not constructed by applicant and her late husband. It is the 1st respondent who had done whole of the work. The loan taken by the late husband of the applicant was misappropriated by applicant for her own purposes. The respondents never committed any act of domestic violence towards the applicant. The respondents admits that the petitioner resided along with them.
6. The applicant soon after the death of her late husband left the house with the belongings of her husband. The respondents never obstructed the petitioner from entering S.S.Bhavan. The respondents never took possession of vehicles and mobile phone of the husband of the applicant. The applicant committed theft of several electrical and sanitary appliances bought by respondent No.1 and kept in the S.S.Bhavan. The respondents are not intending to obstruct the applicant from entering into the S.S.Bhavan. The respondent No. 1 and 3 are senior citizens and are suffering from various old age deceases. The applicant wants to admit outsiders to the S.S.Bhavan. Since the respondents obstructed it she filed a false application against the respondents.
7. Heard the learned counsel for the applicant and learned counsel for the respondents. The following point arise for consideration.
 - 1) Whether the applicant is entitled to interim order as provided u/s. 23(1) of Protection of Women from Domestic Violence Act, 2005?

8. The Point:- Section 23(1) of the Act read as follows: *Power to grant interim and ex parte orders – (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.* Hence this court has ample powers to pass interim order pending proceedings under this act. At this stage it is only to be considered whether there is any prima facie case in favour of the applicant. There is no need to decide the reliefs on merit.
9. The first and foremost the petitioner and the applicant has to show that she has resided along with the respondents. Then only there is a domestic relationship created between the parties. The applicant in the application specifically stated that she resided along with the respondents. Also the 1st and 3rd respondents admitted in their objection they have resided along with the applicant. Hence domestic relationship is established.
10. The major relief claimed by the applicant is protection order denied u/s. 18 of the Act. There is specific mention in the averments of complainant that she had been subjected to domestic violence by the respondent. The respondents 1 and 3 in their objection specifically denied the same. However it is to be noted that the Act is a beneficial legislation for the well being of women who suffers domestic violence. Whether there is an act of domestic violence committed or not is to be considered in detail at a later stage after analysis of evidence. At this stage this court found it reasonable that an interim protection order as envisaged u/s. 18 of the Act can be granted in favour of the applicant.
11. The further relief sought by the applicant is a residential order u/s. 19

of the Act to reinstate her in S.S.Bhavan which is the shared household. Admitted by both parties, the applicant and her minor children used to reside there. The contention raised by the respondent 1 and 3 is that the house was constructed using the hard earned money of respondent No. 1 and hence the applicant has no right over it. However the respondent 1 and 3 in their objection stated that they have no objection against the applicant for residing there. If so an interim residential order can be granted in favour of the applicant.

12. The applicant also seek for return of certain properties prescribed in the property list filed along with the application from the respondents. However this specific relief can be granted only after considering evidence and not at this stage.

13. The applicant further seeks for a return of Rs. 5,00,000/- given by her husband to respondent No. 2. Even though respondent No. 2 did not file any objection as to this application, the relief sought by the applicant can be granted only after considering the evidence and not at this stage.

14. Considering the above discussion the application is allowed in part and the following interim orders are passed.

- a) The respondents are hereby restrained from committing any act of domestic violence against the petitioners ie, mental, physical, sexual, verbal, emotional and economic abuse.
- b) The petitioners are hereby permitted to enter and to reside at the shared household, S.S.Bhavan, Chamavila, Dalumugham.P.O situated in resurvey No. 110/29 of Anavoor village and the respondent is hereby restrained from causing disturbance to the peaceful residence of the petitioners

therein.

- c) The respondents shall not alienate or dispose of their interest in the shared household.
- d) The respondents shall not cause any disturbance to the basic amenities for the peaceful residence in the shared household including electrical and water connection.
- e) The Station House Office, Vellarada is directed to provide necessary assistance for the enforcement of orders.

Issue notice and copy of this order to the respondent by registered post if petitioner take steps and forward copy of the order to Station House Officer, Vellarada for favour of information and necessary action.

Comply with S.24 of the Act also.

Pronounced by me in open court on this the 07th day of August, 2025.

Sd/-
JUDICIAL FIRST CLASS MAGISTRATE –III,
NEYATTINKARA

//True Copy//

JUDICIAL FIRST CLASS MAGISTRATE –III,
NEYATTINKARA