

**IN THE COURT OF ADDITIONAL MAHILA AT MAGISTERIAL LEVEL AT  
KARUR**

Present: Mr. R. Mahesh, B.A.,LL.B., (Hons.), LL.M  
Judicial Magistrate (Fast Track Court at Magisterial Level), Karur  
Judicial Magistrate, Additional Mahila Court, Karur (FAC)  
Friday, the 25<sup>th</sup> day of October 2024

**D.V.C No. 44 of 2023**

Lavanya

...Petitioner

/Vs/

1. Gopinath (Died).
2. Devi.
3. Kumaresam.

...Respondents

This petition came up for hearing on 19.09.2024 in the presence of Mr.K.Karthikeyan, Counsel for the Petitioner and and the 1<sup>st</sup> respondent reported died during pendency of the case and the respondents 2 and 3, having been set ex parte on 26.02.2024 and upon hearing the submissions of Counsel for the petitioner and on perusal of entire records, this Court passed the following:

**ORDER**

This petition filed under Sec.12 of protection of women from domestic violence Act 2005 seeking Protection Order, residence order, share in the property and compensation.

**2. The gist of the petition is as follows;**

The 1<sup>st</sup> respondent(since deceased) was the husband of the petitioner. The 2<sup>nd</sup> respondent is the mother-in-law and the 3<sup>rd</sup> respondent is the brother-in-law of the petitioner. The marriage between the petitioner and the 1st respondent, which was

love marriage, was solemnized on 10.08.2021 at Namakkal Pillayar Koil as per Hindu rites in the presence of the friends. The petitioner and the 1<sup>st</sup> respondent were in love during their college days and thereafter, they got married and approached the AWPS, Kulithalai seeking protection. The petitioner and the 1<sup>st</sup> respondent hail from different caste. The 1<sup>st</sup> respondent married the petitioner knowing well about the caste of the petitioner. At that time, the respondents 2 and 3 undertook to take the petitioner well care of and brought her from the police station. But, the respondents 2 and 3 did not permit the petitioner and the 1<sup>st</sup> respondent to live together and they kept her in the house of maternal uncle of the 1<sup>st</sup> respondent. The said maternal uncle and his wife also asked her not to conjugate. The respondents 2 and 3 opposed for registration of marriage. Thereafter, the 1<sup>st</sup> respondent brought the petitioner to his house. A function of threading Thali was celebrated in the presence of relatives of the 1<sup>st</sup> respondent. The respondents 2 and 3 prevented the 1<sup>st</sup> respondent from going for job and asked him to do agriculture. They asked the petitioner to graze cattle and agriculture.

**2.1.** Since the conduct of the 2<sup>nd</sup> respondent is not cordial, the 1<sup>st</sup> respondent decided to take a separate residence at Namakkal But, the respondents 2 and 3 opposed it. Then, they kept the petitioner with them and sent the 1<sup>st</sup> respondent alone. After one month, the 1<sup>st</sup> respondent took the petitioner with him. Out of wedlock, one child Gugan was born on 19.12.2022, who is living with the petitioner now.

**2.2.** The 1<sup>st</sup> respondent was leading a good marital life for two months after marriage. Thereafter, he started harassing the petitioner at the ill-advice of the respondents 2 and 3. The 1<sup>st</sup> respondent forcefully took away Thaali and pledged it and spent the money. He acted as per the instructions of the respondents 2 and 3. The 1<sup>st</sup> respondent did not speak for some days. Even when the petitioner tried to talk to him, the 1<sup>st</sup> respondent used to abuse her in filthy language and beat her. Whenever he was questioned about his cruel acts, he proclaimed that he would remain the same and if needed, she could marry another person and he could marry another girl. The 1<sup>st</sup> respondent told her that it was a mistake for him to marry a girl from different caste. The 3<sup>rd</sup> respondent, who is the brother of the 1<sup>st</sup> respondent told her that owing to the status of her caste, she was bound to obey them or else, second marriage would be contracted for the 1<sup>st</sup> respondent.

**2.3.** The respondents 2 and 3 abused her in filthy language and meted out cruelty to her. The petitioner was treated like a slave at house. When the petitioner was in the final months of her pregnancy, the 1<sup>st</sup> respondent and herself started talking to her mother. But, the 2<sup>nd</sup> respondent abused her with her caste identity. Since her parents did not attend her marriage, after her mother started talking to her, she did all sirvarisai to the petitioner.

**2.4.** The 1<sup>st</sup> respondent went for work only for one month. Thereafter, he did not go for any work. He did not purchase anything for the household needs. The petitioner's

parents did everything for his business as per his needs. At the time of her sister's marriage, as per the custom, the petitioner's parents gave earring and anklets to her and ½ sovereign ring for the 1<sup>st</sup> respondent. The petitioner was working even during pregnancy. The 1<sup>st</sup> respondent did not go for work. He pledged the gold jewels and spent the money. The respondents 2 and 3 refused to come for valaikappu. The petitioner's parents secured a separate residence for the petitioner and the 1<sup>st</sup> respondent at Gandhigramam. The 1<sup>st</sup> respondent did not have fixed income. The 1<sup>st</sup> respondent and the petitioner lived with the care of the petitioner's parents during delivery. The petitioner's parents did the spending throughout the period of delivery of the child. The 1<sup>st</sup> respondent harassed the petitioner to get money for starting a hotel.

**2.5.** The 1<sup>st</sup> respondent got Rs.3,00,000/- from the 2<sup>nd</sup> respondent and started hotel business at Puliur. The 1<sup>st</sup> respondent told her that he borrowed amount from others and settled the loan of the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent demanded dowry stating that he needed money for hotel business. The petitioner parents gave Rs.2,00,000/-. Even then, the 1<sup>st</sup> respondent tortured her for money. Then the petitioner gave Rs.50,000/- to him. The 1<sup>st</sup> respondent borrowed money from different person using the petitioner's name for doing hotel business. One person came to the petitioner demanded money stating that her husband borrowed money using her name. He threatened to lodge complaint if no money is paid.

The 1<sup>st</sup> respondent harassed for dowry for hotel business. The 1<sup>st</sup> respondent did not heed to her words of inability and beat her. With no other go, the petitioner again paid Rs.10,000/- to him, which he spent for his family.

**2.6.** The 1<sup>st</sup> respondent did not take care of the petitioner. He did not spent any money for the petitioner's house expenses. Even when she was not well,, the 1<sup>st</sup> respondent did not take care of her but asked her to go to her parents house. The 1<sup>st</sup> respondent did not give any amount to the petitioner from the date of marriage. The 1<sup>st</sup> respondent represented falsely and obtained money from the petitioner for hotel business on partnership basis with one Baskar. But, it was found to be false after Baskar told the same to the father of the petitioner.

**2.7.** When the petitioner and her parents went in search of the 1<sup>st</sup> respondent, Baskar called her over phone and told her to send her husband with one Sathish and that the petitioner and her husband would be arrested. The 1<sup>st</sup> respondent falsely sent message to others with wrong information. He made his relatives to claim money from the petitioner as if he had given money to the petitioner. The said relatives abused her in filthy language and insulted her. When the 2<sup>nd</sup> respondent abused her in filthy language, the 1<sup>st</sup> respondent did nothing and stood laughing. Even when the 3<sup>rd</sup> respondent gestured to hit her, the 1<sup>st</sup> respondent did nothing.

**2.8.** On 15.04.2023, the 1<sup>st</sup> respondent demanded more dowry and harassed the petitioner at the instigation of the respondents 2 and 3. The respondents 2 and 3 abused her in filthy language and beat her severely. The 3<sup>rd</sup> respondent threatened to kill her. The 1<sup>st</sup> respondent kicked her on legs. The 1<sup>st</sup> respondent abused her and she could live only if she gave dowry. The petitioner got fainted. Hearing the occurrence, her parents came and took her away. When they brought the petitioner again to the house of the respondents, the respondents abused her in filthy language and refused to permit her in and also threatened her with fatal consequences. Since the respondents did not listen to the petitioner's parents and were stubborn on demand of dowry, the petitioner was not permitted inside the house. The petitioner then came back to her matrimonial house.

**2.9.** On 28.4.2023, at 08.00 am, after her father went for work, the respondents came to her house with two relatives and picked up a quarrel with her. The 2<sup>nd</sup> respondent insulted her and threatened her to give thaali chain. Whenever the respondents 2 and 3 tortured her by abusing her in filthy language, the 1<sup>st</sup> respondent kept silent and smiled. Many unknown persons claiming to be lenders were threatening the petitioner to give money at the instigation of the 1<sup>st</sup> respondent. The petitioner is leading struggling life at her parents house with a child. The 1<sup>st</sup> respondent did not do anything for the house. In spite of several efforts put by the petitioner, the 1<sup>st</sup> respondent did not take her to her matrimonial house. Therefore, the respondents have to be restrained from committing any acts of domestic violence and directed to

provide residence to the petitioner and to pay Rs.10,00,000/- as compensation and partition of half share in the properties in the name of the 2<sup>nd</sup> respondent. Thus, the petition has to be allowed.

3. During the pendency of the petition, the 1<sup>st</sup> respondent died. Though the respondents 2 and 3 entered appearance, they failed to file their counter and were set ex parte on 05.08.2023. The petition was proceeded ex parte.

4. In order to prove her case, the petitioner examined herself as PW1 and marked Exhibit P1 to P7.

**5. Points for consideration:**

- (1) Whether the petitioner was subjected to domestic violence by the respondents?
- (2) Whether the petitioner is entitled for the relief of Protection Order, compensation and residence order?

**6. Point No. 1:**

The submissions were heard. The records were perused. The respondents did not file their Counter and were set ex parte. Therefore, the application was proceeded ex parte. In order to seek for any relief under the Protection of Women from Domestic Violence Act, the petitioner must prove that the petitioner and the respondents lived together in a shared household, so as to bring the respondents under domestic relationship.

7. The petitioner has arrayed the 1<sup>st</sup> respondent, being her husband. The 2<sup>nd</sup> respondent is her mother-in-law and the 3<sup>rd</sup> respondent is the brother of the 1<sup>st</sup> respondent. During the pendency of the petition, the 1<sup>st</sup> respondent died. The main ingredient of domestic relationship as defined under Sec.2(f) of the Act is that the applicant must have lived together with the respondents at any point of time in a shared household. When the petition and the evidence of PW1 are carefully perused, it is seen that the petitioner has lived with the respondents 2 and 3 at her matrimonial house. Therefore, on consideration of the relationship status between the parties, this Court is of considered view that the applicant shares a domestic relationship with the respondents 2 and 3.

8. Now, the point to be determined in this case is if the applicant suffered domestic violence at the hands of the respondents 2 and 3. The applicant examined herself as PW1 and filed proof affidavit reiterating her contentions in the petition. PW1 further submitted that on 05.03.2021, the 1<sup>st</sup> respondent, while he was alive, purchased properties in various survey numbers in the name of the 2<sup>nd</sup> respondent, using his hard-earned money, that the 2<sup>nd</sup> respondent is not the real owner of the property and therefore, the petitioner got half share in the property.

9. The respondents did not appear to cross examine PW1 on her chief examination. Therefore, the chief examination of PW1 remains unchallenged and uncontroverted. When the evidence of PW1 is carefully perused, it is seen that there are clear incidents of physical abuse and also demand of dowry by the respondents 2 and 3. It

is also evident that the respondent did not provide her the shelter in her matrimonial house. The acts of domestic violence continued to the extent of deserting her. The respondents 2 and 3 did not appear to cross examine PW1 nor led any evidence on their part to rebut the evidence of PW1. The continued demand of dowry and subsequent desertion of PW1 for non-payment of dowry would amount to economical abuse as contemplated under Sec. 3 of the Act.

**10.** It is pertinent to point out that the applicant was deprived of her household necessities and prohibited from access to the resources in her matrimonial house, which she is entitled to use in a domestic relationship. Further, it is established by the applicant that the respondent 2 and 3 had left her . The very factum of deprivation of access to resources at matrimonial house by the respondents 2 and 3 amounts to economical abuse, which would well attract [Explanation I- (iv) (a)] under the definition of domestic violence under Section 3 of the Act. Thus, this Court is of considered view that the complainant has proved that she was subjected to domestic violence in the hands of the respondents 2 and 3. Thus, the Point No. 1 is answered accordingly.

**11. Point No. 2:**

The petitioner has sought for for protection order, compensation, residence order and half share in property. Having found that the petitioner was subjected to domestic violence by the respondents 2 and 3, this Court finds that the petitioner is entitled for

the relief of protection order from the respondents 2 and 3. Therefore, the respondents 2 and 3 have to be directed to restrain them from committing any act of domestic violence on the petitioner.

**12.** While the petitioner has sought for partition of the properties in the name of the 2<sup>nd</sup> respondent, the said relief cannot be granted in a proceeding under Sec. 12 of DV Act. It is pertinent to point out that the petitioner could work out her remedy in respect of her right over the properties in the name of the 2<sup>nd</sup> respondent before a civil forum. Therefore the relief of partition of half share in the properties has to be rejected.

**13.** It is the right of a wife to reside in her matrimonial house. The respondents 2 and 3, who are the mother and the brother of the deceased husband, is duty bound to provide accommodation to the petitioner. The petitioner had not re-married, following the death of the 1<sup>st</sup> respondent. Therefore, she continued to remain the daughter-in-law of the 2<sup>nd</sup> respondent and sister-in-law of the 3<sup>rd</sup> respondent and had rights over the property of her deceased husband. Therefore, this Court is of considered view that the 2<sup>nd</sup> respondent has to be directed to provide accommodation to the petitioner in the house of the 2<sup>nd</sup> respondent. The petitioner is entitled to enjoy the same facilities as enjoyed by her deceased husband during his lifetime. The respondents 2 and 3 were restrained from disturbing the right of the petitioner to reside in her matrimonial

house. However, there is no order as to the partition of the properties in the name of the 2<sup>nd</sup> respondent.

**14.** Upon duly considering the facts and circumstances of the case and the acts of domestic violence committed on the petitioner by the respondents 2 and 3, this Court is of considered view that it would be just and proper to direct the respondents 2 and 3 to pay Rs.2,00,000/-(Rupees Two Lakhs) as compensation to the petitioner. Thus, the Point No. 2 is answered accordingly.

**15.** In the result, the petition is partly allowed as follows;

- (1)** The respondents 2 and 3 are restrained from committing any act of Domestic Violence against the petitioner.
- (2)** The 2<sup>nd</sup> respondent is directed to provide accommodation to the petitioner at the house of the 2<sup>nd</sup> respondent with all facilities that were enjoyed by the deceased 1<sup>st</sup> respondent during his lifetime;
- (3)** The respondents 2 and 3 are restrained from causing any disturbance to the right of the petitioner to reside in the house of the 2<sup>nd</sup> respondent; and,
- (4)** The respondents 2 and 3 are directed to pay Rs.2,00,000/-(Rupees Two Lakhs) as compensation to the petitioner.

Typed by me in my laptop, taken printout and corrected by me and Pronounced by me in the open court on this the 25<sup>th</sup> day of October 2024.

**Sd/-R.Mahesh**  
**Judicial Magistrate,**  
**Additional Mahila Court, Karur(FAC)**

**List of Petitioner side witnesses:**

PW1	Lavanya
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**List of Petitioner side Exhibits :**

S.No.	Documents	Exhibits
1.	Xerox copy of Aadhar Card.	Ex.P1
2.	Original Invitation Card of PW1	Ex.P2
3.	Marriage Registration Certificate	Ex.P3
4.	Photo	Ex.P4
5.	Birth Certificate	Ex.P5
6.	Death Certificate of R1	Ex.P6
7.	Encumbrance certificate of property on the name of the 2 <sup>nd</sup> Respondent	Ex.P7

**List of Respondents side Witnesses, Exhibits: Nil**

**//True Copy//**

**Sd/-R.Mahesh  
Judicial Magistrate,  
Additional Mahila Court, Karur(FAC).**