

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE,
PARAPPANANGADI**

Present: Ms.Nova Jose
Judicial First Class Magistrate.
Dated this the 14th Day of May, 2026

Crl.M.PNo.2873/2025

in

M.C.45/2020

Petitioner

**: Saidalavi, Aged 55/25 Yrs,
S/o Kunhimoidheen
Malayil House,
Alakkathodi, A.R.Nagar,
Tirurangadi Taluk**

[Rep.by Smt.T.M.Priyadarshini, Advocate]

Respondents

**:R1].Maimoonath Kalam Valappil,
D/o Kunhimoidhu,
Puthukudi House,
A.R.Nagar.P.O.,
Tirurangadi Taluk**

**:R2]. Ayisha Neelengal,
D/o Kunhalavi Neelengal,
Puthukudi House,
A.R.Nagar.P.O.,
Tirurangadi Taluk**

**:R3]. Jamsheera,
W/o Mansoor,
Puthukudi House,
A.R.Nagar.P.O.,
Tirurangadi Taluk**

[Rep.by Sri.Muneer.PP, Advocate]

**R4]. Kunhalavi Puthukudi,
S/o Kunhimoidheen Puthukudi,
Cheriyattil House,
A.R.Nagar.P.O.,
Tirurangadi Taluk.**

[Rep.by Smt.Shainy Nath.C, Advocate]

This case coming on for hearing today and the court passed the following:-

ORDER

This petition has been filed by the petitioner seeking to revoke the residence order passed by this Court in Crl.M.P. No.2048/2020 in M.C. No. 45/2020.

1]. The petition averments are follows:- According to the petitioner, he is not a party in the above said case. The petitioner had purchased the property from the 4th respondent, in the petitioner's name, by virtue of Sale Deed No. 887/2020 dated 21.03.2020, executed at the Vengara Sub Registrar Office. The property comprises 0.0637 hectares of land in Re.Sy. No. 389/7-19 of A.R. Nagar Village, together with House No. 491 situated in Ward No. 11 of A.R. Nagar Grama Panchayat. However, the petitioners in MC, who were fully aware of these facts, concealed them and the 1st respondent (1st petitioner in the MC), Maimoonath, filed Crl.M.P.No.2048/2020 in MC 45/2020 before the Court, misleading the Court by claiming that the said house and property belonged to the 4th respondent (respondent in MC) Kunjalavi Puthukudi, and obtained an order. They are still residing there. Therefore, the petitioner filed O.S. 125/2020 before the Munsiff Court, Parappanangadi, making both the petitioners and the respondent in the MC as parties to the suit, seeking eviction from the house that he alone was entitled to. However, since the court fee was not paid in time, the said suit was dismissed. The petitioner is now taking steps to restore that case. The above-mentioned house and the land attached to it belong solely to the petitioner. The petitioner has been paying the electricity bills, luxury tax, land tax, and building tax for the said property. The receipts for these payments, along with the certified copy of the above-mentioned Sale Deed and the order copy of Crl.M.P. No.2048/2020, are being submitted together. Because of the order passed in the said Crl.M.P, he was initially unable to pay the building tax for the property. However, as per the

order of the Hon'ble Kerala High Court in WP (C) No: 11250/2025, the building tax has subsequently been remitted in petitioner's name. The house and property at Tirur were purchased by the petitioner and he is in full and exclusive ownership and possession of them. By impleading him as a party, the 1st respondent/1st petitioner, Maimoonath, filed O.P No. 366/2020 before the Tirur Family Court seeking a Permanent Injunction against the petitioner from selling the said house and property. That petition was dismissed. Even before filing the petition, the 4th respondent had already sold the said house and property to the petitioner, which was known to the respondents 1 to 3. Concealing this fact, the 1st respondent (1st petitioner in MC) misled the Hon'ble Court and obtained such an order, which is not sustainable. Because of the family disputes between the 1st to 3rd respondent/1st to 3rd petitioners and the 4th respondent, he is unable to sell or use the house and property that are under his ownership, and he is suffering great hardship as a result. At present, due to old age and illness, the petitioner is suffering greatly. As a real estate businessman, he is unable to sell or make use of this property, and therefore he is burdened with debts. The disputes between the 1st to 3rd respondents/1st to 3rd petitioners and the respondent have no bearing on him or on the property registered in his name. Hence, the Court ought to vacate the Residential Order passed in CrI.M.PNo.2048/2020. Otherwise, the petitioner will be subjected to serious hardship and loss. Hence the petition.

2]. The 1st to 3rd respondents filed counter statement denying the averments in the petition. It is submitted that the petition is not maintainable either in law or in facts. The 1st respondent is the wife of the 4th respondent; the 2nd respondent is the mother of the 4th respondent; and the 3rd respondent is the daughter-in-law of the 4th respondent. The petitioner and the 4th respondent are close friends and have maintained a friendly relationship. In this situation, the 4th respondent created certain problems against the 1st

respondent and she filed a case under the Domestic Violence Act before this Court. When this case was filed, her husband, the 4th respondent, with malicious intent, registered his properties in the names of his close friends without receiving any consideration, so that neither she, nor his mother, nor his children would get any share. This crucial fact has been completely concealed by the petitioner. Knowing that the 1st respondent would file cases to recover her money, gold ornaments, past and future maintenance, and compensation for domestic violence, the 4th respondent, in conspiracy with the petitioner, fraudulently transferred the properties and house mentioned in the petition after the MC case was filed. In a similar manner, the 4th respondent transferred four other properties to his close friends without any consideration. These properties, as claimed by the petitioner, are covered by sham documents. In reality, the 1st respondent's husband, the 4th respondent, is the true owner of these properties. The said documents have neither effect nor validity, nor was it ever intended by the petitioner and the 4th respondent that they should have such effect. To cancel these sham registrations, the 1st respondent filed O.P. No.366/2020 before the Tirur Family Court. That case was dismissed, and a lawful appeal was filed before the Hon'ble High Court, which is still pending consideration. Until the High Court finally decides the matter, no final determination regarding the title of the property has been made. Concealing this crucial fact, the petitioner has now filed the present interlocutory petition. Furthermore, at the time of filing the MC, we were residing in the said house. To evict us from the house, the petitioner himself filed O.S. No.125/2020 before the Parappanangadi Munsiff Court, but that case was dismissed. This is clear proof that the petitioner has no right to evict the respondents from the said house. The petitioner has deliberately concealed the fact that we have no other residential house or property apart from the residential house referred to in the earlier order of this Court. This petition has been filed only to harass the 1st to 3rd respondents and to waste the valuable

time of the Court. Therefore the petition is liable to be dismissed.

3]. The 4th respondent filed counter statement. According to the 4th respondent since all the facts stated in the above petition are true, this respondent admits them. The land measuring 0.0637 hectares in Re.S. No. 389/7-19 of A.R. Nagar Village, together with House No. 491 in Ward 11 of A.R. Nagar Grama Panchayat, which was under the ownership and possession of 4th respondent, was sold to the petitioner on 21.03.2020 by registered deed No.887/2020 of Vengara Sub-Registrar Office. The said house, the land on which it stands, and other properties in the name of 4th respondent had to be sold to discharge the heavy debts incurred by the 4th respondent's children. This fact was well known to respondent Nos.1 to 3 and to the 4th respondent's children. Even after knowing this, respondents Nos.1 to 3 deliberately concealed it and filed false claims before this Court in M.C. No.45/2020 to harass the 4th respondent. Along with that petition, Crl.M.PNo. 2048/2020 was also filed, and on 09.06.2020 the Court passed an exparte order restraining this respondent from transferring the said house and property. To vacate that order, this respondent has filed Crl.M.PNo.4571/2022, which is still pending. After purchasing the house and property, the petitioner requested several times that the respondents vacate the house, but they refused, thereby causing mental stress to the 4th respondent. The petitioner also filed O.S. No. 125/2020 eviction suit before the Parappanangadi Munsiff Court, impleading this respondent as a defendant. However, that case was dismissed due to non-payment of court fee. Respondent No.1, together with respondent No.2 and others, has a shared house in one acre of land at House No. 268 in Ward 11 of A.R. Nagar Grama Panchayat, where they can reside without any hindrance. The 4000 sq. ft. house, built by the hard work of this respondent, was assessed in the name of the respondent's father, and after his death devolved upon this respondent and respondent No.2 and others.

Respondent No.2 is presently residing there. Although the property was sold to the petitioner for adequate consideration, due to family disputes the petitioner has not yet been able to take possession, which has caused this respondent severe mental distress and social humiliation. Therefore, Crl.M.P No. 2873/2025 and Crl.M.P.No. 4571/2022 filed by 4th respondent to vacate the exparte order should be considered together and disposed of. The 4th respondent had pronounced *Talaq* on 30.06.2020, thereby dissolving the marriage with respondent No.1, which was declared by the Family Court, Tirur in O.P No.745/2022. There is no domestic relationship now between this respondent and respondent No.1. As a divorced Muslim woman, this respondent has sent notice to respondent No.1 offering *Iddah* and *Madhaa* in accordance with the present financial condition. Therefore, it is prayed that respondent Nos.1 and 2 be directed to shift their residence to House No.268 in Ward 11 of A.R. Nagar Grama Panchayat, which devolved upon them, and that the above petition be allowed accordingly..

4]. Heard both sides. Perused the records.

5]. The case of the petitioner is that the 4th respondent by virtue of Sale Deed No.887/2020 dated 21.03.2020, executed at the Vengara Sub Registrar Office sold him the property comprising 0.0637 hectares of land in Re.Sy. No. 389/7-19 of A.R. Nagar Village, together with House No.491 situated in Ward No.11 of A.R. Nagar Grama Panchayat. In the present case the court had ordered attachment over the said property as per order dated 09.06.2020 in Crl.M.C 2048/2020 and this has caused prejudice to his rights over the property. The question of whether the petitioner has established his ownership is essentially one of documentary evidence. Courts passing orders under the Protection of Women from Domestic Violence Act must, when faced with credible material establishing third-party title, be prepared to revisit such orders. The purpose of a non-alienation/residence order under Section 19 of

the Protection of Women from Domestic Violence Act is to protect the aggrieved person's right to reside in the shared household. Where the respondent no longer holds title and where that title vests demonstrably in a third party the very foundational premise of the residence order is undermined.

6]. The petitioner has produced the Certified Copy of Sale Deed No. 887/2020 dated 21.03.2020, Vengara SRO. This is the foundational document of the petitioner's case. A registered sale deed executed before a Sub-Registrar carries statutory presumptions of due execution and consideration under the Registration Act, 1908 and the Transfer of Property Act, 1882. The sale deed establishes, on its face, that the 4th respondent transferred the property to the petitioner for consideration on 21.03.2020, approximately 80 days before the Protection of Women from Domestic Violence Act petition was filed on 09.06.2020. The building tax receipt for the year 2025-2026 is in the name of the petitioner. Similarly, the property tax receipt for the year 2025-2026 is in the name of the petitioner. While property tax receipts alone are not conclusive proof of title, they constitute strong corroborative evidence of possession and acknowledged ownership, particularly when viewed alongside the registered sale deed. A possession certificate issued by the Village Office is an official record reflecting the state's recognition of possession in favour of the petitioner. This document is significant because possession, when combined with a registered title deed, amounts to near-conclusive evidence of ownership in a summary proceeding of this nature. The electricity connection for the building stands in the name of the petitioner. This is a further indicator of possession and ownership acknowledged by a statutory authority. The petitioner produced the order of the Kerala High Court in WP(C) No. 11250/2025, by which the petitioner was expressly permitted to remit property tax in respect of the property. This is a significant document. The

Hon'ble High Court's order, passed in writ jurisdiction, effectively recognised the petitioner's claim to the property to the extent of permitting him to discharge statutory obligations in relation to it. The 1st respondent herself filed O.P. No. 366/2020 before the Hon'ble Tirur Family Court seeking a permanent injunction to restrain the petitioner from selling the property, a proceeding in which she implicitly acknowledged the petitioner as the registered title holder. That petition was dismissed by the Hon'ble Family Court. This is material because the dismissal order by a court of competent civil jurisdiction amounts to a refusal to grant relief on the basis that the transaction was not demonstrated to be sham or void. Taken together, this body of documentary evidence comprising a registered sale deed, tax receipts, a possession certificate, an electricity bill, the Hon'ble High Court order, and the dismissal of the injunction petition constitutes a cogent, consistent, and multi-layered documentary record establishing the petitioner's ownership of the property.

7]. The respondent Nos.1 to 3 resist this petition primarily on the ground that the sale deed was a sham transaction, a fraudulent transfer orchestrated by the 4th respondent and the petitioner in collusion, without genuine consideration, with the intent to defeat the Protection of Women from Domestic Violence Act claims of the 1st respondent. This is a serious allegation, and the Court has examined it with care. It is a well-established principle of law that a registered instrument carries a presumption of validity. The person alleging fraud, collusion, or want of consideration in a registered document bears the onus of proof. This burden is not discharged by mere assertion. It requires cogent, credible, and specific evidence, documentary or otherwise, that the transaction was never intended to have legal effect, that no consideration passed, or that there was a fraudulent design. Critically, respondent Nos.1 to 3 have not produced any document in support of their allegation of sham transaction. The 1st respondent had filed O.P. No.366/2020

before the Hon'ble Tirur Family Court specifically to have the impugned transaction and others declared as sham. That petition was dismissed. While the respondent Nos.1 to 3 state that an appeal is pending before the Hon'ble High Court, the fact remains that as on date, the Hon'ble Family Court, a court of competent civil jurisdiction that examined the matter on merits has not found it fit to grant the relief of declaration that the transaction is void. No records of the pending appeal has been produced by the respondent Nos.1 to 3. The respondent Nos.1 to 3 allege that the 4th respondent transferred four other properties to friends without consideration. Even if this were true and proved in other proceedings, it cannot, by itself, taint the present transaction. Each transaction must be evaluated on its own evidence. A general pattern of alleged fraud, without specific evidence as to this transaction, does not meet the legal standard for rebutting a registered document's presumption of validity. The respondent Nos.1 to 3 rely heavily on the dismissal of the eviction suit O.S. No.125/2020 filed by the petitioner before the Parappanangadi Munsiff Court to argue that even the civil court did not recognise the petitioner's title. However, this argument is factually untenable and legally misconceived. The petitioner himself has stated, and the respondents have not contradicted, that the suit was dismissed solely due to non-payment of court fee, not on merits. A dismissal for non-payment of court fee is a dismissal in default of a procedural requirement; it is neither a finding on title, nor a finding on possession, nor a denial of the petitioner's ownership. Such a dismissal carries no res judicata or estoppel on the merits. The petitioner's steps to restore the suit further confirm that the matter was never decided on its substantive merits.

8]. For all the foregoing reasons, the allegation of sham transaction, while colourably pleaded, remains entirely unsubstantiated by any credible documentary evidence. In a proceeding of this summary nature under the

Protection of Women from Domestic Violence Act, where the petitioner has placed before the necessary documents, the bare counter averments of respondent Nos.1 to 3 cannot be held sufficient to defeat or sustain the attachment over the petitioner's property. Having found that the petitioner has established his ownership through cogent documentary evidence, that the attachment order causes direct and continuing prejudice to a bonafide registered purchaser. In the present case, the sale deed predates the Protection of Women from Domestic Violence Act petition by approximately 80 days. At the time of filing of the Protection of Women from Domestic Violence Act petition, the 4th respondent had already ceased to be the owner of the property. A non-alienation/residence order under the Protection of Women from Domestic Violence Act over a property that the Domestic Violence respondent no longer owns at the time of filing is without jurisdictional foundation. The purpose of such an order is to prevent future alienation during the pendency of proceedings; it cannot operate to reverse or encumber a completed, registered, pre-litigation transfer. Thus this petition ought to be allowed.

In the result, the petition is allowed as follows:-

- i]. The attachment order passed in Crl.M.P. No. 2048/2020 on 09.06.2020 in MC No. 45/2020, in so far as it operates over the property described as 0.0637 hectares of land in Re.Sy. No. 389/7-19 of A.R. Nagar Village together with House No. 491, Ward No. 11 of A.R. Nagar Grama Panchayat, is hereby revoked and vacated.
- ii]. A copy of the order shall be communicated to the SRO concerned.

[Pronounced by me in the open court this the 14th Day of May, 2026.]

Sd/-

Judicial First Class Magistrate,
Parappanangadi.

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