

**IN THE COURT OF THE II ADDL. JUDICIAL MAGISTRATE OF I
CLASS, ONGOLE.**

Present: Smt.N.Sarada,
II Addl. Judl. Magistrate of First Class, Ongole.
Monday, this the 19th day of March, 2018

D.V.C.No.43/2014.

1. Konda Ruthu @ Rupa Wife of Narasimha Rao
Aged about 33 years, Hindu, R/o Rajampalli village
Darsi mandal, prakasam District
 2. Konda Bhanu Prakash, aged 15 years,
Rajampalli village, Darsi mandal
 3. Konda Nikhil, aged 12 years,
Rajampalli village, Darsi mandal
- ... Petitioners.

Vs.

1. Konda Narasimha Rao, aged 46 years, S/o Musalaiah,
Rajampalli Darsi mandal
 2. Konda Adi lakshmi, aged 60 years, W/o Musalaiah
Rajampalli Darsi mandal
 3. Konda Anjaneyulu S/o Musalaiah
Rajampalali Darsi mandal
- ... Respondents

This petition is coming on 12-03-2018 for hearing before me in the presence of Sri.P.Ambareesh Advocate for Petitioner and of Sri.S.V.Mallikarjuna Rao Advocate for Respondents upon perusing the oral evidence on record and upon perusing the arguments on both sides and having stood over for consideration till this day, this Court made the following:-

// ORDER //

1. This application is filed by the petitioner by name Konda Ruthu and two others (aggrieved person) U/Sec.20 of Domestic Violence Act, 2005, against the respondents and to pay interim maintenance for Rs.6,000/- to the 1st petitioner, and Rs.6,000/- to the petitioners 2 & 3 and direct the respondents to provide residential accommodation and further reliefs in the interest of justice.
2. The case of the petitioner in brief is as follows:-

Petitioner submitted that the respondent is her husband. Their marriage was performed with R1 at about 16 years back and Rajampalli village, according to Hindu rites and customs. At the time of marriage, the respondent never demanded dowry, after some time, petitioner parents, gave Rs.1,00,000/- cash to the respondent as dowry though not demanded and 3 ½ sovereigns of gold during their wed lock. Petitioners 2 & 3 are born. Since beginning the respondent R1 to R3 are ill treating the petitioner and demanding more dowry. The respondent addicted bad habits, and used to harass her. Whenever she questioned the attitude of the respondent, the respondent and his mother are beat the petitioner and also the respondent was threatening the petitioner. One Makkena Yogaiah frequently visit the house of respondents, for some time, herself and respondent lived separately in the same village. During that period, she worked as a teacher in private school. The respondent locked the house, by keeping her in the house, In the year 2006 she worked in a convent at Darsi, to maintain family, the respondent and his mother beat her and stopped to do work in convent. In the year of 2008, the respondent pressed her neck to kill her. In the year of 2009, the respondent leaked the gas and tried to kill her, she escaped from the house, the respondent falsely pretended that he was attacked with paralsis stroke and made them to leave the house, in 2009 and thrown blame on her that she left the house,without rendering service, to the respondent. Petitioner health spoil and cannot do any manual work, the respondent get Rs.18,000/- per month and he has land of Ac.4-00 and also two houses, she buffaloes, at his native place, petitioners 1 to 3 are suffering a lot for food, medicines, education etc, the respondent did not provide anything to them she has no means to maintain herself as well as petitioners 2 & 3. Hence, petitioner prayed that the Hon'ble Court, may be pleased to pass an order by granting maintenance of Rs.6,000/- per month to the petitioner and Rs.6,000/- per month to the petitioner 2 & 3.

03. The respondent filed counter, and submitted that the allegations in the petition filed by the petitioner or not true and correct. The allegations made by the petitioner in her petition all are false. Further the respondent submitted that the 1st respondent father died in the year 2008, even during his life time,

in the year 2005 he made arrangements for him and two sons live in separate houses. The petitioner and the 1st respondent living separately. Later the petitioner expressed her intention to live separately away from the parents of the 1st respondent and his brother. At the instance of the petitioner, the respondent shifted his family in a rented house of M.Venkateswarlu, and stayed at about four or five months. Later, at the instance of the petitioner, the 1st respondent and the petitioner shifted their family to their own house. The respondent also made the petitioner to appear for 10th class examinations. After passing that examinations, she worked as ECE instructor in ECE center Rajampalli village. In June, 2009 the 1st respondent attacked paralysis then the petitioner developed a dislike towards the 1st respondent and began to pick up quarrel with the respondents frequently without any cause and refused to do any service to the 1st respondent. In July, 2009, the petitioner went to her parents house along with children leaving the 1st respondent alone in the house. In those circumstances, the 2nd respondent was attending to the 1st respondent during his sickness. After recover the 1st respondent went to Kothapatnam several times and requested the petitioner to come back to Rajampalli along with two children and live with him. The respondent make all efforts personally and through elders, for bring back her to Rajampalli till today. The petitioner was working as a staff nurse in a private Hospital of Dr.Salmon at Chirala and getting more than Rs.15,000/- per month. The petitioner alone put up her family at Chirala. She did not permit the 1st respondent at least to see her at Chirala. The elder son of the petitioner studying at Kothapatnam used to reside in social welfare Hostel, and 2nd child is living with the petitioner at Chirala. Subsequently, respondent sent legal notice to the petitioner for restitution of conjugal rights but no response from the petitioner, Several cases are pending between the petitioner and respondent. The petitioner uis an adamant and characterless lady and she harassed the respondent in all methods, the petitioner developed aversion against the 1st respondent. The 1st respondent suffered ill health till now and he is facing so many problems, and he is working as a Security guard in agricultural market committee, Darsi on contract base and getting Rs.4,000/- per month. It is not sufficient to meat his livelihood and medicine but the petitioner is working as a staff nurse, and

getting more than Rs.150000/- per month, moreover children are joining in Govt. Hostel. The 1st respondent is always ready and willing to bring back the petitioner and her children for happy marital life. The petitioner voluntarily deserted the 1st respondent and got filed this cases for harassment against the respondent. The petitioner having sufficient income, to meet all her needs and she is able to maintain herself and children. But the 1st respondent is not getting sufficient income to meet his minimum needs and he is unable to maintain himself and also the petitioner.

04. Basing on the above pleadings the point for determination are as follows:

1. Whether the petitioner is entitled for Interim maintenance?
2. Whether the petitioner is entitled for residential orders?

05. Coming to the case on hand in order to grant reliefs sought by the petitioner that is interim maintenance and protection order it has to be have established by the petitioner that domestic violence has been taking place against her by the respondents R1 to R3.

06. To establish the same the petitioner as P.W1 deposes in the following manner

P.W1 deposed respondent is her husband their marriage was performed at about 16 years back, at the time of marriage, the respondent never demanded dowry, after some time of marriage. P.W1 parents, gave a Rs.1,00,000/- to the respondents, as dowry and 3 ½ sovereigns of gold articles during their wed lock, petitioners 2 & 3 are born. From the beginning the R1 to R3 ill-treating the petitioner and demanded more dowry. R1 addicted bad vices and used to harass her whenever she questioned the attitude of the respondent, R1, R2 beat her for some time, petitioner and respondent lived separately in the same village, during that time she worked as a teacher in private school, the respondent locked the house, by keeping her in the house. In the year 2006, she worked as a private school teacher, at Darsi, to maintain her family, in the year 2008, 2009 the respondent tried to kill her by

pressing her neck and her health spoil and cant do any manual work, the respondent get Rs.18,000/- per month and he has land of Ac.4-00 acres and two houses, and she buffaloes at his native place. And Petitioners 1 to 3 are suffering a lot for food and medicines, education, etc., The respondent did not provide anything to them and now they have no means to maintain themselves, now petitioner taking shelter in her parents house, at Kothapatnam.

07. Coming to the evidence of P.w2 deposed that the petitioner marriage was performed with 1st respondent in the year 1997 at the time of marriage the parents, gave dowry Rs.1,00,000/- to the respondent and 3 ½ sovereigns of gold and Rs.50,000/- house hold articles. During their wed lock petitioners 2 & 3 born subsequently, the 1st respondent developed dislike towards the petitioner and beat her indiscriminately. The respondents are demanding additional dowry. In the year 2006, the 1st respondent beat the petitioner as a result, the left leg is fractured and she joined in Prasada Rao Hospital, Ongole. Thereafter 1st and 2nd respondent mentally tortured by petitioner and gave much difficulties through the petitioner with out providing meals. On one instance, the 3rd respondent beat the petitioner she was necked out from the matrimonial house.

08. Coming to the evidence of R.W1 deposed that the petitioner is a adamant lady she ill treated and harassed the 1st respondent and she never treated the respondent as her husband. R1 father died in the year 2008, even during his life time, in the year 2005, he made arrangements, for my elder son family accordingly they lived separate house, the petitioner and 1st respondent lived separately. The petitioner appeared for 10th class examination, after passing that examination he worked as ECE instructor in ECE Center, Rajaampalli,. In the month of June, 2009 1st respondent attacked with paralysis later the petitioner developed a dislike towards the 1st respondent and picked up quarrel with the respondents frequently and refused to do, service for 1st respondent. After recovery of 1st respondent, he went to Kothapatnam several times and requested the petitioner to come to Rajampalli along with the children for which petitioner refused. The petitioner was working as a staff nurse in a private hospital at Dr.Salmon Hospital, at Chirala and getting more than Rs.15,000/- per month. She did not permit the 1st respondent at

least to see the petitioner. Petitioner younger son studying at Kothapatnam and used to reside in social welfare Hostel, and the 2nd child is living with the petitioner, 1st respondent sent legal notice to the petitioner for Restitution of conjugal rights but no response from her and he filed a HM OP No.40/2012 on the file of Hon'ble Senior Civil Judge's Court, Darsi. The petitioner harassed the respondent family in all methods and she developed aversion against the 1st respondent she filed this false case, with invented stories for harassment. The respondent is always ready and willing to bring back the petitioner and her children. But the petitioner voluntarily deserted the 1st respondent and filed this case. The petitioner is having sufficient income to meet her needs and she is able to maintain herself and her children. Subsequently, the 1st respondent also died due to ill health on 14-06-2015 Further respondent submitted that they have no ancestral property. Hence, the petitioner is not entitled any relief against them.

9. However, on perusal of evidence on record, admittedly there is no dispute with regard to domestic relationship between P.w1 and 1st respondent. Because the 1st respondent himself admitted about the marriage of petitioner and R1 as per Hindu rights and customs and also birth two sons. So there is no dispute with regard to Domestic relationship between the petitioner and R1. Now coming to the relief sought by the petitioner that is pertaining to maintenance and residential orders, the allegation against the respondent as per P.W1 is that the respondent started harassing P.W1. On this aspect P.w1 elaborately deposed that about the harassment of R1 to R3 in her evidence. At one instance the respondent tried to kill the petitioner by leaked the gas and pressing her neck. Subsequently she was treated by the parents now she is depending upon her parents mercy.

10. Coming to the relief sought by the maintenance claimed by the petitioner Rs.6,000/- per month each the respondent gets Rs.18,000/- Per month salary and has land of Ac.4-00 cents and two houses and she buffaloes at native place. They are suffering a lot for food and medicines, education etc.. The respondent did not provide anything to them taking advantage of their innocence and they had no means even to file petition for maintenance. Thus they were totally neglected by the respondent. Now R1 is no more, he was expired during the case proceedings.

Hence, no maintenance was granted even though the R1 having properties the same was proved by the petitioner.

11. Coming to the relief sought by the residential accommodation she deposed that in her evidence elaborately the R1 is having Ac.4-00 cents of land, two houses, she buffaloes and Rs.18,000/- per month salary. Coming to the relief sought by the petitioner that is shelter to prove this aspect the petitioner failed to produce the documents to show that the respondent is having a properties in his name. So that the relief sought by the petitioner is dismissed.

12 In view of the above foregoing discussion, this petition is dismissed.

Dictated to the personal Assistant, transcribed by her,corrected and pronounced by me in Open Court, this the 19th day of March, 2018

Sd/-N.Sarada
II Addl. Judl. Magistrate of I Class
Ongole.

// APPENDIX OF EVIDENCE //
-: WITNESSES EXAMINED:-

For Petitioner :
P.w.1 : Konda Ruthu
P.W2:Bethala Srinivasulu

For Respondents :
R.W1:Konda Adi Lakshmi

DOCUMENTS MARKED ON BEHALF OF PETITIONER.
-NIL-

DOCUMENTS MARKED ON BEHALF OF RESPONDENTS.
-NIL-

Sd/-N.Sarada
II-AMM.
Ongole

// True copy //

II-Addl.Judl.Magistrate of I-Class
Ongole

