

**IN THE COURT OF THE SPL. JUDL. MAGISTRATE OF I CLASS,  
EXCISE COURT, ONGOLE.**

Present: Sri **Shaik Ibrahim Sharief**,  
Special Judicial Magistrate of I Class, Excise Court, Ongole.

Wednesday, this the 14<sup>th</sup> day of December, 2016.

**D.V.C.No. 02 of 2014.**

Between:

1. Pokuri Chennamma,  
W/o. Siva Prasad (Late), aged 28 years,  
C/o Dasari Narasimha Rao,  
Ramulavari Gudi Street, Chimakurthy.
2. P.Eswar, Son of Siva Prasad,  
Aged 7 years.
3. P.Bhanu Sri Prasanna, Daughter of Siva Prasad,  
Aged 4 years.

Petitioners 2 and 3 are being minors  
represented by her mother 1<sup>st</sup> petitioner.

**.... Petitioner.**

AND

1. Pokuri Sambaiah,  
Son of Chinnaiah, aged 50 years,  
Etukuru road, Near Communist Statues,  
Gandhi Nagar 3<sup>rd</sup> lane, Guntur.
2. Pokuri Jayamma,  
Wife of Chinnaiah, aged 45 years,  
Etukuru road, Near Communist Statues,  
Gandhi Nagar 3<sup>rd</sup> lane, Guntur.
3. Pokuri Subba Rao,  
Son of Chinnaiah, aged 30 years,  
Etukuru road, Near Communist Statues,  
Gandhi Nagar 3<sup>rd</sup> lane, Guntur.
4. Pokuri Sri Lakshmi,  
Daughter of Sambaiah, aged 27 years,  
Chinnaiah, aged 45 years,  
Etukuru road, Near Communist Statues,  
Gandhi Nagar 3<sup>rd</sup> lane, Guntur.

**.... Respondents**

This case coming on 07.12.2016 for final hearing before me in the presence of Sri **K. Srinivasulu**, Advocate for Petitioners and of Sri **N.Veeranjaneyulu**, Advocate for respondent and upon perusing the material available on record and having stood over for consideration till this day, this court made the following:

**// O R D E R //**

The first petitioner filed a petition before the Protection Officer-cum-Project Director, District Women and Child Development Agency, Ongole, by alleging that her marriage with her late husband Siva Prasad was an arranged marriage and it was performed at Gandhi Nagar, Guntur. At the time of marriage her parents presented an amount of Rs.2,00,000/-, 3 sovereigns of gold, house hold articles worth of Rs.15,000/- to the first respondent who is her father in law, on behalf of her husband. After the marriage they begot petitioners 2 and 3. Her husband died on 30.08.2010. After the death of her husband Respondents 1 to 4 insisted to leave the matrimonial home or demanded Rs.2,00,000/- to live in the house which was under him and to execute a deed in her favour and by saying so they have subjected her to cruelty. The respondents even did not provide food to them. As such, she informed the said fact to her elders, thereafter they have approached the first respondent and again the first respondent insisted for Rs.2,00,000/- About 6 months prior to the filing of the petition, the respondents necked out the petitioners 1 to 3 by throwing the house hold articles, as such she came to her sister's house at Chimakurthy. Her elders again went to the house of first respondent. But, the first respondent by abusing them send them away. The first respondent gave her portion of house and land and earning Rs.1,500/- as rent. The

first respondent is having agricultural land, house plots and houses. Therefore, requested to grant necessary reliefs to her.

2. The Protection Officer after following the mandatory provisions along with counseling report submitted the report to this Court.

3. After issuance of notice of respondents 1 to 4, through the Protection Officer. The respondents 1 to 4 present before the Court and filed their counter interrelia denying the averments of the petition and further contended that, the petition is suppressio varie and suppressio falsy. The first petitioner's parents never presented an amount of Rs.2,00,000/- besides 3 sovereigns of gold and an amount of Rs.15,000/- towards house hold articles to the first respondent. The marriage of first petitioner with the eldest son of Respondents 1 and 2 was held 11 years ago and immediately after the marriage the first petitioner and her husband put up separate family two lines away from the house of the respondents 1 and 2. Since then the first petitioner and her husband insisted the first respondent for partition of the property for which the first respondent agreed for the same. Thereafter, the first petitioner and her husband made a police report with a view to harass, intimidate and threaten him before the Lok Adalat, Guntur and the Hon'ble Lok Adalat informed them that the property would be partitioned after the respondents 1 and 2 passes away. Later, the petitioner and her husband went to Raja Nagar village of Prakasam District and they lived there for some time and again they returned to Guntur and continued to demand for partition of the property. Thereafter, the husband of the petitioner who is eldest son of respondents 1 and 2 had attended the betrothal function of his

younger brother Subba Rao and on that the petitioner quarreled with her husband, teased him and taunted him and unable to bare the torture, the husband of the first petitioner committed suicide. At that time all the relatives of the first petitioner and their hench men have forcibly obtained a promissory note for Rs.50,000/- in favour of the petitioner towards security of the grand daughter of respondents 1 and 2 and further got executed another document giving possession of 50 cents of dry land towards the maintenance of grand children. The understanding of the document is that the petitioner has to maintain the property of 50 cents of land on behalf of the minor children and further it was also settled that a portion of the house stands in the name of Respondents 1 and 2 was given to the petitioner. The first petitioner expressed her dis-interest to live in the said portion and wanted to get registered in her favour for which respondents 1 and 2 did not agree, as the property was in B-form patta. The respondents 1 and 2 advised the petitioner to give the portion on rent and enjoyed the same for which also the petitioner did not agree agitating before different forums dragging the respondents 1 and 2 to come to her terms. The second respondent sustained fracture in an accident and she is unable to do any work. The first respondent suffered fracture in the year 1977 itself. The respondents have got only one house that was raised in B-Form patta and Ac.2-00 of dry land at Chimakurthy. The respondents 1 and 2 are living on the income of the above properties. The petitioner is hale and healthy and she can attend agricultural works and therefore requested the Court to dismiss the petition.

4. During the course of enquiry, on behalf of petitioners P.Ws.1 to 3 are examined and Exs.P1 to P4 are marked. On behalf of respondents, the first respondent examined himself as R.W.1 and got marked Exs.R1 to R3.

5. Heard the learned counsel for the petitioners as well as the learned counsel for the Respondents.

6. Now the point for determination is:

“ Whether the petitioners were subjected to domestic violence by the respondents and if so whether the petitioners are entitled for the reliefs of protection, residence, damages and compensation?”

**POINT:-**

7. There is no dispute that the first petitioner is the daughter in law of the respondents 1 and 2, there is no dispute that the petitioners 2 and 3 are the grand children of the respondents 1 and 2. There is no dispute that the husband of first petitioner is no more.

8. It is the contention of the first petitioner that at the time of death of her husband, the first respondent has executed Ex.P1 promissory note, agreeing to pay Rs.50,000/- towards their expenses and also executed Ex.P2 Dakal deed in favour of petitioners 2 and 3 agreeing to give 50 cents of agricultural land and house portion at Guntur. Thereafter, the respondents have necked out her from the said house, as such she has been living with her sister at Chimakurthy.

09. On the other hand, it is the contention of the learned counsel for the respondents that the first petitioner insisting the first respondent to execute a deed bequeathing the properties mentioned under Ex.P2 in

her favour and as the first respondent did not agree for the same, as such she voluntarily left the matrimonial home and has been residing at Chimakurthy. In view of the rival contentions of both the parties now it has to be seen whether the first petitioner has voluntarily left the matrimonial home or she was necked out by the respondents from the matrimonial home.

10. To prove her contention, the petitioner examined herself as P.W.1 besides examining her father P.W.2 and another independent mediator as P.W.3. In her chief examination, P.W.1 stated that after the death of her husband there was a mediation held between themselves and Respondents 1 and 2. Respondent No.1 agreed to give her Ac.0.50 cents of land, an amount of Rs.50,000/- and one portion of house in the name of her children. Accordingly, Ex.P1 promissory note was executed and Ex.P2 unregistered dakal deed was executed in the name of her son Eswar, a minor being represented by herself as guardian. 10 days after the death of her husband and after completion of death ceremonies, first respondent directed her to vacate the house and he has not paid the amount stated. Later, on one day at 8-00 PM, first respondent necked out her along with her children. As such, her father taken to a chowtry at Anjaneyaswamy Temple at Singarayakonda and thereafter as per the arrangement made by her sister and her father she has been living along with her sister at Chimakurthy. In the cross examination also P.W.1 categorically stated that the settlement was made before the elders after death of her husband and first respondent agreed to give one portion of the house for living purpose and earnings on 50 cents of the dry land will be enjoyed by the minor children and

accordingly memorandum of understanding was entered. P.W.2 the father of P.W.1 also stated in his evidence that at the time of death of his son in law, the first respondent agreed to give one portion of the house, cash of Rs.50,000/- to the petitioners as such an unregistered dakal deed was executed under Ex.P2. The respondents demanded an amount of Rs.2,00,000/- from the petitioner to live along with them, as such the petitioner came to Chimakurthy and residing with his elder daughter. The respondents gave evasive replies, as such the first petitioner lodged complaint. P.W.3 an independent mediator stated in his evidence that at the time of death of the husband of first petitioner in the presence of elders and police, the first respondent agreed to do justice to her and her children. Accordingly, the first respondent agreed to give Rs.50,000/- to the first petitioner, Ac.0.50 cents of land at Chimakurthy, one portion of the house to the children of the first petitioner at Guntur, accordingly Ex.P1 and Ex.P2 were executed. Being the elder of their locality he sent other persons to the first respondent and the first respondent replied to them that he has debts and he can not act on Ex.P1 and P2.

11. The first respondent examined himself as R.W.1. In his evidence, the first respondent stated that the house property at Guntur is B-Form patta and the agricultural land at Chimakurthy is endowment land and at present it is a beedu land. To prove his contention, the first respondent did not produce any document to show that the house at Guntur is a B-Form patta and the agricultural land at Chimakurthy is endowment land. However, the first respondent is admitting that he is having a four portioned house at Guntur. R.W.1 further stated in his

evidence that his wife i.e., second respondent is working as sweeper in Municipality and he is dependent on his wife. He further stated that except the rents on his house, he is not having any source of income. In his chief examination R.W.1 categorically stated that the signature on Ex.P1 promissory note does not belong to him. But, contrary to that in his cross examination R.W.1 categorically stated that “the signatures on Ex.P2 dakal deed and Ex.P1 promissory note belongs to me”. Hence, R.W.1 has taken inconsistent pleas.

12. Though, the respondents have denied the contents of the petition averments. But, the first respondent in his cross examination categorically admitted that “it is true that under Ex.P2, I agreed to give share to my grand children and to give Rs.50,000/- to them.....I am ready to comply with the conditions of Ex.P2 dakal deed. I am ready and willing to provide maintenance to the petitioners, if they come to my house and reside along with him at Guntur. I am ready and willing to give house portion to P.W.1, if she wants to stay at Guntur by vacating tenants”.

13. In view of the categorical admission of R.w.1 in the cross examination, it is clear that the first respondent has executed Ex.P1 and P2 at the time of death of his son and thereafter the petitioner were not given the possession of Ac.0.50 cents of land, Rs.50,000/- of amount and one portion of the house at Guntur. In view of the admissions of R.W.1 in the cross examination, it can safely be held that Exs.P1 and P2 were not acted upon. As there is no other go, as such the petitioners have been living at Chimakurthy at the mercy of the

sister of the first petitioner. In view of the categorical admissions made by the first respondent, this is a fit case where the petitioners can be given protection, residence and monetary reliefs.

14. Though, the first petitioner stated in her evidence that at the time of her marriage, her parents gave an amount of Rs.2,00,000/- to the first respondent. But, no oral or documentary evidence is adduced to prove her contention, as such the first petitioner is not entitled for the compensation. Accordingly, this point is answered.

15. In the result, the petition is allowed, prohibiting the respondents from alienating the property covered under Ex.P2. The first respondent is directed to provide residence in the house portion mentioned under Ex.P2 to the petitioners and the respondents are restrained from dispossessing the petitioners from the said house. The respondents are also directed to give 50 cents of agricultural land mentioned under Ex.P2 to the petitioners 2 and 3 and also an amount of Rs.50,000/- as agreed under Ex.P1 to the petitioners. Accordingly, this petition is disposed off.

Dictated to the personal assistant, transcribed by her, corrected and pronounced by me in open court, this the 14<sup>th</sup> day of December, 2016.

*Sd/- Shaik Ibrahim Sharief,  
Spl. Judicial Magistrate of I Class,  
Excise Court, Ongole.*

**//APPENDIX OF EVIDENCE//**

**:- WITNESSES EXAMINED :-**

For Petitioner

P.W.1 : P.Chennamma  
P.W.2 : P.Anjaiah  
P.W.3 : L.Malakondaiah

For Respondents:

RW.1: P.Sambaiah

**// DOCUMENTS MARKED //**

**For Petitioners:**

Ex.P.1 : Promissory note

Ex.P2 : Dakal deed

Ex.P3 : Adangal copy

Ex.P4 : B.Account

**For Respondents:     **NIL****

Ex.R1 : Notice and requisition to District Legal Service Authority

Ex.R2 : Letter submitted to Director General of Police.

Ex.R3 : Letter addressed to Protection Officer.

*Sd/- Shaik Ibrahim Sharief,  
Spl.J.F.C.M.  
Excise Court, Ongole.*