

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

Present: Smt. D.Durga Kalyani,
II Addl. Judl. Magistrate of First Class, Ongole.
Wednesday, this the 31st day of August, 2016
D.V.C.No.15/2014

Ummadi Koteswari W/o Hari (late) Kesavaswamy peta, near Jakraiah
Hospital, Ongole Prakasam District. ... Petitioner.
Vs.

1. Ummadi Koteswara rao S/o Subbaiah, Retired teacher, Opp to Post Office, Ulavapadu, Prakasam District
2. Ummadi Mahalakshmma, S/o Koteswara rao aged 55 years, Opp to Post Office, Ulavapadu village, Prakasam District
3. Ummadi Prabhakar S/o Koteswara rao, Business, Opp to Post office, Ulavapadu, Prakasam District
4. Busi Sujatha W/o Venkatarao, D/o Koteswara rao, Opp Post office, Ulavapadu, Prakasam District ... Respondent.

* * *

This petition is coming on 8-8-2016 for hearing before me in the presence of Sri.C.Pratap, Advocate for Petitioners and of Sri.P.L.Govindaiah, Advocate for Respondents/R1 to R4 and; 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:-

// O R D E R //

1. This complaint is filed by the complainant received from Protection Officer comprising form No. 1 to 3 as per Rules of Domestic Violence Act, 2005 seeking orders under Section 18,19,20 and also 22 of Domestic violence Act.

2. Brief facts of the report given to Protection Officer are as follows:

The 1st petitioner was married with her husband on 11-2-1996 at Ulavapadu village according to Hindu Rights and Customs. At the time of marriage her father gave Rs.70,000/- cash and 10 sovereigns of gold besides household articles towards dowry to the respondents family. Later she resided in the joint family where her husband being addicted to bad vices harassed her for want of additional dowry. The same is supported by her in laws. Subsequently her husband went away from the house and died on 21-3-2004. There by she and her children were necked out by her in laws. At that juncture she approached her parents house and has been residing with them. She further submits that her

husband, and her father in law has three houses at Ulavapadu village, besides owning Sapota garden and mango garden which are worth of one Crore each. After death of her husband she is unable to lead her life and came to know that her in laws are trying to sell away the properties pertaining to her husband. On that she has filed this petition praying this court to do justice to her by providing reliefs under section 18,19, 20 and also for compensation under Domestic Violence Act.

3. On the other hand counter is filed by the respondents denying the averments of the petition. They submits that the 1st petitioner lived with her husband only for three days after marriage in Ulavapadu village. Later she reached to her parents house and came back to her in laws house after 15 days of marriage and stayed for another three days. In the said period she demanded the respondents for partition of properties to put a separate family at Ongole along with her husband. The same was refused by these respondents. Upon that she went back to her parents house and never visited Ulavapadu village. At that time her husband used to come to Ongole and live with his wife only. Since the first petitioner was in habit of leading luxurious life, the husband of the 1st petitioner demanded Rs.1,00,000/- from these respondents for his business. Upon that 1st respondent gave Rs.1,00,000/- to the husband of 1st petitioner as demanded by him. Later the first petitioner and her husband stayed at Ongole and used to visit these respondents house occasionally. Later the husband of first petitioner started cassette business at Ulavapadu village and used to do up and down service to Ongole every day. Like wise 1st petitioner got constructed a house at Ongole Rs.10,00,000/- with the earnings of her husband.

4. Besides that the first petitioner has been running a chit fund business in Ongole. Subsequently some disputes arose between the 1st petitioner and her husband in which these respondents are no way concerned. It is further submitted by these respondents that the husband of 1st petitioner quarreled with her stating that she had illegal contacts with others. In such a way he got addicted to have liquor and informed these respondents that he caught hold of his wife when she was in compromise position with her paramours. In that context the

husband of 1st petitioner committed suicide after seeing the 1st petitioner with the other men in illegal contact. After death of her husband 1st petitioner immediately came to the house of this respondents that too after completion of cremation. Even then she even did not follow the formalities under Hindu caste and customs after death of her husband. Further the petitioner have already filed a suit in O.S.72/2012 on the file of Senior Civil Judge Court, Kandukur for partition of the properties and the same is pending. It is further submitted by these respondents that the petitioner have no right to claim any share in the properties as the father in law of the 1st petitioner worked as a teacher and maintained his family with his own earnings. There are no ancestral properties in the name of father in law of first petitioner. It is also submitted that first petitioner married another man by name Buchiraju Ankama rao on 24-11-2005 in Singarakonda Prasannajaneya swamy temple in the presence of her parents and others. As such the husband of 1st petitioner has not acquired any properties during his life time. Thus these respondents being in laws of first petitioner are not liable to provide any maintenance or house and compensation as sought by the petitioners. Hence, these respondents prays the Hon'ble Court to dismiss the Domestic violence case.

5. Basing on the above pleadings the point for determination is whether the petitioner is entitled for the reliefs of sought by her under Domestic violence Act:

6. In order to prove her version it is deposed by her elaborately in her chief examination that her marriage was performed with one U.Srihari in the year 1996 as per Hindu Rights and customs at Ulavapadu. At the time of her marriage Rs.70,000/- dowry and 10 sovereigns of gold and

furniture was given to the respondent on their demand. After marriage she stayed in her in laws house at Ulavapadu village which is a joint family where her husband did business. While so, he used to drink every day and harassed her mentally and physically. At that time R1 to R4 supported her husband in all possible ways and instigated him to commit more and more harassment. When the situation was going on she was blessed with baby girl in the year 1997 and 2nd daughter was blessed in the year 2000. Like wise she stayed at Ulavapadu till seven years along with her husband. Subsequently in the year 2004 her husband died by spoiling his health. Where as she went to her parents house prior to 10 days of his death as her younger daughter was not felling well. Later she was informed by the other respondent that her husband passed away and immediately she rushed to village and stayed with them until formalities are completed. After 3rd day her self and her daughters were necked out by the respondents. Having no other option she reached to her parents house. Her husband lived in undivided Hindu family till his death and the properties were possessed by the other respondents and in the name of Hindu undivided property. So her husband also have share in the property possessed by the respondents. She further submits that the respondents are not providing minimum amenities to her by not giving piece of property from the joint family properties. Hence, she is unable to meet the educational expenditure of her children as she is earning meager amount for her livelihood. Hence she prays this court to grant compensation of Rs.3,50,000/- as well as Rs.2,00,000/- towards mental agony suffered by her from the acts of respondents. She also sought for maintenance of Rs.15,000/- per month to meet food and clothes expenditure.

7. In order to discredit the version of P.W1, the 2nd respondent that is mother in law of petitioner examined herself as R.W1 and deposed in the following manner that her husband R1 died during pendency of this case. The 1st petitioner was is her elder daughter in law where as 2nd and 3rd petitioners are her grand daughters. She further submits that about 11 years back the husband of 1st petitioner died. After marriage the 1st petitioner came to her house twice or thrice and stayed only for 20 days in her entire marital life. After 20 days of marriage R.W1 had no relation ship with the petitioner as she herself deserted and has been residing at her parents house stating that the son of R.W1 has no avocation. At that time the husband of petitioner used to stay with P.W1 at Ongole. It is further submitted by R.W1 that at the time of leaving her home the first petitioner took away money which was given to her by her parents at the time of marriage as well these respondents also gave RS.10,00,000/- for the construction of the house. Likewise the first petitioner and her son constructed the house at Ongole. But she do not know on whose name the said house is standing. Likewise the husband of 1st petitioner used to stay with her only leaving his relationship with these respondents. Pertaining to properties it is submitted by her that except 20 cents of land inherited from her in laws there are no properties belonged to their family. About eleven years back on one day her some came to her house and informed that 1st petitioner was having illegal relationship with one person and subsequently he died on the same day by hanging himself. After informing the same, the 1st petitioner came after completion of shifting the body to burial ground, the first petitioner went away without following any customary practices. Subsequently R.W1 came to know that P.W1 was married with one Ankamarao at

temple. Since then she did not returned back. But P.W1 has filed suit on behalf of her children for want of properties pertaining to their family. Though there are no properties belonged to her son at Ulavapadu. It is further deposed by R.w1 that her husband died about seven months back and these respondents never harassed P.w1 for want of anything as alleged by P.w1. Hence she sought for dismissal of the petition.

8. On careful perusal of evidence on record though P.W1 deposed elaborately about the allegations against these respondents in her chief examination she did not come forward to face cross examination. Therefore the evidence of P.W1 is not testified by cross examination. Hence, in such circumstances her chief examination was eschewed by this court. Subsequently the petitioner even failed to test veracity of respondent R.W1 inspite of given conditional order. As such the cross examination of R.W1 was also treated as nil by this court. Therefore as seen from the evidence on record the petitioner did not come forward to discredit the version of RW1 as well she also did not come forward to prove her version as stated in her report. Hence, from the above observation it is apparent that petitioner has no interest to proceed with the case. Accordingly Petition is dismissed.

9. *In the result, Petition is dismissed.*

Dictated to the Personal Assistant, transcribed by him, corrected and pronounced by me in Open Court, this the 31st day of August, 2016

Sd/- D.Durga Kalyani
II Addl. Judl. Magistrate of I Class
Ongole.

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

For Petitioner :
P.w.1 : U.Koteswari

For Respondents :
R.w.1 : U.Mahalakshmma

DOCUMENTS MARKED ON BEHALF OF PETITIONER.
-NIL-

DOCUMENTS MARKED ON BEHALF OF RESPONDENT.
-NIL-

Sd/- D.D.K
II Addl. Judl. Magistrate of I Class
Ongole.

// True copy //

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