

**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.  
Wednesday, this the 14<sup>th</sup> day of February, 2018  
**D.V.C.No.03/2014.**

1. Yanamala Srilakshmi W/o Late Ravi @ Ravindra  
Aged about 25 years, Hindu, Housewife, R/o Gopal Nagar,  
1<sup>st</sup> lane, Ongole
2. Yanamala Yagneswaran of Ravi @ Ravindra  
Aged about 3 years, Rep. By his mother and  
natural guardian, 1<sup>st</sup> petitioner Yanamala Sri.Lakshmi  
W/o Ravi @ Ravindra R/o Gopalanagar 1<sup>st</sup> line, Ongole  
.. Petitioners.

Vs.

1. Yanmala Ravi @ Ravindra (died)
2. Yanamala Venkata Ratnam S/o Subbaramaiah  
aged about years, Resident of Navanakulathota village  
SPSR Nellore District
3. Yanamala Chinnaiah @ Buddaiah, S/o Venkata Subbaiah  
Aged about years,  
Mypadu road, 3<sup>rd</sup> main road, Nellore

... Respondents

This petition is coming on 14-02-2018 for hearing before me in the presence of Sri.P.V.Raghava Rao Advocate for Petitioner and of Sri.Vudutha Ravi Kumar 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, Yanamala Sri Lakshmi (aggrieved person) U/Sec.20 of Domestic Violence Act, 2005, against the respondents and to pay interim maintenance to the petitioners, direct the respondents to allow the petitioners to reside in the portion of the deceased husband, and further directed the respondents to lease out the properties of the deceased to the tenants and grant protection to the petitioners and further reliefs in the interest of justice.

2. The case of the petitioner in brief is as follows:-

Petitioner marriage was performed with the 1<sup>st</sup> respondent on 21-5-2003 at house of her husband at Nayanakulathota village of Nellore District. At the time of marriage her parents, presented cash of Rs.2, lakhs, gold ornaments worth of Rs.50,000/- and house hold articles worth of 25,000/- and they lived happily for a period of one year. later respondent addicted to bad vices like drinking gambling and adultery and he used to bet the petitioner without any reason and come to the house at late hours in drunken state and started harassed the petitioner both physically and mentally for want of additional dowry and also he developed illegal intimacy with maternal uncles daughter and they got blessed one son by name Yegneswar i.e., 2<sup>nd</sup> petitioner. At the time of Pregnancy also the respondent used to bet the petitioner by pulling her martial tie, ear rings, and necklace as there is no other go to she join her parents and her parents send mediators to her husband and requested him to lead marital life with her \but the respondent demanded additional dowry of Rs 1,00,000/- and the petitioner parents, expressed their inability subsequently petitioner gave birth to a male child the same was informed to respondent but he did not come to see the child, her son who is the 2<sup>nd</sup> petitioner is suffering from ill health and petitioners parents unable to bear all the expenses, the respondent is having landed properties Ac.4-00 cents and 0-60 cents house site in S.No.207/1A in Nayanakulathota, Nellore and also he is doing money lending business, and he has two houses and collecting rents of Rs.2,000/- per month. After the death of the husband of the petitioners other respondents enjoying the above said benefits of the husband of the petitioner. The petitioners are now depending on the mercy of her parents.

03. The respondent filed counter stating that they denied the rest of all the allegations in the complaint and all are false, and the petitioner filed the petition before the protection officer at Ongole dt. 25-10-2007 and the protection officer forwarded the same, to this Hon'ble court on 18-12-2008. there is delay of sending the complaint to this Hon'ble Court was not explained further, they stated that the petitioner lastly residing with the respondent at

Nellore, but the petitioner filed this petition at Ongole without having jurisdiction and the petitioner shows, in the column No.2 in Form No.1 that the harassment made by one Chappidi Bala Kotaiah who is the father of the complainant but not the respondents. But she did not mention the time and date and place of harassment in column NO.4 in form No.1. According to the petition, the alleged offence was made by the 1<sup>st</sup> respondent only. but the names of the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, are not mention in this petition. Further the petitioner did not produced any one of the document relating to the offence and also the petitioner failed to fill the column No.5, 6, in form No1 are not specifically disclosed the nature of the relief order.

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

1. Whether the petitioner is entitled for protection orders ?

05. Coming to the case on hand in order to grant reliefs sought by the petitioner that is either 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 her marriage was performed with R1 in the year of 2003 at Nellore by the time of marriage her parents gave an amount of Rs.1,00,000/- and Rs.50,000/- worth of gold ornaments and Rs.50,000/- towards Adapaduchu Lanchanam and house hold articles worth of Rs.25,000/- towards dowry. After the marriage petitioner joined in her in laws house. At the time of residing with R1 her father in law and her senior brother in law along with families in one roof and happily for a period of one year. Later R1 developed illegal intimacy with his maternal uncle daughter by name Sujatha and also addicted the bad vices and R2 and R3 instigate the R1 about the perform of the 2<sup>nd</sup> marriage with her maternal uncle daughter the same was narrated to her parents. Then R1 to R3 dropped her at parents house, Nellore. Petitioner parents brought the P.W1 to her in laws house requested to the respondents to

lead the marital life with her. But the respondents were not changed their attitude and continued harassed her and not provide any minimum needs and the respondents detained the petitioner in four walls and locked the door. After seven or eight days again her parents came to her in laws there they found the petitioner and her son was detention in the room, and after that her parents open the door and found the petitioner health along with her son health was collapsed. Immediately her parents brought the petitioner and her son to hospital for treatment. The landed property belongs to R1 which is situated at Nellore during his life time, R1 having an extent of 0-66 cents in S.No.207/1-A, R2 and R3 are obstructed her from entering into the said land.

07. Coming the evidence of P.W2, He deposed that P.W1 is sister of his wife. On 21-5-2003 P.W1 marriage was performed with R1 at Navanakula thota of Nellore district. At the time of marriage her parents presented Rs.1,00,000/-towards dowry and 10 sovereigns of gold to the family of respondents. He was present at the time of giving the said amount to the respondents family. The family of respondents are joint family. R1 to R3 used to reside the same house. And also P.W1 parents presented house hold articles worth of Rs.25,000/- petitioner and R1 lead happily marital lie for a period of 3 months. Subsequently R1 developed illegal intimacy with one Sujatha and used to reside with her. In the mean time P.W1 has given birth to a male child at Ongole. At the time also the respondent did not take care of the 2<sup>nd</sup> petitioner. At instance the village elders they got set a separate family at Gopal nagar 1<sup>st</sup> lane, Ongole by R1 and 1<sup>st</sup> petitioner. Even though the respondent did not change his attitude and he used to have alcohol by taking money from petitioner. After that petitioner father borrowed an amount of Rs.50,000/- from one N.Srinivasa Rao and gave the same to R1 for doing business. And also R1 again started resided with Sujatha on that they went to the house of respondents to suggest the R1 but he did not hear his and more over the other respondents R2 & R3 and his family members also quarrel with them. There are 0-66 cents of agricultural land and 0-30 cents of house site situated in the name of R1 the said lands were mortgaged by R1 with one Mastan reddy. Subsequently R1 died thereupon the others respondents R2 & R3 got relieved

the said property from said Masthan reddy and kept the documents with them. Respondents themselves are enjoying the income of the said property.

08. Coming to the evidence of P.W3 deposed that in the year of 2003, P.W1 marriage was performed with R1 at Nellore. Prior to 10 days of marriage the father of P.W1 has given Rs.1,00,000/- lakh towards dowry and Rs.50,000/- towards gold, Rs.50,000/- towards Adapadachu lanchanam and Rs.25,000/ towards furniture to the respondents family. At that time he also accompanied with the father of P.W1 to the house of respondents,. After marriage subsequently disputes were arose as the 1<sup>st</sup> respondent addicted to bad vices and also illegal intimacy with another women. Thereupon the father of P.w1 brought the P.W1 and R1 to Ongole and kept their family at Ongole. After 15 days R1 went away to Nellore at that time, he along with father of P.w1 again approached the elders and proceeded to Nellore for settlement of the dispute. The family of respondents is a joint family even after death of R1, the respondent family did not take the petitioner and her child.

09. On the other hand, R2 examined as R.W1, and he deposed that himself and R3 are not concern with the family of the petitioner and her husband by name late Yanamala Ravindra. Prior to marriage of petitioner and R1 himself and his brother R3, were separated from the house of his father . He is railway employee due to his job purpose he put his family in different areas and he never lived with the R1. After the marriage of petitioner and R1 put up separate family from his parents house and his father partitioned his properties, and allotted R1 share their joint properties and after the death of the petitioners husband the property has been in possession and enjoyment of petitioner and she got income from that extent of land.

10. However, on perusal of evidence on record, admittedly there is no dispute with regard to domestic relation ship between P.w1 and 1<sup>st</sup> respondent. Because the 2<sup>nd</sup> respondent himself admitted about the marriage of petitioner and R1 as per Hindu rights and customs and also birth of his male child. So there is no dispute with regard to Domestic relation ship 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 she and her child also confined in a room and not provided with food. After seven or eight days her parents came and saved their life. Subsequently she was treated by the parents now she is depending upon her parents mercy. Further coming to the aspect of Protection orders in view of above discussion, it is clear that the petitioner is entitled for Protection order.

11. Coming to the maintenance claimed by the petitioner Rs.4,000/- per month each. 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.

12. Coming to the relief sought by the shelter in shared house hold she deposed that in her evidence elaborately the R1 is having 0-66 cents of land and 0-30 cents of house site situated at Nellore district. The R1 having the properties, by execution of partition deed under Ex.P1 and settlement deed in favour of the R1, an extent of 0-66 cents under Ex.P2 and also mortgage deed under Ex.P3 and release deed is marked as Ex.P4. Considering the Ex.P1 to P4, R1 having an extent of 0-66 cents of agricultural land 0-30 cents of house site in his name there is no dispute regarding to the owner ship of the R1 about the said properties.

13. The petitioner sought relief in the said properties, to allow the petitioner to reside in the portion of the deceased husband i.e., R1. The said properties discussed above were not comes under the definition shared household of Domestic Violence case (DVC).

**Definition of Shared Household:-** *“Share Household means a household where the persons aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether*

*owned or tenanted either jointly by the aggrieved person and the respondent or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right title or interest in the shared household”* And the petitioner did not file any documentary proof to show that the R1 having a household they lived together in the said house, to grant the shared house hold reliefs. Accordingly the relief is dismissed.

14. In the result, the petition is partly allowed. The respondent is hereby by granted only protection order and the rest of the claims are dismissed.

*Dictated to the personal Assistant, transcribed by her,corrected and pronounced by me in Open Court, this the 14<sup>th</sup> day of February, 2018*

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

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

For Petitioner :  
P.w.1 : Yanamala Sri lakshmi  
P.W2:Nakka Rama rao  
P.W3:P.Venkateswarlu

For Respondents :  
Yanamala Ratnam

DOCUMENTS MARKED ON BEHALF OF PETITIONER.  
Ex.P1: Register the sale deed  
Ex.P2: Certified copy of settlement deed  
Ex.P3:Mortgage deed  
Ex.P4: Release of Mortgage deed

DOCUMENTS MARKED ON BEHALF OF RESPONDENTS.  
-NIL-

Sd/-N.Sarada  
II-AMM.  
Ongole

// True copy //

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

