

IN THE COURT OF THE III ADDL. JUDICIAL MAGISTRATE OF FIRST CLASS, CHITTOOR.

Present: S.SAILAJA
III Addl. Judicial Magistrate of I Class,
Chittoor.

Friday, the Eighth (8th) day of December,
Two thousand and Seventeen.

DVC. No. 58 of 2016

Between:

A.Sandhya w/o late A.Prakash, age 20 years,
Nandaluru Village, G.D.Nellore Mandal.
... Petitioner

And

1. P.Rajesh,
2. P.Sunitha w/o P.Rajesh,
Both are r/a Renukanagar Colony,
Kalavakuntta, Penumur Mandal.
... Respondents

This case is coming on 22-11-2017 for hearing in the presence of Sri V.Jaya Kumar and respondents are set exparte; and having stood over to this day for consideration; this Court made the following:

ORDER

01. The petitioner filed this petition under sections 12 of Protection of Women from Domestic Violence Act, 2005 for seeking reliefs under sections.18, 19 and 22 of the Act.

02. The brief averments of the petition are as follows :

The petitioner's marriage is a love marriage with one Rajesh while they are working at Tirupati and put up their family at Rajahmundry. In the meantime, her sister-in-law called her husband by phone, he came to his sister's house, but he did not turn up. Thereby she came to her sister-in-law's house, her sister-in-law accepted their marriage and allowed into her house. While she went to her parents' house for delivery, meanwhile, her husband fell sick. Out of their wed lock they blessed a girl child by name A.Yuktha. Her sister-in-law did not take care and informed her through phone, her brother died with jaundice. Her sister-in-law killed the petitioner's husband with an intention to grab the house belongs to the petitioner's husband. After coming to know the death of her husband, she rushed to Nandanur to perform death rituals of her husband by spending a sum of Rs.50,000/-. She only spent money for her husband's death rituals. The respondents are harassing her mentally and physically. In fact the marriage in between her and her husband

is not liked by the respondents and abuse her and her child in filthy language and they are not allowing them to stay in the house and they used to necked out her from the house. She used to stay outside the house at night times. Hence, the petition.

03. The Respondents No.1 and 2 appear before the Court. In spite of availing ample time, the Respondents No.1 and 2 failed to file Counter on their behalf. Hence, the Respondents No.1 and 2 were set exparte on 07.04.2017.

04. On behalf of the Petitioner/Aggrieved Person, she herself examined as PW.1. and Ex.P.1 to P.4 are marked on her behalf. Respondents remained exparte.

05. Heard on counsel for petitioner. Perused the records.

06. The Point for consideration is

Whether the Petitioner/Aggrieved Person is entitled for reliefs as prayed for in the Petition ?

07. POINT NO.1 :

A. In order to establish her contentions, the Petitioner/Aggrieved Person herself examined as P.W.1, and Ex.P.1 to P.4 are marked on her behalf and deposed in Chief on par with her Pleadings in the Petition. Since the Respondents No.1 and 2 have remained ex-parte, it can be said that the evidence of P.W.1 had remained un- challenged, an adverse inference can be drawn against the Respondents to the effect that they had admitted the case of the Petitioner/Aggrieved Person.

B. As seen from the Petitioner, the Petitioner/Aggrieved Person has sought the various reliefs, first one being 1] Protection Order under Section 18, restraining the Respondents No.1 and 2 from repeating the act of violence. It is clear from the evidence of P.W.1 that her contentions even though under Section Domestic Violence at the hands of the Respondents No.1 and 2 was not at all discredited, and as such her evidence prima facie, establishes that she was subjected to domestic violence by the Respondents No.1 and 2. So, in the circumstances, the Respondents are to be restrained from showing any acts of domestic violence against the Petitioner/Aggrieved Person. The Petitioner/Aggrieved Person has also sought for Residence Order under Section 19. This Court deems that Residence can be provided to the Petitioner/Aggrieved Person. The Petitioner/Aggrieved Person has also sought for compensation Rs.50,000/- from the Respondents under Section 22. But she did not specify as to on what counts she had sought such compensation. In these

circumstances, the mere averment in the Petition is not sufficient to grant compensation to the Petitioner.

Hence, the Point is answered in favour of the Petitioner/Aggrieved Person accordingly.

08. In the result, the Petition is partly allowed, holding that the Petitioner is entitled for Protection Order under Sec.18, the Respondents 1 and 2 are directed not to use any act of Domestic Violence against the Petitioner, the Petitioner is entitled to reside in the shared house hold under Sec.19 under due process of law and the relief sought by the petitioner under Sec. 22 for Compensation shall stands dismissed.

Typed by the Personal Assistant to my dictation, corrected and pronounced by me in the open court on this, the 8th day of December, 2017.

Sd/ S.SAILAJA
III Addl. Judl. Magistrate of I Class,
Chittoor.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PETITIONER :

PW-1: A.Sandhya

FOR RESPONDENTS :

- NIL -

DOCUMENTS MARKED

ON BEHALF OF PETITIONER :

Ex.P.1 : Complaint given by complainant to District Collector, Chittoor,

Ex.P-2 : Domestic incident report,

Ex.P-3 : Zerox copy of death certificate of petitioner's husband,

Ex.P-4 : Photograph of petitioner and her husband Rajesh.

ON BEHALF OF RESPONDENTS : Nil.

ID/ SSLJ
III AJMFC.
Chittoor.