

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW**

**WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937**

**Crl.MC.No. 2020 of 2015 ()**

**CMP. NO.605/2015 IN CRL.A. NO.87/2015 OF ADDITIONAL DISTRICT AND  
SESSIONS COURT-V, KOZHIKODE.**

**PETITIONER/PETITIONER:**

**SABEENA T.K., AGED 23 YEARS,  
D/O.ABDUL NASAR, W/O.N.N. SHALIK, THAYYILTHODI,  
THEKKEKUTTI, P.O.KOLATHARA- 673 655.**

**BY ADVS.SRI.P.V.KUNHIKRISHNAN,  
SRI.P.V.ANOOP.**

**RESPONDENTS/RESPONDENTS:**

- 1. N.N. SHALIK, AGED 28 YEARS,  
S/O.ABOOBACKER, NADUVIL NALAKATH,  
KATTACHIRA KARAYIL, P.O. B.P. ANGADI, TIRUR- 676 102.**
- 2. ABOOBACKER, AGED 54 YEARS,  
S/O.ABOOBACKER, NADUVIL NALAKATH,  
KATTACHIRA KARAYIL, P.O. B.P. ANGADI, TIRUR- 676 102.**
- 3. MAIMOONA, AGED 48 YEARS,  
S/O.ABOOBACKER, NADUVIL NALAKATH,  
KATTACHIRA KARAYIL, P.O. B.P. ANGADI, TIRUR- 676 102.**
- 4. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM, KOCHI- 682 031.**

**R1 TO R3 BY ADVS. SRI.K.T.SHYAMKUMAR,  
SRI.HARISH R. MENON.  
R4 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD  
ON 24-06-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**rs.**

**APPENDIX**

**PETITIONER'S ANNEXURES:-**

- ANNEXURE A.** COPY OF THE PETITION DATED 31.03.2012 FILED BY THE PETITIONER AGAINST THE RESPONDENTS.
- ANNEXURE B.** COPY OF THE PETITION DATED 31.03.2012 FILED AS CMP.1511/2012 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT -V, KOZHIKODE.
- ANNEXURE C.** COPY OF THE ORDER DATED 12.02.2015 IN MC.33/2012 ON THE JUDICIAL FIRST CLASS MAGISTRATE COURT- V, KOZHIKODE.
- ANNEXURE D.** COPY OF THE APPEAL MEMORANDUM DATED 20.02.2015 IN CRL.A.87/2015 WHICH IS NOW PENDING BEFORE THE ADDITIONAL DISTRICT AND SESSIONS JUDGE -V, KOZHIKODE.
- ANNEXURE E.** COPY OF THE INTERIM RESIDENCE ORDER APPLICATION FILED AS CMP.605/2015 IN CRL.A.87/2015 ON THE FILE OF ADDITIONAL DISTRICT AND SESSIONS JUDGE-V, KOZHIKODE.
- ANNEXURE F.** COPY OF THE ORDER DATED 05.03.2015 IN CMP.605/2015 IN CRL.A. 87/2015 OF THE SESSIONS COURT.

**RESPONDENT'S EXHIBITS:-** NIL.

**//TRUE COPY//**

**PA. TO JUDGE**

**rs.**

**K. ABRAHAM MATHEW, J.**

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**CRL.M.C.No.2020 of 2015**  
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**Dated this the 24<sup>th</sup> day of June, 2015**

**O R D E R**

Petition filed under section 482 Cr.P.C.

2. This petition has been filed by the appellant in Crl.Appeal No.87/2015 on the file of Additional District and Sessions Judge-V, Kozhikode. The first respondent is her husband and respondents 2 and 3 are her parents in law. She filed a petition under Section 12 of the Protection of Women from Domestic Violence Act claiming reliefs under Sections 18, 19 and 20. The learned Magistrate rejected her prayer for the relief under Section 19, but granted other reliefs. This was challenged in Crl. Appeal No.87/2015. Along with the appeal memorandum she filed a petition that she may not be evicted from the building involved in the case. The learned Sessions Judge dismissed it on the ground that the property exclusively belongs to the second respondent, who is her father-in-law. The correctness of this order is challenged in this Crl.M.C.

3. There is no dispute that the building in question exclusively belongs to the second respondent. The first

respondent, who is the husband of the petitioners has no right over it. It is relying on the decision in [**SR Batra & Another Vs. Taruna Batra AIR 2007(3) SCC 169**], the learned Sessions Judge held that the petitioner cannot claim it to be her shared household. Later, a Division Bench of this Court in [**Hashir A.R & Others Vs. Shima and Others 2015(3) KHC 97**] held that a petitioner cannot claim right over the exclusive property belonging her father-in-law or mother-in-law. the learned Sessions Judge has correctly applied the law. No interference is called for.

In the result, this Crl.M.C.is dismissed.

sd/-  
**K. ABRAHAM MATHEW**  
**JUDGE**

R.AV

//True Copy//

PA to Judge