

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WA.No. 1626 of 2015 IN OP(CrI.).201/2015

AGAINST THE JUDGMENT IN OP(CrI.) 201/2015 DATED 08/07/2015

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APPELLANTS/PETITIONERS :

1. SASI, S/O KANNAN, THAYYULLATHIL HOUSE, KUTTOTH
KEEZHAL PO, (VIA)VATAKARA, KOZHIKODE DISTRICT
2. SOBHA ALIAS RADHA,
W/O SASI, THAYYULLATHIL HOUSE, KUTTOTH
KEEZHAL PO, (VIA)VATAKARA, KOZHIKODE DISTRICT

BY ADVS.SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V

RESPONDENTS/RESPONDENTS :

1. SREEJITH
S/O SASI, THAYYULLATHIL HOUSE, KUTTOTH
KEEZHAL PO, (VIA)VATAKARA
KOZHIKODE DISTRICT-PIN- 673 104
2. SOUMYA
D/O CHANDRAN, THERAYAMKOTT KUNJIYIL HOUSE
P.O. VILLIAPPILLY, (VIA) VADAKARA, KOZHIKODE DISTRICT
PIN-673 542
3. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM -682 031

R3 BY SPL.GOVERNMENT PLEADER, SMT. GIRIJA GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 27-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 1626 OF 2015

Dated this the 27th day of July, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard both sides. This Writ Appeal has been filed against the judgment dated 08.07.2015 passed by learned Single Judge in O.P.(Crl). No. 201 of 2015.

2. The appellants/petitioners, who claim to be the parents-in-law of 2nd respondent, were aggrieved by order dated 16.04.2015 passed in C.M.P. No. 1272 of 2015 in M.C. No.33 of 2015 filed by the 2nd respondent. The application was filed under Section 23(2) of the Protection of Women from Domestic Violence Act, 2005. Learned Magistrate has partly allowed the petition permitting the petitioner therein to go and reside in the matrimonial house as shown in the address shown in the cause title along with the 1st respondent.

3. The writ petitioners aggrieved by the said order has come up with the writ petition. They submit that the property is belonging to them and the Magistrate ought not to

have passed an order of residence. Learned Single Judge disposed of the writ petition observing that if the petitioners in the Original Petition file an application for impleadment, the Magistrate shall allow it and hear them on the preliminary point.

4. Section 29 of the Protection of Women from Domestic Violence Act, 2005 gives a right of appeal to an applicant or the aggrieved person. Section 29 reads as follows:

"29.Appeal.- There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later."

5. Petitioners thus had the remedy either to file an appeal under Section 29 of the Act or to appear before the Magistrate praying for modification of the order passed by the Magistrate.

In the above view of the matter we see no error in the judgment of learned Single Judge warranting interference by the appellate court. The appellants have remedy either to appear before the Magistrate and file an application or to file an appeal

WA No. 1626 of 2015

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under Section 29 of the Act. The Writ Appeal is disposed of accordingly.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**

ttb/27/07