



2026:KER:21280

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

TUESDAY, THE 10TH DAY OF MARCH 2026 / 19TH PHALGUNA, 1947

CRL.REV.PET NO. 555 OF 2025

CRMP 670/2025 IN MC NO.52 OF 2022 OF JUDICIAL

MAGISTRATE OF FIRST CLASS- I, HARIPAD

REVISION PETITIONER/S:

- 1 N K PRASANAN
AGED 56 YEARS
S/O.KARUNAKARAN, SIVA BHAVANAM, ORIPRAM MURI,
CHENNITHALA VILLAGE CHENGANNUR TAUK, ALAPPUZHA
DISTRICT., PIN - 690105
- 2 SUSHAMA K
AGED 53 YEARS
W/O.N.K PRASANAN, SIVA BHAVANAM, ORIPRAM MURI,
CHENNITHALA VILLAGE, CHENGANNUR TAUK, ALAPPUZHA
DISTRICT., PIN - 690105

BY ADVS.
SRI.S.K.SAJI
SMT.MAYAMOL T.S.
SMT.G.R.MANJU
SHRI.SAGITH KUMAR V.

RESPONDENTS/STATE/RESPONDENT NOS.1 TO 5 IN CMP 670/2025

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031
- 2 PREEMA K
AGED 35 YEARS
W/O.SUNIL THOMAS, PREEMA BHAVANAM, PUTHUKUNDAM P.O.,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT., PIN -
690516



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- 3 EBIN (MINOR) REP THROUGH THE GUARDIAN AND NEXT
FRIEND PREMA K
AGED 9 YEARS
S/O.SUNIL THOMAS, PREEMA BHAVANAM, PUTHUKUNDAM P.O.,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT., PIN -
690516
- 4 ALEENA (MINOR) REP THROUGH THE GUARDIAN AND NEXT
FRIEND PREMA K
AGED 5 YEARS
D/O SUNIL THOMAS, PREEMA BHAVANAM, PUTHUKUNDAM P.O.,
KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT, PIN -
690516
- 5 MOLLY THOMAS
AGED 59 YEARS
W/O.THOMAS, NECHATU VADAKKATHIL, ORIPRAM MURI,
CHENNITHALA VILLAGE, CHENGANNUR TAUKE, ALAPPUZHA
DISTRICT., PIN - 690105
- 6 SUNIL THOMAS
S/O.THOMAS, NECHATU VADAKKATHIL, ORIPRAM MURI,
CHENNITHALA VILLAGE CHENGANNUR TAUKE, ALAPPUZHA
DISTRICT., PIN - 690105

BY ADVS.
SHRI.BINU BABUKUTTAN
SHRI.VIDHU M.UNNITHAN
SHRI.AROMALUNNI M.S.
SHRI.RATHEESH C.
SHRI.HARI SANKAR V.
SMT.NIMA MERIYAM KOSHY
SHRI.ROSHAN KURIAN ROY

SR. PP. SMT. BINDU.O.V

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 25.2.2026, THE COURT ON 10.03.2026 DELIVERED THE
FOLLOWING:



C.R.

ORDER

Dated : 10th March, 2026

The revision petitioners are the applicants in CMP 670/2025 in M.C.52/2022 on the file of Judicial First Class Magistrate Court-I, Haripad. They filed the above application being aggrieved by the order passed by the learned Magistrate in C.M.P.1060/2022 in M.C.52/2022.

2. M.C.52/2022 was filed by the respondents 2 to 4 against respondents 5 and 6 under Section 12 of the Protection of Women from Domestic Violence Act (D.V. Act for short) seeking various reliefs. In the above M.C, respondents 2 to 4 filed C.M.P 1060/2022 under Section 23 of the D.V. Act seeking interim reliefs. As per order dated 28.4.2022, the learned Magistrate passed an interim order in favour of respondents 2 to 4 and against 5 and 6 which includes the following relief :

“Respondents are restrained from alienating or creating or any sort of encumbrance on the property and the residence of which schedule is attached herewith as stipulated u/s.19(1)(d) of Protection of Women from Domestic Violence Act, 2005.”

3. According to the revision petitioners, out of the total extent of 18.95 ares of property scheduled in C.M.P 1060/2022 and belonged to respondents 5 and 6, a portion having an extent of 3.93 ares was purchased by one Easo V.G as per sale deed No.994 dated 16.7.2016. Later on, Easo V.G



sold the said property in favour of D.Geevarghese as per sale deed No.378 dated 20.3.2023. From D.Geevarghese, the revision petitioners purchased 2.43 ares of property as per the sale deed No.76 dated 21.1.2025. Therefore, the revision petitioners filed C.M.P.670/2025 before the learned Magistrate to vacate the interim order with respect to the property purchased by them. However, as per the order dated 14.5.2025, the learned Magistrate dismissed the said application on the ground that there is no provision in the D.V. Act to declare the title of a person and therefore, directed the revision petitioners to approach the Civil Court. Being aggrieved by the above order passed by the learned Magistrate, they preferred this Revision.

4. Now the point that arises for consideration is the following :-

Whether a Magistrate entertaining a petition under Section 12 of the DV Act has the power to review his order in order to rectify the mistake, if any, committed by the order passed by him?

5. Heard the learned counsel for the revision petitioners and the learned Public Prosecutor. Though notice was served on respondents 2 to 6, they did not turn up.

6. As per the order in C.M.P.1060/2022 dated 22.4.2022, the learned Magistrate passed an injunction restraining alienation and from



creating encumbrance over an extent of 18.95 ares of property and a building situated therein comprised in R.S.No.85/1, 85/2 and 85/21 of Chennithala village, on the premise that it belonged to respondents 5 and 6. The case of the revision petitioners is that, during the year 2016 an extent of 3.93 ares of property from out of the above 18.95 ares was sold by respondents 5 and 6 to one Easo V.G, from whom the said property was purchased by one D.Geevarghese. Further according to them, from Geevarghese they purchased 2.43 ares of property.

7. In order to substantiate the said claim, the revision petitioners produced Annexure-A4 sale deed executed by respondents 5 and 6 in favour of Easo V.G, Annexure A3 sale deed No.378 dated 20.3.2023 executed by Easo V.G in favour of D.Geevarghese and Annexure-A2, copy of the sale deed executed by Geevarghese in favour of the revision petitioners. From Annexure-A4 it can be seen that an extent of 3.93 ares of property comprised in R.S.No.85/1 and 2 ares comprised in R.S.No.85/2 (total 5.93 Ares of property) was assigned by respondents 5 and 6 in favour of Easo V.G. As per Annexure-A3, the above 5.93 Ares of property was sold by Easo V.G. in favour of D.Geevarghese. From Annexure-A2 it is revealed that out of 3.93 ares of property comprised in R.S.No.85/1/3, 2.43 ares was sold by D.Geevarghese in favour of the revision petitioners. Therefore, it is evident from Annexures 2 to 4 that an extent of 2.43 ares of property out of 18.95 ares



covered by the order of the learned Magistrate in C.M.P.1060/2022 in M.C.52/2022 exclusively belongs to the revision petitioners.

8. The learned Magistrate dismissed the application on the ground that there is no provision for declaration of title in the D.V. Act. Therefore, the learned Magistrate washed his hands and directed the petitioners to approach the civil court. Therefore, now the question to be considered is whether a Magistrate entertaining a petition under Section 12 of the DV Act has the power to review his order in order to undo the mistake committed by him. In other words, whether the Magistrate is helpless in undoing the mistake committed by him?

9. In this context it is worthwhile to note the celebrated maxim, “*Actus Curiae Neminem Gravabit*”, which means that no one shall be prejudiced by an act of the Court. In the decision in **Om Prakash @ Israel @ Raju @ Raju Das v. Union of India & Another**, AIR 2025 SC 787, the Hon'ble Supreme Court relying upon the above maxim held that:

“No one shall be prejudiced by an act of the Court. A mistake committed by the Court cannot stand in the way of one's rightful benefit. It is not the party which commits a mistake, but rather the Court itself. Hence, such a mistake cannot act as a barrier for the party to get its due relief. However, we make it clear that the mistake must be so apparent that it does not brook any adjudication on the foundational facts.”

10. In the decision in **Sreejith Mon v. State of Kerala, 2024 KHC**



822, relying upon the above maxim this Court held in paragraph 11 as follows :

11. Furthermore, in South Eastern Coalfields Ltd. vs. State of M.P. and Ors. (supra), the Apex Court held that the aim of the maxim Actus Curiae Neminem Gravabit was not only just to rectify the mistakes of the Court but also to make sure that the order or decree which was mistaken had not proved to be advantageous to one party and harmful for the other. It was held further that, no one shall suffer by an act of the court is not a rule confined to an erroneous act of the court; the 'act of the court' embraces within its sweep all such acts as to which the court may form an opinion in any legal proceedings that the court would not have so acted had it been correctly apprised of the facts and the law. The factor attracting applicability of restitution is not the act of the Court being wrongful or a mistake or error committed by the Court; the test is whether on account of an act of the party persuading the Court to pass an order held at the end as not sustainable, has resulted in one party gaining an advantage which it would not have otherwise corned, or the other party has suffered an impoverishment which it would not have suffered but for the order of the Court and the act of such party. The quantum of restitution, depending the facts and circumstances of a given case, may take into consideration not only what the party excluded would have made but also what the party under obligation has or might reasonably have made. There is nothing wrong in the parties demanding being placed in the same position in which they would have been had the court not intervened by its interim order when at the end of the proceedings the court pronounces its judicial verdict which does not match with and countenance its own interim verdict. Whenever called upon to adjudicate, the court would act in conjunction with what is the real and substantial justice.

11. In the instant case, the property purchased by the revision petitioners as per Annexure-A2 sale deed was also included in



C.M.P.1060/2022 in M.C.52/2022 and the learned Magistrate passed an order restraining alienation of the said property and also from creating any encumbrance over the said property. Therefore, it can be seen that, for no fault of the revision petitioners, they suffered an order of injunction over the property they purchased for valid consideration. The above order passed by the learned Magistrate in C.M.P.1060/2022 has no legs to stand on. Since the said order passed by the learned Magistrate has caused prejudice to the revision petitioners in their right to enjoy the property purchased by them for valid consideration, the same Court has a duty to set it right by vacating the order of injunction. Therefore, the learned Magistrate was not justified in directing the revision petitioners to approach the civil Court for a declaration of their title. In fact, the revision petitioners only prayed for lifting the order of injunction as against the property purchased by them and did not seek for any declaration as stated in the impugned order.

12. The revision petitioners are really aggrieved by the order passed by the learned Magistrate in C.M.P.1060/2022. Therefore, it is the duty of the very same Court to redress the said grievance instead of directing the aggrieved party to approach another forum. If the learned Magistrate has the jurisdiction under the provisions of the D.V. Act to pass an injunction order, the Magistrate also has the power to vacate or modify the same if it causes prejudice to another. In the above circumstances, the learned Magistrate was



not justified in rejecting CMP 670/2025, the claim made by the revision petitioner on the ground that there is no provision in the D.V. Act to grant relief to them. Therefore, the impugned order passed by the learned Magistrate dismissing C.M.P.670/2025 in M.C.52/2022 is liable to be set aside and the said application is liable to be allowed.

In the result, this Crl.Revision Petition is allowed. The order passed by the Judicial First Class Magistrate Court-I, Haripad, dismissing C.M.P 670/2025 in M.C.52/2025 is set aside. C.M.P.670/2025 is allowed. The injunction order passed by the learned Magistrate in C.M.P.1060/2020 with respect to 2.43 ares of property covered by Annexure-A2 sale deed No.76/2025 is vacated.

Sd/- **C.Pratheep Kumar, Judge**



APPENDIX

PETITIONER ANNEXURES

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| Annexure A1 | TRUE COPY OF THE PETITION IN C.M.P. 670/2025 IN M.C. 52/2022 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HARIPAD DATED 20.02.2025 |
| Annexure A2 | TRUE COPY OF THE SALE DEED VIDE NO. 76 DATED 21.01.2025 |
| Annexure A3 | TRUE COPY OF THE SALE DEED VIDE NO. 378 DATED 20.03.2023 |
| Annexure A4 | TRUE COPY OF THE SALE DEED VIDE NO. 994 DATED 16.07.2016 |