

23-09-2020

Crl.Misc.No.478/2020

Heard arguments of the petitioner counsel on interim application.

The petitioner has filed the petition under Section 12 of DV Act seeking various reliefs and filed applications U/s.23 of DV Act seeking ex-parte order of custody of child U/s. 21 of the DV Act, alternative accommodation U/s.19 of DV Act and interim maintenance U/s.20 of DV Act.

It is stated that the respondent is the husband of the petitioner NO.1 and petitioner No.2 is the son of the petitioner No.1 & respondent. It is stated that the marriage of petitioner NO.1 and respondent took place on 09-02-2011 at Kolkata & the petitioner No.2 born from their wedlock on 19-04-2015. It is stated that the petitioners & respondent lived in a shared house at Sarjapura and during their stay the respondent has caused domestic violence against the petitioner and due to the same she is suffering from physical and mental agony. The petitioner has pleaded various acts of domestic violence in her petition. It is stated that the 2nd petitioner is

in the custody of petitioner No.1 and respondent is attempting to take the custody of petitioner No.2. The various whatsapp and e-mail communication between petitioner No.1 and respondent No.1 shows that both are interested in looking after the son. However, the age of the petitioner No.2 is only 05 years and the petitioner No.2 is now in the custody of the petitioner No.1. Therefore, in the best interest of the child it is proper to have the child with the petitioner so as to avoid fight between the petitioner & respondent about the custody of child till further orders. The petitioner has claimed that she is now residing in the rented house and she has produced the rental agreement date 01-09-2019. as per the said agreement the monthly rental agreement is Rs.6500/-, but the petitioner has claimed the rental of Rs.15000/- from the respondent. The petitioner has also claimed interim maintenance of Rs.25000/- per month. But in the entire petition the petitioner has not disclosed the occupation, educational qualification or the earning of the respondent or the petitioner. Without having some material about the standard of living of the petitioner and respondent and their earnings it is difficult to

decide the interim maintenance . However, upon considering the averements in the petition that they have inhabitants of Kalkatta and they have went abroad shows that they are financially sound. Therefore, the aspect of interim maintenance & alternative accomadation can be decided after appearance of the respondent. Hence I proceed to pass following -

ORDER

Acting under Section 23 r/w Sec.21 of DV Act the respondent is restrained from disturbing the custody of the Minor petition No.2 with the petition No. 1 till further orders.

Issue order of interim custody of petitioner No.2 and notice of main petition and notice of interim applications to the respondent through CDPO.

R/by: 07-11-2020.

**Prl. Civil Judge & JMFC
Anekal**

