



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
MUDIGERE**

PRESENT: Sri. Vishwanath A. B.B.A.,LL.B.,
Prl. Civil Judge & JMFC.,
Mudigere.

DATED THIS THE 20th DAY OF SEPTEMBER 2024

CRL. MISC.NO:7/2023

BETWEEN :

- 1.** Smt. D.L.Seema,
Aged about 37 years,
D/o Laxmanagowda,
W/o Manjunath @ Manjunathegowda.
- 2.** Kum.Spruthi,
Aged about 15 years,
D/o Manjunath @ Manjunathegowda.
- 3.** Kum.Namratha,
Aged about 12 years,
D/o Manjunath @ Manjunathegowda.

All are R/o Varthemane,
Durgadahalli Village, Sunkasale Post,
Balur Hobli, Mudigere Taluk,
Chikkamagaluru District.
(Petitioner No.2 and 3 through natural
guardian the petitioner No.1)
Petitioners

...

(By Smt.K.Vishala, Adv.,)

AND :

Sri. Manjunath @ Manjunathegowda,
Aged about 41 years,
S/o late Shivappagowda @ Seenappagowda,



Director, Samrudhi Co-op., Society,
R/o Hurthaje House,
Mundaje Village & Post,
Belthangadi Taluk,
Dakshina Kannada District.

...Respondent

(By Sri.Subramanya Kumar Agatha., Adv.,)

(Vishwanath A.)
Prl. Civil Judge & JMFC.,
Mudigere.

ORDER ON APPLICATION FILED BY THE PETITIONERS
UNDER SECTION 23 OF DV ACT

By way of present application, the petitioners are seeking for interim maintenance of Rs.20,000/- per month, each to the petitioners.

2. The petitioners have contended that the petitioner No.1 is legally wedded wife of the respondent and their marriage was solemnized on 14.05.2006 at Mahotsava Kalyana Mantapa, Dharmasthala, as per the customs prevailing in the community. The petitioner No.2 and 3 are the children of petitioner No.1 and the respondent. After the birth of petitioner No.2, the respondent on an instigation of his mother, started to pick quarrel with the petitioner No.1 demanding dowry. The respondent has also cultivated bad habits like gambling and other illegal acts. The respondent was also suspecting the petitioner No.1. In spite of the same, the petitioner No.1 had resided with the respondent with a fond hope that the respondent will mend his ways. But the



respondent did not mend his behavior instead increased his humiliation which could not be tolerated by the petitioner No.1. On 13.12.2020, the petitioner No.1 had questioned the respondent about his illegal acts, but the respondent and his mother have forcibly ousted the petitioners from their house and they have also threatened her not to enter the house. Thus, the petitioner No.1 has returned to her parental house and she is now residing there itself.

3. The petitioners have further contended that the parents of petitioner No.1, are poor and they have no income to look after the petitioners. The respondent has totally neglected the petitioners. The petitioner No.2 is studying in 10th standard and the petitioner No.3 is studying in 7th standard. The respondent is not paying the educational expenses of the petitioner No.2 and 3, and he is not maintaining the petitioner No.1. The petitioners are residing separately from 13.12.2020. The petitioners had also filed Crl.Misc. No.152/2021 before this Court and the petitioner No.1 had also filed MC No. 30/2021 seeking divorce, on the file of Hon'ble Senior Civil Judge, Mudigere. Both the cases were ended up in compromise and as per its terms, the respondent had agreed and undertook to look after the petitioners and he had taken the petitioners to his house. There, again the respondent has continued his illegal acts and ousted the petitioners on 05.08.2022. The respondent is having two residential houses having purchased the same in the name of his mother. He is working as director of Samrudhi co-operative society and drawing



salary more than Rs.1,00,000/-. Since the date he ousted the petitioners, the respondent has not given any amount towards the maintenance of the petitioners. On these averments, the petitioners have sought for allowing the application.

4. The respondent having filed his statement of objections to the present application, he has resisted the present application on the grounds urged in the objections to the main petition. In the statement of objections filed to the main petition, the respondent has admitted the marriage and relationship with the petitioners. He also admits that he and the petitioners were resided together at his house. The respondent having denied all other petition averments, he has contended that the marriage was performed at the place near to his house, at his expenses and as per the demand of petitioner No.1 and her parents. The respondent has also admitted the fact of filing Crl.Misc. No.152/2021, MC No. 30/2021 and its compromise. He has further contended that after the birth of petitioner No.2, the petitioner No.1 had neglected the respondent and his parents, she was not doing any house hold work and was always quarreling with the respondent and his family members. The petitioners No.1 started to put forth lavish demands which were also fulfilled by the respondent by borrowing loans. Even then the petitioner No.1 was not satisfied. Though the respondent has arranged separate residence for his mother and separate residence for the petitioners with a hope of pacifying the petitioner No.1, but the same did not yield fruitful.



5. It is the further case of the respondent that on 08.04.2021 when the respondent was away from the house, the father and brothers of petitioner No.1 had come to his house along with some men and took away the petitioners with them along with their belongings viz., gold ornaments, school records, cloths, ration card etc. When the respondent had visited the parental home of the petitioner No.1 so as to request her to return to him, the father and brother of petitioner No.1, have abused him and also tried to assault him. Therefore, on 21.04.2021, he got issued legal notice and after some days, the petitioners had returned back. Even after such return, she again resumed to harass the respondent, she was always using the mobile phone and she used to talk secretly. On enquiry, the petitioner No.1 had again left the house. The respondent had approaching the Dharmasthala Police wherein the petitioner No.1 albeit agreed to re-join, but she had approached the CDPO, Belthangady wherein also she had agreed to return back to the respondent. Even after compromise before the Court, the petitioner No.1 again abused the respondent in filthy language and subjected him and his family members to mental torture. Once again in the month of August 2022, the petitioner No.1 along with the children has left his home by taking all her belongings and she had sent the WhatsApp message to the respondent about leaving the house.

6. The respondent has further contended that the petitioner No.1 began to abuse and threaten the respondent through phone calls and messages. On 24.11.2022, the respondent got issued a legal notice demanding the petitioner No.1 to re-join him. In spite



of the same, the petitioner No.1 did not comply nor replied to the notice. The petitioner No.1 has withdrawn herself from the company of the respondent without any cause. The respondent is still wishing and ready to continue his married life with the petitioner No.1 and he is also ready to look after the petitioners with love and affection. He has further contended that his mother is old aged and also suffering from BP, sugar and bronchial asthma since last one year and she is under continuous treatment. The respondent being the only son, is looking after his mother. The petitioner No.1 is working as fashion designer at Chikkamagaluru and she is having handsome income. The petitioner has deserted the respondent without any just cause and therefore she is not entitled for any maintenance. On these grounds, the respondent has sought for rejection of the present application.

7. Having heard the arguments addressed by the learned counsel appearing for respective parties, this Court has carefully perused the entire materials on record. Now, the following points do arise for consideration:

1. Whether the petitioners have made out sufficient grounds to grant them the interim order as sought for?

2. What order?

8. Now, the findings of this Court on the above points are as follows:

Point No.1: **Partly in the Affirmative**

Point No.2: **As per final order
for the following:**



REASONS

9. Point No.1: What requires consideration for granting interim order as per Section 23 of the Protection of Women from Domestic Violence Act, is the satisfied that an application prima-facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence. For having such satisfaction, the assertions of both the parties shall have to be looked into on prima-facie. Undisputedly, the petitioner No.1 is the wife of respondent and the petitioners No.2 and 3 are the children of petitioner No.1 and the respondent, who at some point of time resided together at the same house. It is also not in dispute that the petitioner No.1 had earlier approached the Court seeking divorce but the parties have compromised and joined together. The allegation of petitioner No.1 is that the respondent on an instigation of his mother, started to pick quarrel with the petitioner No.1 demanding dowry. The respondent has also cultivated bad habits like gambling and other illegal acts and on questioning, the respondent and his mother have ousted the petitioners from their residence. Though on re-joining pursuant to the compromise, the respondent did not mend himself and again having harass the petitioners, he has ousted them.

10. Replying to these allegations, the respondent has contended that he had arranged separate residence for his mother as well as to the petitioners and he has also met the lavish demands of the petitioner No.1. The respondent has also



contended that on questioning the petitioner No.1 for her behavior in always using the phone and talking secretly, she has left his company and in spite of legal notice, she has not returned to him even though he is ready to look after the petitioners with all love and affection. Except the allegations and counter allegations as pleaded in their respective pleadings, there are no materials available on record at this stage, which would support the versions of both side. Further, the truthfulness of all such allegations needs to be considered after full-fledged trial.

11. The petitioners have specifically contended that the respondent has ousted them from his residence and he is not maintaining them. The petitioners have also contended that they are now residing along with the old aged parents of petitioner No.1, who have no income for their livelihood. Whereas, the respondent has contended that the petitioner No.1 has got handsome income as she is working as fashion designer at Chikkamagaluru. But no documents in this regard is produced at the present stage. Admittedly, the petitioners are residing separately from the respondent and though the respondent has contended that he is ready to look after the petitioners if they join him, nothing is available at this stage to consider that whether the respondent has taken any recourse under the law to join the company of petitioners.

12. There is no doubt that the petitioner No.1 is the wife and petitioner No.2 and 3 are the children of the respondent, and they had resided together. Admittedly the petitioners are reading



separately and there are no materials available at this stage to consider whether the respondent is providing basic necessities to the petitioners or that the petitioner No.1 is having sufficient income to look after herself and the children. The petitioners have submitted that they are in requirement of maintenance towards medical expenses, food, clothing, shelter and the educational expenses of the petitioner No.2 and 3, as the respondent has neglected to maintain them. Thus, Considering the above aspects as well as keeping in view of the affidavits of assets and liabilities filed by the respective parties, this Court considers it fit to grant the petitioners with interim order of monetary relief by way of maintenance at Rs.2,000/- per month to the petitioner No.1 and Rs.1,500/- each to the petitioner No.2 and 3. Accordingly point No.1 is answered **partly in affirmative.**

13. Point No.2: In view of the reasons recorded on the above point No.1, this Court proceeds to pass the following:-

ORDER

Application filed by the Petitioners under Section 23 of protection of women from domestic violence Act, is allowed in part.

The Respondent is directed to pay a sum of Rs.2,000/- per month to the petitioner No.1 and Rs.1,500/- each to the petitioner No.2 and 3, as interim monetary



***relief by way of maintenance, till disposal of
the above petition.***

*(Directly dictated to the Stenographer, typed by him on computer,
corrected and then pronounced by me in the open court on this the **20th Day of
September 2024 at Mudigere.**)*

(Vishwanath A.)
Prl. Civil Judge & JMFC.,
Mudigere.

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