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**THE COURT OF THE PRL., SENIOR CIVIL JUDGE AND
J.M.F.C., HUNSUR.**

Present: **Smt. Zaibunnisa, B.Com., L.L.B.,**
Prl. Senior Civil Judge & J.M.F.C.,
Hunsur.

Dated, this the 2nd day of April 2025

C.MIS.NO.59/2024

Petitioners : Susanna V @ Susanna and others

V/s

Respondent : Ponnswamy @ Moses Prabhakar

PARTIES IN I.A. No. I

Applicant : Susaanna V @ Susanna and others
V/s

Respondent : Ponnaswamy @ Moses Prabhakar

**ORDERS ON IA NO.1 FILED U/SEC.23(2) OF THE
PROTECTION OF WOMEN FROM DOMESTIC
VIOLENCE ACT, 2005**

The above application is filed by the petitioners
U/SEC.23 OF THE PROTECTION OF WOMEN FROM

DOMESTIC VIOLENCE ACT, 2005 (DV Act in short) to direct the respondent to pay a sum of Rs.30,000/- per month as interim maintenance and Rs.30,000/- per month for residence and fulfillment of other basic needs of the petitioners till the disposal of the petition.

2. It is averred in the application that, the marriage of the 1st petitioner with the respondent was solemnized on 07.05.2009 at Mount Zion pentecostal Church, Bengaluru as per rites and customs of Christian Community. The 1st petitioner's parents have given gold, cloth, Silver as a gift to the respondent and borne all the marriage expenses. The petitioner has started marital life at the house of respondent. During this period two children were born. Now the petitioner No.2 is studying in 9th standard, the petitioner No.3 is studying in 7th standard. While the petitioner was living with the respondent, he, at the instigation of his mother, was ill treating the petitioner No.1 mentally and as well as physically. The respondent was neglecting to provide the basic needs of the petitioners and her children. The petitioner No.1 informed her father about the matter. When the 1st petitioner's

father questioned the respondent, he expressed his inability to earn money since his all businesses were in loss. At that time the 1st petitioner's father provide him a car to earn his livelihood and look after the petitioner happily. Like this the 1st petitioner father provided him 3 cars, one after another. In spite of that respondent sold all the 3 cars one by one stating that his business is in loss and he has to clear the debts. The respondent has cultivated the habit of drinking alcohol and has developed other addictions, due to which the respondent used spent all his income to fulfill his bad habits and he failed to meet the basic needs of the petitioners. The petitioner used go for work in Bengaluru for their livelihood. Later the 1st petitioner's health gradually deteriorated and she has lost her ability to do any work. Hence the petition and application on hand for interim reliefs.

3. After registration of petition, notice is issuing to the respondent, but same is returned as unserved. But once reported as served through affixure by Sampige Police Station. Therefore, the petitioners prays this court to consider their application for interim maintenance.

4. I have heard the petitioners counsel perused the record.

5. The points that arise for my consideration are:

1. Whether the petitioners are entitle for the reliefs claimed?

2. What Order?

6. My findings on the above Points are:

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

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

R E A S O N S

7. **Point No.1:** On perusal of the material on record, it reveals that the petitioners have maintained the petition under section 12 of Protection of Women from Domestic Violence Act 2005 and in the instant application U/Sec. 23 of Domestic Violence Act 2005 and petitioners have sought for the reliefs of protection order, residence and fulfillment of other basic needs from the respondent. The petitioners have also sought for interim maintenance in a sum of Rs 30,000/- per month from the hands of the respondent.

8. At this stage, I would like to relay on the relevant provisions U/Sec. 23 of the Domestic violence Act, which states that, the courts are empowered to issue interim and exparte orders, ensuring the immediate safety of the victims of Domestic Violence. These orders are critical tools for providing swift protection and relief to those at risk of further harm. An interim order provides immediate protections, while an exparte order can be issued without the respondent's presence. This ensures that the victim is protected from future harm even before a final decision is made. Several judgments of Hon'ble Apex Court and Several High Courts on 23 of DV Act have emphasized the need for urgent intervention in cases of domestic violence. These judgments also established that magistrates have the power to grant interim and exparte orders.

9. In the instant application the petitioner No.1, on behalf of herself and her minor sons; petitioner No.2 and 3, she stated that during her stay at matrimonial home with respondent, she was subjected to sever physical and mental torture at the hands of respondent and he was neglecting

the petitioners and he failed to provide basic needs to maintain their lives. It is also her grievance that the respondent has illicit relationship with other women and he forced the petitioner to give divorce when she questioned his illegal relationships, which amounts to the offence of bigamy and adultery. In support of her contentions she has produced copies of FIR, statements given before police and also the acknowledgments issued by Hunsur Town police. In spite of steps taken to serve the notice of the petition, the respondent keep on avoiding the same.

10. Therefore, the petitioners requests this court to pass some interim orders for their protection and maintenance. On perusal of the petition, interim application as well as the documents relied on by the petitioners along with the relevant authorities on interim orders, it is cleared that there is no dispute that the parties to the petition are the legally wedded husband and wife and they are having two children from their marriage. Admittedly, the petitioner and respondent are living separately at the time of filing this petition due to some differences arose between them. With respect to allegations of harassment and illicit relationship, it

is necessary to hold enquiry of the parties on pledge and at this stage it is nothing but irrelevant but also not just and proper to express any opinion in this regard.

11. So far as not providing basic needs to the petitioner and her children by the respondent despite he is having sufficient income is concerned, petitioner has produced respondent's Auto driving Licence details/Driver's details issued by jurisdictional police, RC cards of two wheeler and Three Wheeler standing in the name of respondent to show that the respondent is auto driver by profession and possessing own vehicles.

12. Per contra, the respondent remained absent though notices are issuing to him since 23.04.2024. He failed to appear before court to deny the petition allegations or to show that the petitioners are having sufficient income to maintain themselves. So there is no defence by the respondent. The materials on record clearly demonstrates that the respondent has not made any arrangements for the livelihood of the petitioners. The endorsement issued by the jurisdictional police prima facie discloses the matrimonial

dispute between the parties and they are living separately and no arrangement for maintenance of the petitioners is made by the respondent. On the other hand, he used to ill treat the petitioner during her stay in the matrimonial home and he is having illicit relationship with other women and at this juncture, one can infer that the petitioner No.1 is living separately along with her children at the mercy of others for their livelihood and for the education of petitioners No.2 and 3. However, the materials on record reveals that the respondent is not disputing the fact that the petitioner is his legally wedded wife and also the birth of petitioners No. 2 & 3 due to their marital relationship. As such, in view of the marital relationship between the parties, the respondent is bound to maintain the petitioners. Further, it is the bounden duty of the husband to look after his wife and children. Remain absent before the court in answer to the claim of the petitioners, will not absolve the liability of the respondent to maintain his legally wedded wife and children. Hence, considering the status of the parties, present hard days, the fact and circumstances of the case, I deem it proper to award some interim maintenance to the petitioners

for their livelihood. In the circumstances, the point No.1 is answered Partly in the affirmative.

13. **Point No.2**: For the aforesaid findings, I proceed to pass the following:

O R D E R

The Application filed at IA.No.I by the petitioners is hereby allowed in part.

Further, the respondent is directed to pay Rs. 5,000/- per month to the petitioners for residence and Rs.3,000/- per month to the 1st petitioner and Rs.2,500/- per month each to petitioner No.2 and 3 as maintenance, from the date of application till further orders.

No order as to costs.

(Dictated to the Stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in the open Court on this the 02nd day of April 2025.)

(Zaibunnisa)

Prl. Senior Civil Judge & JMFC.,
Hunsur.