



ORDER BELOW EXH.13
(Passed on 31-01-2024)

This is an application for interim maintenance vide Section 24 of the Hindu Marriage Act, 1955.

2] **Facts of the case are as under :-**

In the application, it is stated by the respondent that, the petitioner has filed this petition for dissolution of marriage vide section 13 (1) (i-a) of the Hindu Marriage Act, 1955. It is further submitted by the respondent that, it is admitted that, she is legally wedded wife of the petitioner. After the marriage, the respondent went for cohabitation at the house of petitioner. The respondent gave birth to two daughters and one son. It is further submitted by the respondent that, during her stay with the petitioner, she was ill-treated by the petitioner and his relatives. The petitioner had caused the mental and physical harassment to the respondent. Therefore, the respondent was constrained to reside at her parents house and she is living on the mercy of her parents. She is not having any source of income and she is unable to maintain herself. On the contrary, petitioner has 0 H 81 R of agricultural land and he earns income of Rs.10/- lakhs per year from the said field. Except the respondent no one is depending on him. Though, he has not done any arrangement for the maintenance of the respondent. Except the respondent and her children no one is dependant on petitioner. The petitioner's father is retired Teacher and gets the pension of Rs.30,000/- per month and petitioner is also a Contractor. Therefore, he has ample source of income. Contrary, the respondent has no source of income. Therefore, she requires

amount of Rs.20,000/- per month maintenance for herself during the pendency of this petition. The respondent also claimed litigation expenses amount of Rs.20,000/-. Therefore, petitioner be directed to pay the above said amount of interim maintenance along with litigation expenses to the respondent.

3] The petitioner has filed his say at Exhibit 14 and denied the contentions of the respondent. The petitioner in his reply stated that the respondent used to go to her parents house without any cause and without permission of the petitioner. It is further contended by the petitioner that after marriage the petitioner and respondent were residing separately therefore, the respondent has no trouble from anybody. The respondent does work of making buttons and earns Rs.300/- to 400/- per day. Therefore, the respondent has no necessity of maintenance amount. The respondent is residing at her parents house on her own accord. It is further contended by the petitioner that he has two acres of land and he is maintaining his two daughters. The petitioner is ready to cohabit with the respondent. The respondent is able to maintain herself. The respondent has no right to claim interim maintenance and litigation expenses as the petitioner is ready to cohabit with her. The petitioner has further submitted that the respondent has filed the false application to harass and pressurize the petitioner, hence, it is liable to be rejected.

4] Considering overall record, following points are arising before me for determination I have produced those points along with my findings thereon for the reasons as under :-

<u>Points</u>	<u>Findings</u>
1. Whether the respondent is entitled to get interim ... maintenance as sought ?	Partly in the Affirmative.
2. What order ?	Application is partly allowed.

REASONS

As to Point No.1 :-

5] As per the pleadings of the petitioner and respondent and the documents on record, it is gathered that the respondent and the petitioner are wife and husband. I have also gone through the affidavits of Assets and Liabilities filed on record by both sides. The respondent has claimed that, she is unable to maintain herself and the petitioner has refused to maintain her. She has further claimed that, the petitioner has two acres of agricultural land, his father and mother are having 89 and 90 R agricultural lands. The petitioner cultivates the lands of his parents and he also takes contract. He earns income of Rs.10/- lakhs per year from the said fields and contract work. Except the respondent and children no one is depending on him. Though he has not done any provision for the maintenance of the respondent.

6] Admittedly, the respondent is wife of petitioner and she is not living with the petitioner. Therefore, being husband, it is responsibility of the petitioner to maintain his wife. Both parties have filed their affidavits of Assets and Liabilities on record at Exhibit 15 and 16 respectively. The respondent in her affidavit of Assets and Liabilities has stated that the petitioner earns Rs.10/- lakhs. On the contrary, the petitioner in his affidavit of Assets and

Liabilities has stated that the respondent does work of making buttons and earns Rs.15,000/- to 20,000/- per month. In such circumstances, perusing record it appears that with intent to show the actual income source of the petitioner, the respondent has filed documentary evidence i.e. 7/12 extract of the petitioner on record.

7] In above circumstances, this application needs to be decided by considering the reasonable income of the petitioner and his liability to maintain his wife.

8] At this juncture, it is very difficult to conclude that, the respondent is blamed for acts of desertion or the petitioner is to be held guilty for causing desertion and cruelty to the respondent. But, still when it has contended by the respondent that, due to the ill-treatment given by the petitioner, she is residing at her parent's house and as she has no other alternative, she is residing separately from the petitioner. Being husband of the respondent the petitioner will have to shoulder the responsibility to fulfill the requirements of his wife consistent with the standard of living and status of the parties. Thus, in this case, the petitioner can be directed to pay some reasonable amount to the respondent towards her survival and maintenance. Here, there is documentary proof about income of petitioner. It is quite clear that the petitioner can easily fetch the income from the agricultural at least Rs.5,000/- to Rs.6,000/- per month. But there is nothing on record to show that the petitioner also cultivates the lands of his parents and he is doing contractorship. Therefore, considering the area of petitioner's agricultural land, the monthly income of the petitioner may not be lesser than Rs.6,000/- per month. But the admittedly two daughters

of the parties are residing with the petitioner and the petitioner has liability to maintain them also. In such circumstances, consistent with the status of the parties, the amount of Rs.1,500/- per month would be sufficient for the respondent to survive herself and get some sort of better livelihood for herself. The said amount shall be paid to her from the date of application. Hence, in answer point No.1, I record my finding in partly affirmative.

As to Point No.2:-

9] In view of my finding on point No.1, the application will have to be partly allowed. In the result, I pass the following order.

ORDER

- 1) Application is partly allowed.
- 2) The petitioner is directed to pay an amount of Rs.1,500/- (Rupees One Thousand Five Hundred only) as maintenance pendent lite for the respondent from the date of this application till the decision of the main petition.
- 3) The petitioner is directed to pay an amount of Rs.500/- (Rupees Five Hundred only) as litigation expenses for the respondent from the date of this application till the decision of the main petition.
- 4) Costs in main cause.

Date : 31/1/2024.

(Mahesh S. Kale)
Civil Judge (Sr.Dn.),
Akot.

CERTIFICATE

I affirm that the contents of this P.D.F file Judgment are same word for word as per original Judgment.

Name of Steno	:	A.M.KALE
Court Name	:	C.J.[S.D.] Akot
Date	:	22/1/2023
Judgment Signed by P.O On	:	22/1/2023
Judgment Uploaded on	:	22/1/2023