



marriage on 30/08/2016. She has suffered domestic violence at the hands of non-applicant. Since 10/07/2024, she is residing at her maternal home. They have two children namely, Saksham aged 8 years and Sara aged 5 years. Non-applicant has never incurred any expenses towards the education, food, clothing and medicine of applicants. As applicant no.1 has no source of income and non-applicant has moral and legal obligation to maintain the applicants, the non-applicant be directed to pay interim maintenance of Rs.10,000/- to each applicant. Hence, the application may kindly be allowed

04. *Per contra*, Ld. Counsel Shri Barsinghe for the non-applicant has urged that applicant no.1 is living separately from applicant without any sufficient cause. She wants to convert herself into Christianity therefore, she started warding off her responsibilities of a wife and mother. The marriage between the parties being a admitted fact was solemnized in the year 2016, however, applicant no.1 has made allegations in the year 2024. As such, there was no domestic relationship and shared household at the time of alleged domestic violence. The parents of non-applicant, who are senior citizens, are his dependents. Also, mother of non-applicant is undergoing cancer treatment. Hence, the application may kindly be rejected.

05. Perused the record. Considered the submissions of both the parties. Following are the points arising for my determination with my findings thereon along with reasons.

Sr. No.	POINTS	FINDINGS
1.	Whether the applicant no.1 prima facie is an aggrieved person?	Yes.
2.	Whether the applicants are entitled to interim maintenance? If yes, how much?	Yes. Rs.5,000/- per month.
3.	Whether the applicant no.1 is entitled to interim protection order?	Yes
3.	What order?	Application is partly allowed in terms of final order.

## **REASONS**

### **AS TO POINT NO.1 :**

06. While considering an application under S.23 of the Act which is certainly a prima-facie phase of interlocutory adjudication, the Court is not supposed to go deep into the merits of the case or the evidence which may be brought at the time of trial. Even at this stage, it is not expected of an aggrieved person to bring the proof of pleaded allegations strictly.

07. The applicant no.1 has averred that she and non-applicant married as per customary rites and rituals on 30/08/2016 and she cohabited with the non-applicant after marriage. Also, she left to her maternal home due to domestic violence at the hands of non-applicant. Non-applicant have not denied marriage with the applicant no.1 and his

cohabitation with her. The non-applicant has also contended in his say that the applicant no.1 stayed with non-applicant after marriage. Thus, the fact that there existed a domestic relationship and a shared household between the applicant no.1 and non-applicant is prima facie established.

08. The applicant no.1 has filed affidavit to affirm the averments in the application. The non-applicant have denied the allegations and made counter allegations against the applicant. Hence, there is oath standing against oath. However, merely because the allegations are denied and there are counter allegations would not make the averments of the application inconsiderable. The veracity of the allegations of both the parties will be adjudicated through evidence. But at the present stage, the averments in the application cannot be disregarded due to existence of counter allegations. Besides, the contentions on record indicate that some incidents having undertones of domestic violence have occurred between the parties which require ascertainment.

09. Further, the applicant no.1 averred that the non-applicant has not maintained her since she left the matrimonial home. The non-applicant has not denied that the applicant no.1 is residing separate. There is nothing on record showing that the non-applicant that has been providing maintenance to the applicant no.1 despite staying apart from each other. The failure to provide maintenance to the applicant prima facie amounts to economic abuse, which is a form of domestic violence.

10. Thus, the averments in the application supported by affidavit indicate that prima facie the applicant no.1 might have suffered some domestic violence and financial abuse which requires to be adjudicated

through evidence. The documents and the affidavit prima facie indicate that applicant no.1 is an aggrieved person. Therefore, I answer point No. 1 in the affirmative.

**AS TO POINT NO.2 :**

11. The applicant no.1 has asserted in her application and affidavit that non-applicant no.1 has income of Rs.40,000/- per month being an electrician. He also has income from ancestral agricultural property. The applicant no.1 has also asserted that she has no source of income and non-applicant no.1 has neglected to maintain her despite having sufficient income. The applicants have prayed for Rs.10,000/- per month each as interim maintenance.

12. Applicant no.1 and non-applicant has filed their assets and liabilities affidavits (Exh.23 and 18 respectively). Applicant no.1 in her affidavit (Exh.23) has specified her own income to be Nil, and that of non-applicant no.1 to be Rs.40,000/- per month. On the other hand, non-applicant in his affidavit (Exh.18) has not specified his income but mentioned about the income of applicant no.1 as Rs.300/- per day. Affirmations in the affidavits need to be relied upon considering the material in support thereof.

13. The applicant no.1 has pleaded that she has no source of income. The non-applicant has nowhere contended that applicant no.1 has any income except in his assets and liabilities affidavit. Hence, it has to be held at the present stage that applicant no.1 has no source of income and is unable to maintain herself and applicant no.2 and 3. Besides, non-applicant cannot be absolved from the responsibility of

maintaining his wife and children.

14. The applicant no.1 has averred in her pleading and affidavit that non-applicant has salaried income of Rs.40,000/- per month. The averment gets strength from the assets and liabilities filed by non-applicant where he himself stated that he is an electrician. Being an electrician, he would be earning atleast Rs.30,000/- to 35,000/- salary. Moreover, the applicant no.1 being the wife of non-applicant is the best person to state about the occupation and income of the non-applicant. Whether the non-applicant earns Rs.40,000/- per month, being a fact in issue, is subject of trial. However, prima facie contentions of applicant no.1 regarding the income of non-applicant has substance. The non-applicant in his affidavit has stated that applicant no.1 is earning Rs.300/- per month without support of pleadings. Also, he has contended that his mother is undertaking cancer treatment, however, no documents has been produced to prima facie find merit in the contention of the non-applicant.

15. Marriage between the spouses in question is admitted, separate residence of applicants and non-applicant is also admitted. It is nowhere the case of non-applicant that during separate residence of applicants, any monetary aid is provided to them. Being husband and father of applicants, it is his moral and legal obligation to ensure their living. Therefore, considering the income of non-applicant on record, capability of the applicant no.1 to undertake physical work, the standard of life of the parties, and the necessities of the applicants, granting monthly interim maintenance of Rs. 5,000/- to the applicants appears justified. Therefore, I answer point no.2 accordingly.

**AS TO POINT NO.3:**

16. Protecting a woman from domestic violence is the basic object of the P.W.D.V Act. Sufficient *prima facie* material in the form of application filed under S.12 of the Act made by applicant no.1, has been placed on record to establish that, domestic violence is *prima-facie* committed and is likely to be committed at the hands of non-applicant. Therefore, till pendency of this case, it is just and proper to grant interim protection order to the applicant no.1, prohibiting non-applicant from committing, abetting or aiding any act of domestic violence against applicant no.1. Hence, I answer point no.3 in affirmative.

**AS TO POINT NO.4:**

17. In view of the foregoing findings, applicant no.1 *prima facie* appears to be an aggrieved person, and applicants are entitled to Rs.5,000/- per month towards maintenance from non-applicant. However, considering the facts and circumstances and the fact that non-applicant has not caused unjustified delay in the proceedings, it does not appear reasonable to burden non-applicant no.1 with payment of interim maintenance from the date of application and it will be justified to require him to pay it from the date of order. From the discussion *supra*, applicant no.1 is entitled for protection order of interim nature. Therefore, in answer to point 4, I pass the following order.

## ORDER

1.	The application is party allowed.
2.	Non-applicant shall pay to the applicants Rs. 5,000/- (Rs. Five Thousand only) per month as interim maintenance from the date of this order till disposal of the main application or further order of the Court.
3.	Non-applicant is temporarily prohibited from committing, abetting or aiding any act of domestic violence against the applicant no.1 till the decision of the case.
4.	Copy of this order be provided to all the concerned persons as per section 24 of the P.W.D.V Act.
5.	Both the parties to expedite the trial of this case and ensure its disposal at the earliest.

Gadchiroli.  
Date: 15/02/2025

sd/-  
(S.A.Bhaisare)  
J.M.F.C.Gadchiroli.