

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS
CHAMORSHI

(Presided Over by S.A. Bhaisare)

P.W.D.V.A. Application. No.02/2024

Sau. Supriya Rahul Wadgure,
Age 24 years, Occ. Housewife,
R/o. Jamgiri, Teh-Chamorshi
Dist. Gadchiroli Others 1

... **Applicant**

-VERSUS-

Shri. Rahul Tukaram Wadgure,
Age 30 years, Occ. Service,
R/o. Indiranagar Ward, Jarawandi
Teh-Ettapalli, Dist. Gadchiroli

... **Non-applicant**

For Applicant :- Learned Advocate : N.U.Lodalliwar
For Non-applicant :- Learned Advocate : A. Garwasis

ORDER BELOW EXH.6

(Passed on 10th July, 2025)

01. The present application has been filed by the applicants under section 23 of the Protection of Women from Domestic Violence Act of 2005 (hereinafter 'the Act' for short), seeking interim reliefs.
02. Perused the application and reply thereon. No arguments advanced by both the parties.
03. Perused the record. Following are the points arising for my determination with my findings thereon along with reasons.

Sr. No.	POINTS	FINDINGS
1.	Whether the applicants prima facie are an aggrieved person?	Yes.

2.	Whether the applicants are entitled to interim maintenance? If yes, how much?	Yes. Rs. 3,000/- per month to the applicant no.1 and Rs.1,000/- to applicant no.2
3.	Whether the applicant is entitled to interim protection order including an	Yes
4.	Whether the applicant is entitled to an order restraining the non-applicant from alienating her share in self-acquired or ancestral property of non-applicant?	No
5.	What order?	Application is partly allowed in terms of final order.

AS TO POINT NO.1 :

04. 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.

05. The applicant no.1 has averred that she and non-applicant married as per customary rites and rituals on 15/04/2021 and she cohabited with the non-applicant after marriage. She gave birth to child namely, Aabhari on 28/04/2022. Thereafter, non-applicant started taunting her for one or other reason. He used to go out of house early in the morning and come late at night for the sole purpose that applicant no.1 would divorce him. Further, she suffered domestic violence at the hands of non-applicant. Non-applicant have not denied marriage with the applicant and his cohabitation with her.

The non-applicant has also contended in his say that the applicant no. 1 has resided with non-applicant after marriage and applicant no.2 is born out of the marriage. Thus, the fact that there exists a domestic relationship and a shared household between the applicant and non-applicant is *prima-facie* established.

06. The applicant 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.

07. Further, the applicant averred that the non-applicant has not maintained and inflicted domestic violence since the birth of first child namely Aabhari. There is nothing on record showing that the non-applicant has been providing maintenance to the applicant. The failure to provide maintenance to the applicant *prima -facie* amounts to economic abuse, which is a form of domestic violence.

08. Thus, the averments in the application supported by affidavit indicate that *prima-facie* the applicant 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 is an aggrieved person. Therefore, I answer point No. 1 in the affirmative.

AS TO POINT NO.2 :

09. The applicant has asserted in her application and affidavit that non-applicant has income of Rs.20,000/- per month being a Malaria worker on contract basis. The non-applicant also has a house, shop and 8 Acre agricultural land out of which he earns Rs.15,00,000/- per year. The applicant has also asserted that she has no source of income and non-applicant has neglected to maintain her despite having sufficient income. The applicant has prayed for Rs.10,000/- per month for herself and Rs. 5,000/- per month for applicant no.2 as interim maintenance.

10. Applicant and non-applicant have filed their assets and liabilities affidavits (Exh.18 and 21 respectively). Applicant in her affidavit (Exh.18) has specified her own income to be Nil, and that of non-applicant to be Rs.20,000/- per month being a Malaria worker on contract basis. On the other hand, non-applicant in his affidavit (Exh.21) has specified his income to be Nil/- and mentioned about the profession of applicant as agricultural labour. Affirmations in the affidavits need to be relied upon considering the material in support thereof.

11. The applicant has pleaded that she has no source of income. The non-applicant has contended that applicant works as a

agricultural labour and assets and liabilities affidavit. However, he has not produced any document in support thereof. In this premise, it has to be presumed that the applicant has no source of income at this stage. Besides, non-applicant cannot be absolved from the responsibility of maintaining his wife applicant.

12. The applicant has averred in her pleading and affidavit that non-applicant has salaried income of Rs.20,000/- per month. The averment gets strength from the assets and liabilities filed by non-applicant where he himself stated that the monthly expenditure on his dependants is Rs.20,000/-. It shows that he has some source of income. Now, whether the non-applicant earns Rs.20,000/- per month, being a fact in issue, is subject of trial. However, *prima-facie* contentions of applicant regarding the income of non-applicant has substance. Also, the applicant has not contended that she is suffering from any disease or disability. So, considering her age she is able to undertake physical labour work has to be considered.

13. Marriage between the spouses in question is admitted. It is nowhere the case of non-applicant that, any monetary aid is provided to the applicant. Being husband of the applicant, it is his moral and legal obligation to ensure her living. Therefore, considering the income of non-applicant on record, capability of the applicant to undertake physical work, the standard of life of the parties, and the necessities of the applicants, granting monthly interim maintenance of Rs. 3,000/- p.m to the applicant no.1 and Rs.1,000/- p.m to the applicant no.2 appears justified. Therefore, I answer point no.2 accordingly.

AS TO POINT NO.3:

14. 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, 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, prohibiting non-applicant from committing, abetting or aiding any act of domestic violence against applicant. Hence, I answer point no.3 in affirmative.

AS TO POINT NO.4:

15. As regards an order restraining the non-applicant from alienating the share of applicant no.1 in the self acquired or ancestral property of non-applicant is concerned, nothing has been brought on record showing her share in the same. In absence of specific pleadings and evidence to *prima facie* show substance, it cannot be allowed. Hence, I answer point no.4 in negative.

AS TO POINT NO.5:

16. In view of the foregoing findings, applicant *prima-facie* appears to be an aggrieved person, and applicant no.1 is entitled to Rs. 3,000/- p.m and applicant no.2 is entitled to Rs.1,000/- p.m towards maintenance from non-applicant. It appears that the main application was filed on 18/01/2024 and non-applicant marked his appearance on 27/02/2024 and he filed his written statement immediately on 09/05/2024. Thus, 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 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 this order. Therefore, in answer to point 5, I pass the following order.

ORDER

1. The application below Exh.6 is partly allowed.
2. Non-applicant shall pay to the applicant no.1 Rs. 3,000/- (Rs. Three Thousand only) per month and Rs.1,000/- (One Thousand only) per month to the applicant no. 2 as interim maintenance from the date of this order, during pendency of the main application or till further orders of the Court.
3. Non-applicant is temporarily prohibited from committing, abetting or aiding any act of domestic violence against the applicant 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.

Place:- Chamorshi
Date:- 10/07/2025.

Sd/-
(S. A. Bhaisare)
Extra Jt. Judicial Magistrate First Class,
Chamorshi.