

MHGA090002572024

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS****CHAMORSHI AT GADCHIROLI**

(Presided Over by S.A. Bhaisare)

**P.W.D.V.A. No.20/2024****Smt. Madhuri Sukhdev Sarpe +1****... Applicants****-VERSUS-****Dashrath Mahadev Sarpe + 2****... Non-applicants**

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For Applicants :- Learned Advocate : V. G. Chilange  
For Non-applicants :- Learned Advocate : D. A. Meshram  
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**ORDER BELOW EXH. 05**(Passed on 02<sup>nd</sup> April, 2026)

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. Heard both the learned counsels representing their respective parties.

03. Learned advocate Shri V.G Chilange appearing for the applicant has argued that the marriage between the applicant no.1 and deceased son of non-applicant no.1 and 2 was solemnized on 22/04/2016. The applicant no.1 suffered domestic violence at the hands of non-applicants. Non-applicant no.1 and 2 have moral and legal responsibility to provide maintenance to the applicants. They earn Rs.1,00,000/- per year out of

their agricultural land and Rs.2,00,000/- per year as rent amount from Markhanda Devasthan. They have sufficient means of income. The applicant no.1 has no source of income. Hence, the application may kindly be allowed.

04. *Per contra*, learned advocate Shri D. A. Meshram appearing on behalf of non-applicants has urged that the non-applicants are senior citizens. The applicant no.1 should look after her old in-laws. The in-laws are dependant upon the applicant no.1 and not vice versa. Nothing specific about lands of non-applicants is on record. The fact about present residence or date of returning to maternal home is not mentioned in the application. The applicant never resided at her matrimonial home. Two acres agricultural land was given by the non-applicants to the applicants. Daughter-in-law is not entitled to seek maintenance under Senior Citizens Act. The applicant no.1 is in capacity to undertake labour work and earn a livelihood. The agricultural land of non-applicants is self-acquired property. The non-applicants no.1 and 2 had transferred the agricultural land Survey no.207 admeasuring 0.80 HR to their deceased son. The applicant no.1 and her deceased husband had sold the said land to one Nitin Madhukar Yagolpawar and enjoyed the consideration amount. Only because of the death of husband of applicant no.1, the whole and sole responsibility cannot be borne by the non-applicants. The applicant no.1 is able to undertake a job for her own maintenance. She has not suffered any domestic violence at the hands of non-applicants. Lastly, he prayed to reject the application.

05. Perused the record. Considered the submissions of both the learned counsels. 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.500/- per month to the applicant no.1 and Rs.500/- per month to the applicant no.2
3.	Whether the applicant is entitled to interim protection orders?	Yes.
4.	Whether the applicants are entitled to order restraining non-applicants from alienating her share in the ancestral or self-acquired property of the non-applicants?	No
5.	Whether the applicant is entitled for recovery of possession of shops as prayed for ?	No
6.	Whether the applicant is entitled to compensation amount of Rs.30,000/-? If yes, how much?	No
7.	What order?	Application is partly allowed in terms of final order.

### REASONS

#### AS TO POINT NO.1:

6. 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.

7. The applicant no.1 has averred that she is the widowed wife of deceased son Sukhdev of non-applicant no.1 and 2. Applicant no.2 is the son of applicant no.1 and Sukhdev. Applicant no.1 and Sukhdev married as per customary rites and rituals on 24/04/2016 and she cohabited with deceased Sukhdev and non-applicant no.1 and 2 after marriage. Sukhdev died on 03/04/2024. Non-applicants have not denied, by filing written statement, marriage of applicant no.1 with deceased Sukhdev and her cohabitation with deceased Sukhdev. Thus, the fact that there exists a domestic relationship and a shared household between the applicant no.1 and non-applicant no.1 and 2 is *prima facie* established. However, the application is silent about the domestic relationship of applicant no.1 with non-applicant no.3

8. The applicant has filed affidavit to affirm the averments in the application. The non-applicants 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.

9. Further, the applicant averred that the non-applicants have not maintained her and inflicted domestic violence. The scope of the Act is very wide. There is no provision to dilute the responsibility of in laws to provide maintenance to the widowed daughter-in-law. There is nothing on record showing that the non-applicants have 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.

10. 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 the applicant is an aggrieved person. Therefore, I answer point No. 1 in the affirmative.

**AS TO POINT NO.2 :**

11. The applicant no.1 has not asserted in her application about the montly income of the non-applicant no.1 and 2. She merely asserted that the non-applicant no.1 and 2 earns Rs.2,00,000/- per year out of their agricultural land and Rs.1,00,000/- per year out as rent amount. She has asserted that non-applicants have neglected to maintain her despite having sufficient income. The applicant has prayed for Rs.10,000/- per month for herself and applicant no.2 as interim maintenance.

12. The applicant has filed her assets and liabilities affidavit whereas non-applicants have failed to file the same and thus, not following the guidelines of *Rajnish v. Neha AIR 2021 SC 569*. Affirmations in the affidavit need to be relied upon considering the material in support thereof.

13. The applicant has pleaded that she has no source of income. The non-applicants have not mentioned about the income of the applicant, if any in their pleadings at Exh.13. In this premise, it has to be presumed that the applicant no.1 has no source of income at this stage.

14. On careful reading of the assets and liabilities at Exh. 29, it appears that the applicant has not mentioned about the income of the non-applicants. The applicant has not filed any document showing agricultural land of non-applicants. However, the non-applicant no.1 and 2 has admitted that that they are in possession of shop used as grocery store. The non-applicant no. 1 and 2 cannot be absolved from the responsibility of maintaining their daughter-in-law applicant no.1. It is nowhere the case of non-applicant no.1 and 2 that, any monetary aid is being provided to the applicant. Being father-in-law and mother-in-law of the applicant, it is their moral and legal obligation to ensure the living of applicant no.1 and 2 after the death of their son. It is pertinent to note that the non-applicant has not taken pains to file their assets and liabilities statement nor averred in her pleadings about the income source of the applicant no.1. At the same time, it appears that the deceased Sukhdev and applicant no.1 had sold Survey no 207 in favour of one Nitin. The applicant no.1 is

32 years old whereas applicant no.1 and 2 are 72 and 66 years old respectively. There is nothing on record to show that applicant no.1 is suffering from any disease or disability. It implies that she is capable to undertake physical labour work or light duty or trivial assignments. This aspect is also required to be considered while deciding the point. Considering the legal responsibility of non-applicant no.1 and 2, capability of the applicant to undertake physical work, the standard of life of the parties, and the necessities of the parties, granting monthly interim maintenance of Rs. 500/- per month to the applicant no.1 and Rs.500/- to the applicant no.2 appears justified. Therefore, I answer point no.2 accordingly.

**AS TO POINT NO. 3 AND 4:**

15. 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-applicants. Therefore, till pendency of this case, it is just and proper to grant interim protection order to the applicant no.1, prohibiting non-applicants from committing, abetting or aiding any act of domestic violence against applicant. Hence, I answer point no.3 in affirmative.

16. The applicant has not brought anything on record to prima-facie show that she has any share, right or interest in any movable and immovable property in the ancestral property of non-applicant or self-acquired property. She has not placed on record the

revenue record of agricultural land of non-applicants, if any. Hence, I answer point no.4 in negative.

**AS TO POINT NO.5 AND 6**

17. The applicant no.1 has prayed for recovery of shops allegedly started by her after death of her husband Sukhdev. Whether she was in possession of the shop is a subject matter of trial. Hence, such relief cannot be granted at this stage. Hence, I answer point no.5 in negative.

18. As regards the compensation of Rs.30,000/-, the mental and emotional agony being a psychological fact can be proved by physical evidence and has to be gathered from the circumstances. Such circumstances substantiating the claim of the applicant needs to be proved by leading evidence. Hence, I am of the view that compensation cannot be granted to the applicant at this stage. Resultantly, I answer point no.6 in negative.

**AS TO POINT NO.7**

19. In view of the foregoing findings, applicant no.1 prima facie appears to be an aggrieved person, and she is entitled to Rs. 1,000/- per month and applicant no.2 is entitled to Rs.500/- towards interim maintenance from non-applicant no.1 and 2. It is pertinent to note that the application was filed on 09/07/2024 and the summons, after taking effective steps by the applicant, were served on the non-applicants and they filed their written statement on 29/08/2024. Thus, there was no undue delay at the hands of non-applicants. It would not be proper to burden the non-applicants with payment of

interim maintenance from the date of main application. Considering the facts and circumstances, it appears just and reasonable to direct the non-applicant no.1 and 2 with payment of interim maintenance from the date of the order. From the discussion *supra*, applicant is entitled for protection order of interim nature. Therefore, in answer to point 7, I pass the following order.

### **ORDER**

1. The application below Exh.5 is partly allowed.
2. Non-applicant no.1 and 2 shall jointly pay Rs. 500/- per month to the applicant no.1 and Rs.500/- per month to the non-applicant no.2 from the date of this order during pendency of the main application or till further orders of the Court.
3. Non-applicants are temporarily prohibited from committing, abetting or aiding any act of domestic violence against the applicants 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:- 02/04/2026.

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