


MHJN070000632022 	Presented on	: 14/01/2022
	Registered on	: 14/01/2022
	Decided on	: 16/03/2026
	Duration	: 04 02 02
		Y. - M. - D.

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, JAFRABAD

(Presided over by A.N.Khatade)

P.W.D.VA. Appl. No. 3/2022

Exhibit No.42

1.	Shakilabi @ Nargis Salim Shaikh, Age 22 years, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad, A/p. Mhasrul, Tq. Jafrabad, Dist. Jalna,	.Applicants.....
2.	Alfiya Salim Shaikh, Age 3 years, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad, A/p. Mhasrul, Tq. Jafrabad, Dist. Jalna,	
3.	Azam Salim Shaikh, Age 1 year, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad, A/p. Mhasrul, Tq. Jafrabad, Dist. Jalna,	

:: VERSUS ::

1.	Salim Nasir Shaikh, Age 26 years, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad.	
2.	Nasir Sikandar Shaikh, Age 50 years, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad.	
3.	Saminabi Nasir Shaikh, Age 45 years, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad.	

4.	Saddam Nasir Shaikh, Age 22 years, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad.	.Non-applicants
5.	Nilofar Saddam Shaikh, Age 19 years, R/o. Ektanagar Ranjangaon, Tal. Gangapur, Dist. Aurangabad.	

Represented by :

Advocate Shri S. P. Sirsath for applicants.

Advocate Shri B. R. Syed for non-applicants.

: J U D G M E N T :

(Pronounced on 16.03.2026)

This application is filed under Section 12 of the Protection of Women From Domestic Violence Act, 2005.

2. The story of the applicant in brief is that, she is married to non-applicant No.1 on 11.07.2016 by the customs of Muslim community at Mhasrul. It is submitted that the applicant No.2 and 3 are the children borne out of the marriage and seeking protection order, residents order and monetary relief against the non-applicant husband under Section 12 of the Protection of Women From Domestic Violence Act, 2005. It is submitted that non-applicants have subjected applicant to cruelty and domestic violence and thereafter drove her out of the matrimonial house in June 2021. It is submitted that at the time of marriage, gold ornaments including a gold ring and utensils were given to applicant No.1 by her parents. It is submitted that about two years after marriage applicant No.1 was treated properly and thereafter the conduct of the non-applicant changed. It is submitted that the non-applicant subjected her to harassment in demand of Rs. 2,00,000/- for purchase of Rickshaw and further continued acts of cruelty.

3. It is further alleged that when the applicant No.1 was ill, the non-applicant forcibly maintained sexual relations with her thereby causing physical and mental cruelty. The applicant further contended that during both pregnancies the expenses were borne by her father which is admitted by the non-applicant. The non-applicant in June 2021 drove applicant No.1 and her children out of the matrimonial house. Thereafter, the applicant lodged police complaint but the non-applicant did not take her back nor provided any maintenance. Hence, the present application is filed by her.

4. The non-applicants submitted their reply at Exh.11 and denied the allegations. They contended that there was no demand of money and the allegations of cruelty against them are false. The applicant has not lodged prompt complaint and the income alleged by the applicants is false. It is submitted that the non-applicants having no income source and the prayer of the applicant is not tenable.

5. Perused application, reply and record. Heard both sides.

6. The following points arose for my determination.

Sr. no	Points	Findings
1.	Does the applicant prove that the non-applicants subjected her to domestic violence ? Partly Yes
2.	Does the applicant prove that the non-applicants has refused to maintain her despite sufficient income? Yes
3.	Is the applicant entitled to receive articles given in the marriage under Section 22 from the non-applicants? If so, how much? No

4.	Is the applicant entitled to the relief prayed under Section 18? Yes
5.	Is the applicant entitled to the reliefs prayed under Section 19, 20? No
6.	Is the applicant entitled to the relief of maintenance as prayed?Yes, Rs. 3,000/- each
7.	What order ?	Application is partly allowed.

REASONS

As to point Nos. 1 to 6:

7. To establish her case the applicant has examined herself at Exh.7 and reiterated the contentions and reproduced all the allegations against the non-applicant. In the cross-examination, she admitted that she has studied 12th Arts and further admitted that she cohabited with the non-applicant for three years. She further admits that on 20.06.2020, came to her father's house for residence. She was unable to depose any date of the demand of money as contended by her in the evidence affidavit. She admitted that there has been no complaint lodged by her with the police regarding the demand of money soon before the alleged demand. She admits that on 20.06.2021 the non-applicants have driven her out of the house and therefore she lodged police complaint. She has specifically denied that the case of restitution of conjugal rights filed by the non-applicant in Gangapur Court has been decreed against her due to her absence. She admits that since her coming back to father's house, she is residing with her parents. She further admits that her father runs a grocery shop in the village. All other adverse sugges-

tions put by the non-applicant were denied by the applicant. She establishes in the cross-examination that the non-applicants are having rental rickshaws but could not state the registration numbers of the same.

8. Applicant examined her father Ibrahimkha Gulabkha Pathan at Exh.23 who has deposed inconsonance with the contention of the applicant and deposed that applicant is married to non-applicant No.1 on 11.07.2016 at Mhasrul. He deposed that two dependents are borne out of their marriage. He stated that the gold ring weight 5 gram and Rs. 20,000/- was gifted by him in the marriage and the marriage expenses of Rs. 3,00,000/- was incurred by him at Mhasrul, Tal. Jafrabad. He deposed that after treating well to the applicant for two years and after the birth of girl child the non-applicant used to doubt the character of applicant No.1 and used to abuse her.

9. He deposed that the applicant has undergone starvation due to the conduct of non-applicant and non-applicant used to forcibly intercourse with the applicant even during her illness. He stated that the non-applicants conduct and the harassment and cruelty has been stated to them by the applicant on phone. He stated that in 2020 the non-applicant has denied the paternity of the child borne to the applicant and used to harass her by doubting her character. He stated that the non-applicant has 25 auto rickshaw and given on rent from which income of Rs.1,50,000/- is earned by the non-applicant. It is stated that the non-applicant has two houses having 16 rooms given on rent and is engaged in real estate business.

10. In the cross-examination he admitted that he has not filed any receipts of the gold articles or gift given in the marriage. He admitted that the applicant has filed an application for maintenance against the non-applicant. He stated that the applicant was previously residing with them but now she is residing in rental house near them. He admitted

that the applicant is doing labor work and earn Rs. 250/- per day. He admitted that his financial position is good and runs a grocery shop in the village. He further admits that he is ready to send the applicant for resuming cohabitation, if her father-in-law transfers house in the name of applicant.

11. The non-applicant Salim Nasir Shaikh has examined himself at Exh.39 and reiterated the contents of his reply and denied all the allegations of harassment and cruelty. In the cross-examination, he admits that the marriage was performed with his consent. He admits that medical expenses of birth of first child of the applicant was made by her father. He deposed that he could not remember the birth date of his daughter. He admits that he has not visited the hospital during the birth of his son. He has further admitted that he has not provided any financial support to the applicants while residing with her parents. He has specifically admitted that the responsibility of the applicant No.1 to 3 is upon him. All other adverse suggestions were denied by the non-applicant in the cross-examination.

12. Perusal of the record it reveals that the applicant has been granted interim maintenance vide Section 23 for Rs. 6,000/- to the applicant No.1 to 3. Ld. Counsel for applicant submits that the copy of extract form No.8 of property No. 9438 admeasuring 600 square ft. in the name of non-applicant at Exh.25, extract No.8 of property No. 2959 admeasuring 600 square ft. is in the name of mother-in-law of applicant at Exh.26, extract No. 8 of property No. 9441 admeasuring 903 square ft. in the name of non-applicant at Exh.27, extract No. 8 of property 6090 admeasuring 1050 square ft. in the name of non-applicant.

13. These documents filed by the applicant on record indicates that the non-applicant posses immovable property. On the other hand, the non-applicant has filed affidavit of asset and liability at Exh.14 and has

shown his occupation as labor earning Rs. 3,000/- to Rs. 5,000/- per month and further has shown responsibility of old age parents.

14. Ld. Counsel for the applicant has submitted that the non-applicant has not paid interim maintenance and disobeyed the order of the Court. This conduct further indicates neglect and refusal to maintain applicant.

15. The provision under Section 3 of the Protection of Women From Domestic Violence Act, 2005 included harassment, physical abuse, verbal and emotional abuse and economic abuse. However, driven the wife out of the matrimonial house and refuse to maintain her amounts to economic abuse and domestic violence. Further under Section 20 of the Act the applicant is entitled for the relief of monetary relief including maintenance of herself and her children.

16. The evidence of the applicant shows that she was subjected to monetary demands regarding purchase of auto rickshaw. Perusal of the documents of property filed by the applicants establishes certain immovable properties in the name of non-applicant and his relatives. However, the non-applicant has not produced any evidence to show his actual income and suppress the ownership of immovable property. In such circumstances adverse inference can be drawn against him.

17. Over all and documentary evidence suggest that the marital relationship is admitted, the applicant and her children were driven out of the matrimonial house. It is further established by the applicant that the non-applicant has failed to maintain them. The documents of immovable property in the name of non-applicant and his family further establishes sufficient source of income. The contention of the applicant regarding other sources of income of the non-applicants remains unproved. Moreover, the applicant has failed to state specific dates of ha-

rassment or demand. Therefore, the applicants have successfully proved domestic violence and neglect on the part of non-applicants.

18. It is proved from the available evidence that the family of applicant could not fulfill the monetary demands of the non-applicant. However, though applicant has prayed to return the gold articles, there is no document as to purchase of the same to prove the entitlement of the applicant towards it. However being an able-bodied man he is presumed to have sufficient means to maintain the applicant. In the present case, the applicant's evidence clearly shows that she is residing with her father and has no independent income. The aspect of not supporting the applicant by any financial aid on behalf of non-applicant since separation proves neglect on the part of non-applicant.

19. Learned counsel for applicant has submitted that an interim maintenance of Rs. 6,000/- is granted to applicant No. 1 to 3, despite the non-applicant has failed to obey the order. Therefore, it reflects that the non-applicant has failed to support the applicant financially even after the order of the Court and despite financial capacity. The documents on record shows various properties in the name of non-applicant and in the name of his relatives. Hence, it is sufficiently established that the non-applicant is financially capable to pay maintenance to applicants. However, there is no actual proof of income, the tentative income of non-applicant can be easily calculated as he is able bodied and posses sufficient immovable properties. Therefore, calculating income of Rs. 500/- per day earn by the non-applicant and other monetary gains from the properties. An monthly maintenance of Rs. 3,000/- each to applicants per month would suffice the purpose.

20. In the present case, the applicants have prayed for protection and relief of residents under Section 18 and 19 of the Act. The evidence of PW.1 clearly indicates that the applicant No.1 was subjected to ha-

rassment and was ultimately driven out of the matrimonial house by the non-applicants. The testimony of PW.2 also corroborates the version of the applicant regarding the ill-treatment and the circumstances in which she was compelled to leave the matrimonial home. There is nothing on record to show that the relationship between the parties has improved thereafter or that the applicant has been allowed to reside peacefully in the shared household. In these circumstances, the apprehension of the applicant regarding further harassment appears to be genuine. Therefore, in order to secure the safety and dignity of the applicant it is necessary to grant protection order restraining the non-applicant from committing any act of domestic violence against the applicants.

21. However, the provision under Section 19 empowers the Magistrate to pass residence orders so as to ensure that the aggrieved person is not deprived of her right to reside in the shared household. The record reveals that the applicant No.1 and her children were driven out of the matrimonial house in June 2021 and since then they have been residing separately. The documents placed on record further indicate that the applicant is residing with her parents. The applicant has not demonstrated any circumstances as to insufficient accommodation at the house of parents or living separately. Therefore, the applicant is not entitled for the relief under Section 19 of the Protection of Women From Domestic Violence Act.

22. Considering the present circumstances and evidence on record which shows the sufficient financial status of the non-applicants, the non-applicant is duty bound to maintain the applicants. The applicants are residing separately from the non-applicants with her father. There is no evidence as to insufficient accommodation and therefore the prayer for the same is refused. On the other hand, the applicants have failed to

specifically establish with contention as to domestic violence on the part of non-applicants. Hence, I pass following order.

ORDER

1.	The application is partly allowed.
2.	The non-applicants are directed to pay to applicant No. 1 to 3 monthly maintenance of Rs. 3,000/- each (Rs. Three thousand each).
3.	The amount of maintenance shall be payable from the date of application, on or before 10 th day of each month.
4.	The non-applicants shall pay Rs. 5,000/- (Rs. Five thousand) to the applicants towards expenses of the proceedings.
5.	The arrears of maintenance shall be paid within 2 months from the date of this order.
6.	The Protection Officer, Jafrabad, is directed to report as to protection of the applicants per month from date of order.
7.	The order of interim maintenance is merged in the final order.
8.	Copy of this order be furnished to the applicant free of cost.

(Judgment dictated and pronounced in open court)

Dt. 16.03.2026

[A.N.Khatade]
Judicial Magistrate First Class,
Jafrabad.

CERTIFICATE

Affirm that the contents of this P.D.F. file are word to word as per original Judgment.

Dt. 16.03.2026

Sd/-xxx
(Ahmad Shaikhh)
Stenographer.