

MHKO030047972021

PWDVA Application No.108/2021.

Pranita Magdum & Anr.

Versus

Rohit Bhagwan Magdum & Anr.

Order below exhibit 6.

This is an application under section 23 of Protection of Women from Domestic Violence Act, 2005 seeking interim maintenance for applicants. Non-applicant No.1 appeared in the proceedings, but failed to file his say within given time. Hence, this application proceeded without his say. Application proceeded ex-parte against non-applicant No.2. Perused application. Heard learned Advocate for applicant and non-applicant No.4 on law points.

02. The learned counsel for applicant submitted that non-applicant No.1 is husband of applicant while non-applicant No.2 is her mother-in-law. Due to incidents of domestic violence applicant is not residing with non-applicants. She is struggling to meet her daily expenses through her scrimpy income. Non-applicant is getting handsome salary and expending it in his addictions. No one is dependent upon non-applicant No.1 and he is able to pay interim maintenance of Rs.20,000/- per month to applicants. Hence, applicant claims interim maintenance of Rs.20,000/- per month from non-applicant No.1. The application proceeded without say of non-applicant No.1 and ultimately the entire contentions in the application remained un-shattered. Advocate for non-applicant No.1 denied all the contentions of applicants during arguments but there

are no substantial pleadings from non-applicant No.1 as he failed to file his say.

03. The averments of applicant as stated in the application remained unchallenged, there is no reason to disbelieve the contents of application which is supported by affidavit. From the application and affidavit, it is prima facie held that there are incidents of domestic violence at the hands of non-applicants against applicant. It is the responsibility of non-applicant No.1 to maintain his wife. It is pertinent to note that as per the provisions of Domestic Violence Act, person is or has been in domestic relationship is aggrieved person. Relationship between parties is not disputed. As the relationship is not disputed, it is the primary duty of non-applicant No.1 to maintain his wife and child i.e. applicants.

04. Applicant has filed her affidavit of assets and liabilities and stated in affidavit that she is earning Rs.7,000/- from her salary but unable to meet her daily expenses, medical expenses, school fees of her child, etc. She also stated that non-applicant No.1 was earning Rs.20,000/- per month previously, but she learned from her reliable sources that non-applicant No.1 is presently earning Rs.40,000/- per month from his job. However, she has not produced any document on record to support her contentions.

05. The main application is filed by applicants on 22/07/2021. Since then the non-applicant No.1 has not paid any amount to applicants, which shows economic deprivation of applicants at the hands of non-applicant No.1. The object of provision

under Section 23 of Protection of Women from Domestic Violence Act, 2005 is to provide interim assistance to the aggrieved woman. At present it is required to protect applicants from financial deprivation.

06. Thus, considering the object of section 23 of Protection of Women from Domestic Violence Act, 2005, it is a fit case to grant interim maintenance. At this stage ability to income of non-applicant is required to see instead of actual income of the non-applicant. The non-applicant No.1 is young aged able bodied person. Thus, non-applicant No.1 is prima facie held to be able for income minimum equal to skilled worker considering his education. The non-applicant prima facie seen to be from financially sound family. Hence, considering these facts, it is proper to grant interim maintenance of Rs.2,000/- per month to each applicant. Hence, the following order is passed :

ORDER

1. The application is partly allowed.
2. The non-applicant No.1 shall pay Rs.2,000/- per month to each applicant (i.e. Rs.4,000/- per month) as interim maintenance from the date of filing of this application i.e. 22/07/2021 till disposal of this case.
3. Application stands disposed of accordingly.

Place: Kolhapur.
Date: 19/04/2022.

Atul A. Kore
7th Judicial Magistrate F.C., Kolhapur.