

MHKO030065672020

PWDVA Application No.128/2020.

Ashwini Vikram Jambhale

Versus

Vikram Hindurao Jambhale & Ors.

Order below exhibit 5.

This is an application under section 23 of Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as DV Act for brevity) seeking interim maintenance for applicants. Perused the application, say of non-applicants filed below Exhibit 12 strongly objecting the application and the documents filed by both sides.

02. The applicant submitted that non-applicant No.1 is her husband and others are her in-laws. Due to incidents of domestic violence applicant is not residing with non-applicants. She has no source of income. Non-applicants own farm lands and house properties, they also own 11 cows from which they milch 100 litters of milk every day and supply it to a dairy and earns monthly income of Rs.75,000/-. They also own two tractors which help them to earn Rs.2,000/- daily. Non-applicants are also involved in contracts with two sugar factories and from this contract they get Rs.5,00,000/- annually. They also yield an annual income of Rs.2,00,000/- from their farms. Hence, applicant claims interim maintenance of Rs.25,000/-per month from non-applicants.

03. Non-applicants filed their say below Exh.12 and

resisted the application. Non-applicants categorically denied the incidence of domestic violence as stated in the application. It is also submitted in the say that, non-applicant No.1 has become a psychopath due to harassment of applicant and do nothing for his livelihood. So also the contentions about the property of non-applicants is false and concocted one to obtain huge amount of maintenance. Non-applicants have also obtained various loans which are outstanding in their name. On the contrary applicants parents take cash crops in their field and yield approximately Rs.1,00,000/- monthly. They also have income from cattle farming. Applicant is not eligible to claim maintenance. She was never subjected to any cruelty at the hands of non-applicants. Hence, he prayed to reject the application.

04. Perused the application, say and record of the case. Heard advocates for both parties. The parties admitted their relationship. The application is supported by affidavit of applicants. Therefore, prima facie it is seen that there are domestic incidents against applicant. Non-applicants contended that the applicant is never subjected to domestic violence and the incidents quoted by applicants are false. Whether the incidents quoted by applicant are reliable or not is the question of trial. The provisions of DV Act are for protection of women, thus, it is not just and proper to discard the application threshold on the grounds above raised by the non-applicants at

this primary stage.

05. As the relationship between the parties is admitted, it is legal and moral duty of non-applicant No.1 to maintain his wife. The main application is filed by applicant on 05/11/2020. The non-applicant No.1 has not paid any amount to applicant since filing of the application, which shows economic deprivation of applicant at the hands of non-applicant No.1. The object of provision under Section 23 of DV Act is to provide interim assistance to the aggrieved woman. The proceedings of main application will not be concluded in recent future, thus, at present it is required to protect applicants from financial deprivation. Considering the object of Section 23 of DV Act, and the facts & circumstances above quoted it is a fit case to grant interim maintenance.

06. The applicant claims that non-applicants get total annual income to the tune of Rs.13,00,000/- from all sources. The non-applicants submitted that he has no income source. Both the applicants and non-applicants have filed their affidavit of assets and liability. Applicant in her affidavit stated that she incurs monthly expenditure of Rs.25,000/- for her livelihood. Non-applicant No.1 in his affidavit stated that he has no job and income too. However, at this stage ability to income of non-applicant No.1 is required to see instead of actual income of the non-applicant. Though non-applicants have submitted that non-applicant No.1 has become psycho, there is no

document on record to show his mental status at present. Therefore, this Court can infer that he is presently a normal person. Thus, this Court is of considered view that non-applicant No.1 being young aged able bodied person, is prima facie held to be able to fetch income as per Minimum Wages Act i.e. Rs.300/- to Rs.500/- per day. Hence, considering the standard of living and social status of non-applicants, applicant and the above said facts about the financial background of the parties, it is just and proper to grant interim maintenance of Rs.3,000/- per month to applicant. Hence, the following order is passed :

ORDER

1. The application is partly allowed.
2. The non-applicant No.1 shall pay Rs.3,000/- per month to applicant as interim maintenance from the date of filing of this application i.e. 05/11/2020 till disposal of this case.
3. Application stands disposed of accordingly.

Place: Kolhapur.

Atul A. Kore

Date: 24/03/2022.

7th Judicial Magistrate F.C., Kolhapur.