

MHKO110008132022

P.W.D.V.A.Appln No.29/2022
(CNR No.MHKO110008132022)

Order below Exh.4

01. This is an application by the wife of non-applicant No.1 to have interim maintenance @ Rs.15,000/- each per month for herself and for applicant No.2 from him till final disposal of the proceeding on the grounds stated therein. This application is resisted by non-applicant No.1 and 2 by filing their detailed say at **Exh.15**.

02. Heard Learned Advocate Shri.B.R.Chougule for applicants and Ld. Advocate Smt.R.S.Powar for non-applicants.

03. In the light of these aspects on record, following points arose for consideration and I have been answered for the reasons discussed thereto.

SR.
NO.

POINTS

FINDINGS

1] Does applicant No.1 prima facie prove that, she herself was subjected to domestic violence by non-applicants ?

*.. In
Affirmative*

2] Does applicant No.1 prima facie prove that, she is entitled to have interim maintenance @ Rs.15,000/- each to herself and applicant No.2 ?

*.. In Partly
Affirmative*

3] What order ?

*.. As per
final order.*

REASONS

AS TO POINT NO.1 :-

04. At the outset, it has to be stated that, in the application (Exh.1), applicant No.1 has alleged various kinds of domestic violence to her at the hands of non-applicants. The nature of violence is emotional, economical, physical and sexual at the hands of non-applicants. Non-applicants have denied them in their say. Therefore, to see prima facie truth or falsity in the allegations of applicant No.1, one has to bear in mind certain admitted facts on record that, applicant No.1 and non-applicant No.1 married with each other on 28/04/2015. On perusing the say of non-applicants, it is transpired that, applicants and non-applicant No.1 are residing separately from each other. Applicant No.1 also mentioned in her application that, since January 2018 till today she alongwith applicant No.2 is residing separately in rented house. All these are indications of unhappy family life inspite of having everything to gain the pleasure. This is not possible unless and until there are serious differences between the parties. The causes given for them by the applicant No.1 are serious in nature and seems self explanatory in view of aforesaid factual matrix. For separation of family or differences, whether applicant No.1 or non-applicant No.1 is liable is a question of fact to be determined after full fledged trial, but suffice to say that, prima facie there is case to believe that, applicant No.1 is put to suffer domestic violence. Hence, I answer point No.1 in affirmative.

AS TO POINT NO.2 :-

05. So far this aspect is concerned, in view of finding against point No.1, prima facie it appears that, applicant No.1 is put to suffer domestic violence and leading her life under the different roof than the roof of non-applicant No.1. Obviously, she is in need of maintenance for pulling her own life and life of applicant No.2. It is undisputed fact on the record that, applicant No.1 is residing in rented house and she has no any means to survive herself and applicant No.2. In such situation, it is the statutory and moral duty of the non-applicant No.1 as husband to maintain her wife i.e. applicant No.1 and as father to maintain her son i.e. applicant No.2.

06. In the present case in my hand, it is emerged from the record that, relationship between applicant No.1 and non-applicant No.1 in the nature of marriage was alive till today. So, applicants are entitled for the various reliefs provided under D.V.Act.

07. On the other hand, it is not on the record that, any other non-applicants are depending on the non-applicant No.1. Per contra, applicant No.1 alongwith applicant No.2 is residing in rented house and it is not on the record that, applicant No.1 has any earning source. Hence, considering above this, I am of the opinion that, non-applicant No.1 has sufficient means to provide the interim maintenance to the applicants. Considering the living standard of the applicant No.1 and non-applicants in these circumstances, principle of justice requires non-applicant No.1 should pay Rs.2000/- per month to the applicant No.1 and Rs.1,000/- per month to the applicant No.2 as interim maintenance from the date of the application (Exh.1) till the final disposal of main application. Hence, I answer point No.2 in partly affirmative and in order to answer point No.3, I proceed to pass the following order :-

ORDER

- 1] Application (Exh.04) is partly allowed.
- 2] Non-applicant No.1 do pay the maintenance @ Rs.2,000/- (Rs.Two Thousand only) per month to the applicant No.1 and Rs.1,000/- (Rs.One Thousand only) per month to the applicant No.2 from the date of application (Exh.1) till final disposal of this proceeding.
- 3] Non-applicant No.1 do pay costs of Rs.1,000/- to the applicant No.1 and bear his own costs.
- 4] Copy of this order be provided free of costs to applicant No.1.
- 5] Accordingly application (Exh.04) is disposed off.

Date : 07/06/2023

(L.M.Pathan)
Judicial Magistrate First Class
Peth Vadgaon