

MHKO120005312022



P.W.D.V.A. Appln. No.20/2022

(CNR No.MHKO120005312022)

Order below Exh.19

Non applicant No.1 has sought to modify the order passed on 22/06/2023 below Exh.8 on the ground of change of circumstances as per Section 25(2) of Protection of Woman from Domestic Violence Act, 2005 (hereinafter referred as "P.W.D.V.Act").

02. Non applicant No.1 has raised some grounds for seeking the modification of order. According to him, he has lost the job on 25/11/2022. He has no income from the agricultural properties. This Court has not considered these facts while passing interim order of maintenance. Therefore, he sought to modify the order passed below Exh.8.

03. On the contrary, the applicant has opposed the application by filing detail say below Exh.26. According to her, non applicant is currently doing the job in the capacity of Junior Engineer in Jitendrasingh Group. She received the documents from P.W.D. Radhanagari in respect of the said fact. Her Ld. Adv. submitted that non applicant is also having share in the agricultural properties. Therefore, he submitted to reject the application.

04. I consider submissions of both sides. Section 25(2) of P.W.D.V.Act states as under -

Section 25(2) - If the Magistrate, on receipt of an application from the aggrieved person or the respondent, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate.

05. It is clear from Section 25(2) of P.W.D.V. Act that the Magistrate has power to modify the order on the ground of change in the circumstances. It is matter of record that this Court has passed the order of interim maintenance on merits. The non applicant has not challenged the said order in higher courts till today. He raised two fold grounds. The first is that he lost the job on 25/11/2022. He relied upon the said documents. On the contrary, the applicant has filed the documents received from P.W.D. dated 19/06/2023, which shows that non applicant No.1 was serving in the Jitendrasingh Group from 01/12/2022 to 30/04/2023. Certainly, the said information cum document is furnished by Government authority. It prevails over the documents filed by the non applicant. Therefore, he was doing a job on the date of passing of interim maintenance order. Hence, I do not found any substance in the first ground for seeking the modification of the order.

06. The second ground is about the non earning income from agricultural properties. No doubt it is not disputed that non applicant is having agricultural properties in the name of his family members. It is not the case of non applicant that he is not having any share in the said properties. On the contrary, the contents of the present application indeed goes to show that those properties were in the name of deceased Koyappa Kamble, who is grand father of non applicant No.1. Therefore, there is evidence about the agricultural properties. Therefore, the predecessor of this Court has considered the aspect of income of both parties and social status, standard of living of both parties and inflation rate in para 17 while passing order below Exh.8. Therefore, I do not found any substantial ground of change in circumstances in order to modify the order passed below Exh.8. Hence, I do not deem fit to modify the order passed below Exh.8. In result, I pass following order.

ORDER

- 1) The application (Exh.19) is rejected.
- 2) Parties and Ld. Advocates to take note of order.

Date : 01/08/2024

(V. V. Kulkarni)
Judicial Magistrate First Class,
Gargoti