



**ORDER BELOW EXH. 20 IN PWDVA APPLICATION No. 09/2019**

**( Shobha and Another Vs. Antram )**

**(CNR No. MHLA 130008802019)**

The present application is filed by the applicant no.1 stating that, she has filed the complaint under Section 12 of the Protection of Women From Domestic Violence Act, 2005 and same is pending. It is submitted by the applicant that, the applicant is residing at the address which is mentioned in the title clause of the complaint. The applicant no.2 is studying in 12<sup>th</sup> standard in science stream. Due to COVID- 19 pandemic all the education of the applicant no.2 is going on by e-learning i.e. on-line by using electricity and Internet. However, on 25.09.2020 some employees of M.S.E.D.C.L., Renapur came to the place of residence of the applicant and informed that, they have received an application for disconnecting the electricity supply of the house in which the applicant no.1 is residing along with applicant no.2. Since, the non-applicant is shifted to the Ahmedpur and prior to it also the applicants are residing in the said house. The said house is consist of two rooms and having electricity connection bearing consumer no. 57300234184. The applicant has paid the bill of said electricity connection since 2014 till recent.

02] It is further submitted by the applicant that, from the entire conduct of the non-applicant, the applicant nos. 1 & 2 are under apprehension that the non-applicant by playing all tactics is trying to

disposes/ evict the applicants and the application made to M.S.E.D.C.L. is one of the attempt to dispossess the applicants from the shared household. The applicant nos. 1 & 2 have no alternative place to reside. If the non-applicant succeeds in disconnecting the electricity connection of the house in which the applicants are residing it will cause great harm to the education of the applicant no.2.

03] The applicant further submitted that, previously the said house was on the name of Jagnath Jadhav i.e. the father of the non-applicant, however it appears that, recently the ownership of the said house property is transferred in the name of Pratik Antram Jadhav behind back of the present applicant and by illegal acts. The non-applicant by playing tactics and with ulterior motive and in collusion with his son Pratik, intentionally made the said application in the name of Pratik. According to the applicant, she has prima facie case restraining the M.S.E.D.C.L. from cutting electricity connection of the house in which the applicant nos. 1 & 2 are residing. The balance of convenience lies in favour of the applicant and if the non-applicant get succeed in disconnecting the electricity connection then great loss will cause to applicant only. Therefore, the applicant prayed that, M.S.E.D.C.L. office, Renapur may kindly be restrained from disconnecting the electricity connection otherwise the applicant will be deprived from using the share household with all the basic needs.

04] The non-applicant filed his say at Exh. 25 and submitted that, the applicant is not residing on the given address. The applicant is residing at Navratna Nagar, Sai Road, Latur. He further submitted that, the present application is not tenable as the relief prayed by the applicant is against the M.S.E.D.C.L. who is not a party and the person who has given the said application is also not the party to the

proceeding. The earlier application filed by the applicant under the provisions of the Protection of Women from Domestic Violence Act is dismissed therefore the main application is not tenable. Therefore, the present application may be rejected with costs.

05] Heard learned advocate for the applicant. In order to support the application, the applicant has filed on record photo copy of the application given by the son of non-applicant to M.S.E.D.C.L., Renapur, electricity bills of the months March 2016, July 2020 and September 2020, photocopy of 8A extract of house and Photos. The applicant also filed affidavits of neighbours namely Jayram Shivram Bhosale, Ankush Rohidas Mane and Vyankat Janardan Puri.

06] I have gone through the application and documents filed in support of the application. It is the contention of the applicant that, applicant nos. 1 & 2 are residing in the said house. The applicant no.2 is studying in 12<sup>th</sup> standard in science stream. Due to COVID- 19 pandemic all the education of the applicant no.2 is going on by e-learning i.e. on-line by using electricity and Internet. However, on 25.09.2020 some employees of M.S.E.D.C.L., Renapur came to the place of residence of the applicant and informed that, they have received an application for disconnecting the electricity supply of the house in which the applicants are residing. Since, the respondent is shifted to the Ahmedpur and prior to it also the applicants are residing in the said house. he applicants further submitted that, previously the said house was on the name of Jagnnath Jadhav i.e. the father of the non-applicant, however it appears that, recently the ownership of the said house property is transferred in the name of Pratik Antram Jadhav behind back of the present applicants and by illegal acts. The non-applicant by playing tactics and with ulterior motive and in collusion with his son Pratik, intentionally made

the said application in the name of Pratik.

07] Before going to discuss the reasoning I would like to mention some provisions of the DV Act which will be helpful while discussing the reasoning. The Section 17 provides for right to reside in a shared household. In sub-section (1) of the said section, it is provided that notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same. The Section 19 provides for the remedy of Residence Order. It states that a Magistrate may on being satisfied that domestic violence has taken place pass a residence order. Section 2(s) of the Domestic Violence Act defines *shared household* as a *household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or alongwith the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.*

08] The application filed by the applicants is as good as application filed for temporary injunction in civil suit. In the present case it is seen that, the applicant no.1 has not prayed the relief of residence order. According to her she is residing in the house which was on the name of Jagannath Jadhav i.e. the father of the non-applicant, thereafter the ownership of the said house property is transferred in the name of Pratik Antram Jadhav who is son of the non-applicant (From

first wife). After perusal of 8A extract of the house property it is seen that, the said house is presently on the name of Pratik Antram Jadhav, who is son of non-applicant begotten from first wife.

09] Admittedly, the purpose of the DV Act is to provide for the urgent need/ requirement of the aggrieved person where she is denied the basic amenities of residence or other amenity because of domestic violence. In various cases the Hon'ble Apex Court and Hon'ble High Courts have held that, to deny basic amenities is domestic violence. It is not the case of applicants that, the house wherein they are living is owned by the non-applicant or taken on rent by the non-applicant. Further it is not the case of applicants that, the non-applicant is not paying the electricity bills and therefore there is disconnecting of electricity supply. If this would have the case of applicants that, the non-applicant is not paying the electricity bills then, the direction would have given to him to pay the due amount of electricity bills. But in the present case the house is own by Pratik Antram Jadhav, who is not party to present case. The applicant filed affidavits of neighbours namely Jayram Shivram Bhosale, Ankush Rohidas Mane and Vyankat Janardan Puri to show that, she is residing in the said house. Whether the applicant is residing on the given address is the question because the direction is sought against the office of M.S.E.D.C.L., Renapur, who is also not party to the present case. Therefore, the question arises that, can order of injunction be passed against a person/ institution who is not party to the proceeding? It is not the case of the applicants that, the non-applicant has threatened them to dispossess from the said house. Further, the applicants have not prayed for residence order nor there is order passed by any competent court regarding the residence order, in such situation the relief claimed by the applicants does not come under the purview of provisions of the Protection of Women From Domestic

Violence Act. Hence, based on above discussion I proceed to pass following order :-

**ORDER**

1. The application is hereby rejected.
2. No order as to costs.

(Dictated and pronounced in open Court.)

Date : 26.10.2020  
Place : Renapur.

(Omprakash M. Mali)  
Judicial Magistrate, F.C., Renapur.