

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
COURT NO.5 AT DADAR (CAMPED AT SEWREE), MUMBAI.
ORDER BELOW EXH. 1 IN C. C. NO.20/DV/2023.

Smt. Laxmi Pravin Kontham ... Applicant.

Versus

Shri. Pravin Kumar Kontham & Others. ... Respondents.

Coram: Vaibhav V. Kulkarni,
Additional Chief Judicial Magistrate,
Court No. 5, Dadar (Camped at Sewree),
Mumbai.

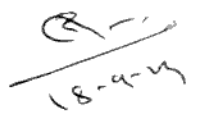
Date: 18th day of September, 2024.

Herein in this application, the applicant has not filed separate application for seeking the interim reliefs under Sections 19 and 20 of the Protection of Women from Domestic Violence Act 2005 (hereinafter referred as “**the D. V. Act**”). However, at page No.10 of the original application the applicant has seeking the said interim reliefs.

2) Perused the original application and say given by the respondent at Exh.14. Gone through the affidavits of assets, income and expenditure of applicant and respondent filed on record in prescribed format i.e. Annexure A-1. I have also gone through the synopsis of arguments submitted by the learned advocate of the applicant at Exh.16. I have heard the learned advocates of respective parties at bar.

3) The sum and substance of the grievance of the applicant is that, she is legally wedded wife of respondent No.1. Her marriage was solemnised with respondent No.1 on 20/05/2005 as per Hindu

rites and customs. After the marriage she resumed cohabitation with respondent No.1. Out of the said wedlock, she gave birth to one female child. At present, the daughter of applicant and respondent No.1 is 13 years old. It is alleged that, on 31/07/2022 the respondents have driven out the applicant from her matrimonial home. Since then, she used to reside at her parental home along with daughter Samiksha. The father of applicant is not alive. She used to reside along with widow mother and brother who are residing in one room kitchen at Mumbai admeasuring 225 sq.ft. Since 31/07/2022. It is alleged that, during the stay at matrimonial home the respondents had given illtreatment to the applicant. It is alleged that, the respondents insisted the applicant to bring money from her parental home for the construction of house. It is alleged that, the brother of the applicant complied the said monetary demand. It is alleged that, after passage of some time, the applicant noticed that respondent No.1 indulges in extra marital affair with another lady residing within the vicinity of matrimonial home. The applicant raised the objection to the said conduct of the respondent No.1, therefore, the respondent No.1 driven out the applicant from matrimonial home.


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4) It is stated that, respondent No.1 is L. I. C. agent by profession and he also work as a supervisor on a construction site. It is stated that the monthly income of respondent No.1 from all sources comes to Rs.50,000/- to Rs.60,000/-. It is submitted that, for the purpose of disposal of the main application, reasonable time will require. It is stated that, the applicant now shifting at Mumbai and took up a job of receptionist in one small classes. However, in the month of June 2023 she had to resign from work as she could not bear the mental pressure of the act of the husband indulging into

extra marital affair. It is stated that, she is earning monthly salary of Rs.9,000/- which is not sufficient for herself and her daughter to support for food, clothing, shelter and daughter's education. Therefore, the applicant has prayed for monthly Rs.25,000/- for herself and Rs.15,000/- for her daughter and Rs.20,000/- towards residence rent.

5) The respondents have denied all the allegations made by the applicant in her application in toto. Besides the categorical denial it is contended that, after the marriage she did not conceive in regular course. Therefore, since 2006 the respondent taken expensive treatment for the applicant which are in fact non affordable to him. It is contended that the brother of the applicant is advocate by profession, therefore, the brother of the applicant by misusing his position created the hurdle in the matrimonial life of the applicant and respondent No.1.

6) It is stated that, all the golden ornaments and *stridhan* is in the custody of applicant, however, the averment in her application about the custody of said ornaments is misleading and vague. It is stated that, respondent No.1 or any of his family member never demanded money from applicant at any point of time. It is stated that, respondent No.1 or his family members never given illtreatment to the applicant. In Paragraph No.13 of the say the respondent specifically stated that, no domestic violence has been committed against the applicant, therefore, no question would arise to claim monetary relief or relief of the residence as prayed for. Therefore, the respondent urged for the rejection of application.

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7) Following points emerges for my discussion, I have recorded my findings thereon for the reasons to follow :-

Sr. No.	POINTS	FINDINGS
(1)	Whether the applicant is entitled for interim relief of residence order as sought for under Section 19 of the D. V. Act?	No.
(2)	Whether the applicant is entitled for interim maintenance as sought for under Section 20 of the D. V. Act for herself and her minor daughter? If yes, what is the amount?	Partly affirmative. Applicant is entitled for interim maintenance of Rs.8,000/- per month and for daughter Rs.6,000/- per month from the date of application.
(3)	What order?	Application is partly allowed.

REASONS

As to Point No. (1): -

8) The relationship between the parties is not in dispute. The fact is also not seriously in dispute that applicant used to reside separately from respondent No.1 since 2022 along with her daughter of 13 years old. As per the averments in the application, it is stated that, applicant initially used to reside along with her widow mother and brother at parental house and thereafter she shifted at Dadar. There is no prima facie evidence before the court that presently she is residing at Dadar. The applicant has filed affidavit at Exh.6 of her assets, income and expenditure. In Column 4 of the said application she clarified that she is presently residing in house owned by her mother at Prabhadevi, Mumbai. If this is the position, then I am of

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the opinion that there is no need to pass interim residence order by exercising the power conferred under Section 19 r/w 23 of the D. V. Act. Therefore, I answer Point No.(1) in the negative. By way of abundant caution it is clarified that, whatever the observation I have noted about residence order, are restricted to interim relief only and does not affect on final adjudication of the application if she satisfied the court about her need of separate residence.

As to Point No. (2): -

9) This point pertains to entitlement of the interim monetary relief given under Section 20 r/w Section 23 of the D. V. Act. The object of D. V. Act is to provide for more effective protection of the right of woman guaranteed under Constitution of India who are victim of violence of any kind occurring within the family and for the matters connected therewith or incidental thereto. After considering the matter before the court it prima facie shows that applicant is the victim of domestic violence and she used to reside at her parental home along with her daughter. Therefore, considering the scheme of D. V. Act it is necessary to grant some interim monetary relief till adjudication of the main application on its own merit in support for food, clothing and shelter. The respondent No.1 is L. I. C. agent by profession. By way of present applicant claiming Rs.25,000/- for herself and Rs.15,000/- for her daughter. After considering the bank statement and affidavit of assets and liabilities of both the parties, I am of the opinion that aggregate amount of Rs.14,000/- would be sufficient i.e. Rs.8,000/- per month for the applicant and Rs.6,000/- per month for her daughter.

10) Thus, after considering the matter before the court, I am of the opinion that applicant is entitled for the interim relief of

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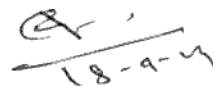
maintenance of Rs.14,000/- (Rs.8,000/- per month for herself and Rs.6,000/- per month for her daughter). Therefore, I answer Point No.(2) in the affirmative.

As to Point No. (3): -

11) In view of my findings to Point Nos. (1) and (2), it reveals that applicant is entitled for monetary relief and not the relief of residence. Therefore, the application deserves to be partly allowed. Hence, in answer to Point No.(3), I pass the following order.

ORDER

- i) The application is partly allowed.
- ii) Applicant is entitled for interim monetary relief as per Section 20 r/w 23 of D. V. Act.
- iii) The interim relief of residence sought by the applicant stands rejected.
- iv) The respondent No.1 do pay Rs.14,000/- per month to applicant towards interim maintenance for herself and her daughter vide Section 20 r/w 23 of the D. V. Act from the date of application.
- v) The order be communicated to the Protection Officer and the concerned police station.
- vi) Issue copy of this order to the applicant free of cost.
- vii) The Protection Officer and the officer in-charge of concerned police station do assist the applicant in implementation of the order.


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(Vaibhav V. Kulkarni)

Date:- 18/09/2024
ssk

Additional Chief Judicial Magistrate,
5th Court, Dadar, (At Sewree), Mumbai.