

D.V.M.A No.225/2017.**Dolly Pahuja Vs. Deepak Pahuja.****[CNR NO. MHTH13-005088-2017]****ORDER BELOW EXH.05.**

1. The applicant filed this application below Section 23 of Domestic Violence Act, 2005.

2. Applicant Dolly Deepak Pahuja got married with Opponent No.1 on 30.06.2011. Thus said marriage was love marriage. After the marriage, applicant went to reside at her matrimonial house with her husband at Ulhasnagar. opponent No.2 is her father-in-law, opponent No.3 is her mother-in-law and opponent No.4 is her sister-in-law.

3. After marriage, opponent No.1 and applicant was residing on rental basis with opponent Nos.2 and 3. Thereafter, opponent Nos. 1 to 3 started harrasing, assulting and abused the applicant for dowry. Opponent always forced the applicant to do all the domestic work. After few days, Opponent No.1 used to doubt on the character of the applicant. Opponent had love and attachment with dog and cats. Due to that applicant had suffered problem of Eczema. Opponent No.4 alwayes instigated opponent No.1 to beaten and harass the applicant. Applicant submitted that, opponents always threatened her that they shall kill the applicant. Lastly, applicant submitted that applicant was left the house of the opponent No.1 to save her life.

4. Similarly applicant has stated various instances of domestic violene caused to her. Hence, applicant prays for (a) maintenance order (b) injunction order for prohibiting alienation of stridhan, (c) separate residence order or

alternative accommodation with rent of Rs.5,000/- and 50,000/- as a deposit, (d) monetary relief for medication and other necessities Rs.50,000/- per month, (e) compensation order of Rs.10,00,000/-.

5. The Opponent No.1 has appeared and filed say at Exh.10. Opponent no.01 has not disputed the marriage with the applicant and stated that the said application is frivolous and have just moved to linger the present case and mislead this court hence the said application moved by the applicant is bad in law and needs to be dismissed with cost. Applicant has habit of quarrel with opponent and his family members. Applicant is pressurised by her family members to leave the company of the opponent. Applicant is residing at her parental house in nexus with pre plan and in short marriage is seeking life long support for false, trumed up, fabricated an concocted substances of alleged violence when non exist especially when there is evidence to the contrary. Hence, he prayed for the case be dismissed in the interest of justice.

6. Considering the allegations made by the parties and perusal of application and say, following points arise for my determination for reasons recorded there under :-

<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1.	Whehter applicant prove that prima facie she was subjected to domestic violence by opponents?	Yes.
2.	Whether applicant is entitled for interim maintenance to herself ?	Yes. An amount of Rs.2,000/- per month.
3.	Whether applicant is entitled for residence and rent order ?	Yes. An amount of Rs.1,000/- per month.

4.	Whether applicant is entitled for restrain order against the opponent from alienation ?	will be decided at the time of final order.
5.	Whether applicant is entitled for compensation ?	will be decided at the time of final order.
6.	Whether applicant is entitled for monetary relief of Rs.50,000/-p.m. for the basic necessities ?	No.
7.	What order ?	As per final order.

:REASONS:

As to point no.01 :

7. The marriage of applicant with opponent no.01 was solemnized on 30.06.2011. The said fact is not disputed by opponent no.01. Applicant has stated various instances of domestic violence regarding dowry, economic abuses and physical torture etc. Even though all allegations have been denied by opponent, it prima facie appears from the averments in application supported by affidavit that she is residing separately from opponents, due to domestic violence caused to her from the opponents nos.1 to 4. This fact is sufficient to establish that prima facie, applicant have been subjected to domestic violence, at the hands of opponents. Moreover, opponent no. 01 is not maintaining the applicant this obviously would amount to economic abuse of applicant as contemplated in the definition of domestic violence in the Protection of Women from Domestic Violence Act. I hold that applicant is prima facie victim of Domestic Violence, hence, it is necessary to pass the maintaince order. Hence, I answered point Nos.1 in the affirmative.

As to Point No.02 :-

8. The applicant is the legally wedded wife of opponent no.01. Therefore, he is under legal and moral obligation to maintain her. Applicant

submitted that opponent no.1 is LIC agent and earning Rs.1,00,000/- per month. However, in support of contention she has not filed any documentary evidence to show that opponent no.1 is earning Rs. 1,00,000/- per month. On the Contrary opponent no.1 has submitted that he is physically challenged and hardly earn Rs.8,000/- to Rs.10,000/- per month. As per the opponent, applicant is employed under K.A. Agency at Netaji Chowk, Ulhasnagar and earining Rs.10,000/- to Rs.12,000/- per month. But, to show this fact, opponent does not file any documentary evidence on the record. However, opponent no.01 cannot escape his liability to maintain his wife. Moreover, he has failed to show that he has made any provision for her maintenance. This obviously would amount to economic abuse of applicant as contemplated in the definition of domestic violence in the Protection of Women from Domestic Violence Act. It would be therefore just and proper to grant interim maintenance to the applicant u/s. 23 of the said Act.

9. Now, the question remains only regarding the maintenance of applicant. Thus, in view of the above facts and circumstances and considering the status of the parties, income of opponent no. 01, needs of the applicant and physical condition of the opponent No.1, interim maintenance of Rs.2,000/- to the applicant would serve the purpose. Admittedly, even after filing of this application, opponent made no provision of the maintenance of the applicant. Therefore, the benefit of this order has to be given to the applicant from the date of applicaton. Hence, I answered point Nos.2 in the affirmative.

As to Point No.3 :-

10. Admittedly applicant is at present residing at her parental house due to the domestic violence caused to her. Therefore, she is entitled for the

amount of rent. At this juncture, it is pertinent to note that applicant has prayed for the rent amount from opponent no.01. Hence, I am of the opinion that it is just and proper to direct opponent no.01 to provide her rent amount of Rs.1,000/- per month after considering their status and standard of living. Hence, point no.4 is answered accordingly.

As to point No.04 and 05 :

11. Applicant has claimed for restrain order against the opponent not to alienate the Stridhan which is in possession of opponent. However, this fact is denied by the opponent. Applicant also claimed for compensation for causing domestic violence by the opponent. The question of return of Stridhan and compensation to be decided after considering the fact and evidence of both the parties. As applicant has not filed any documentary evidence in support of her contention. Therefore factum of the compensation and stridhan is required to be consider at the time of final trial. Hence, point nos. 04 and 05 are answered accordingly.

As to point No.06 :-

12. The applicant prayed for monetary relief under Section 20 of the Domestic Violence Act, but as per Section 20 of the Domestic Violence Act, it can be granted at the time of disposal of the main application after adducing the evidence. The factum of the monetary relief is required to be consider at the time of final trial. Hence, I answered point No.6 in the negative.

As to point No.07 :-

13. In view of above discussion, I pass the following order;

ORDER

1. Application is partly allowed.

2. Opponent No.01 is directed to pay Rs.2,000/- (Rupees Two Thousand Five Hundred only) monthly towards interim maintenance to the applicant from the date of this application till disposal of the main application.
3. opponent no. 01 is directed to pay Rs.1,000/- (Rupees One Thousand only) monthly towards rent allowance to the applicant from the date of this application till disposal of the main application.
4. Copy of order be sent to the concerned police station and Protection Officer
5. Copy of this order provided to be the both parties free of cost.

Sd/-

Ulhasanagar

Date:-09/10/2019.

(S.C.Salvi)

**Judicial Magistrate First Class,
(Court No.08), Ulhasanagar.**