

ORDER BELOW EXH.16

Applicant has filed present application u/s. 23 of Protection of Women from Domestic Violence Act, 2005 for interim maintenance.

2. According to the applicant, she has filed main application under Section 12 of the Protection of Women From Domestic Violence Act, 2005. It will take time to finally decide the said application. Hence, by present application applicant has prayed for interim maintenance from the opponent till final order of the main application.

Brief facts of the applicant's case are as under :-

3. The marriage of applicant and non-applicant was solemnized on 03-05-2001. They have one daughter. The non-applicant subjected her to the mental and physical cruelty. He also pressurized her for divorce. Since last three years non-applicant is not having any talk with the applicant. He is in relation with one Swati Sheshrao Naik. Non-applicant used to demand money from the applicant. She is living separately from the non-applicant. Hence, prayed for granting interim maintenance of Rs.15,000/- per month. She has also prayed for interim protection order and interim residence order in this application.

4. She has filed her affidavit of assets and liabilities at Exh. 17 wherein it is mentioned that the non-applicant is petition writer and stamp vendor at Tahasil and Registrar office at Umred and Bhiwapur. He is also an estate agent. He is also earning amount of Rs.25,000/- as

rent from the self acquired well furnished three storied house property situated at Bahadura, Umred Road, Nagpur. The total income of non-applicant is Rs.1,00,000/-per month.

5. The non-applicant has filed his say to this application at Exh. 21 and denied all the contention made in the application. He submitted that applicant is residing in the house situated at Mangalwaripeth, Umred which is owned by the non-applicant. The non-applicant is paying all the bills required to be paid for the house. The applicant has filed false application. Non-applicant is providing livelihood to the applicant. He is also incurring expenses of education of his daughter. The non-applicant has purchased plot in the name of this applicant at Parsodi,Umred. The demands made by the applicant are illegal. Hence, prayed for rejection of the application. He has also filed his affidavit of assets and liabilities at Exh. 18 wherein he stated that his parents depend upon him. He also stated that, the applicant is qualified and earning Rs. 10,000/- per month. He has also filed Sale deed of the property purchased in the name of applicant, tax receipt of his property. L.I.C. Policy in the name of daughter Nandini, electric bill and online payment receipt.

6. Perused the record. Heard both sides.

7. After going through the present application, it appears that, the applicant alleged about domestic violence at the hands of the non-applicant. He has not made any provision for her maintenance.

Therefore, at this stage it would not be unjust to rely upon the facts and circumstances put forth by the applicant. However, to decide this application, we need to consider income of the non-applicants and documents on record to that extents.

8. In the present application, applicant has prayed for interim maintenance for herself. The applicant has filed affidavit in respect of her assets and liabilities at Exh.17 but has not filed any document regarding the contentions made in the said affidavit. But, it is contention of the applicant that the non-applicant is financially well settled and he is having good source of income.

9. No any proof of income of the applicant produced by the non-applicant. The applicant has admitted that she is residing at Umred in the house owned by her husband. The daughter is residing with the applicant. Being husband it is primary responsibility of non-applicant to maintain the applicant. He cannot lay his hands off from the same. It is necessary to impose some liability upon the non-applicant towards maintenance of the applicant. Applicant deserves to meet at least her basic living expenses.

10. Therefore, considering the over all situation and to fulfill the purpose of justice, I proceed to pass following order, which I think would be reasonable so far as today's cost of living is concerned.

ORDER

- 1) Application at Exh.16 is hereby partly allowed.
- 2) Non-applicant is directed to pay amount of Rs.3,000/- (Rupees Three Thousand only) per month to the applicant, as interim maintenance from the date of filing of this application till the final decision of the main application.
- 3) Both parties are directed to proceed with main application expeditiously.

Dt.01.07.2021.

(Jaheda M. Mistry)
Judicial Magistrate,F.C.,
Umred.