

ORDER BELOW EXH.5

The applicant 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, applicant has prayed for interim maintenance from the non-applicant till final order of the main application. She has also filed affidavit in respect of Section 23 (2) of D.V.Act at Exh. 5.

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

2. The marriage of applicant and non-applicant no. 1 was solemnized on 17/01/2010 at Umred. They are having one son. Non-applicant no. 3 is father-in-law of the applicant . After marriage the applicant started cohabitation with non-applicant no. 1. Thereafter, mother-in-law of the applicant taunted her on the count of gifts received in the marriage. Non-applicant no. 1 is having extra-marital affair with non-applicant no. 2. He used to raise quarrel with the applicant and beat her. He refused to cohabit with the applicant. Hence, both are living separately. Non-applicant no.1 has not made any provision for her maintenance. Non-applicant no.1 is working as Foreign Exchange Manager in Thomas Cook Company and getting monthly salary of Rs. 70,000/-. No one is depend upon him except the applicant. The applicant is residing at her parental house alongwith her son. She is facing economic problem. Hence, by this application the applicant has prayed for granting interim maintenance of Rs.20,000/- per month.

5. The Non-applicant no. 1 appeared in response of the notice. He filed his reply at Exh. 12. He admitted relationship with the applicant but denied all the contentions made in the application. He submitted that, non-applicant no. 2 is family friend of the applicant and non-applicant. The applicant is suspicious by nature. She used to check his mobile and raise quarrel for petty reasons. The non-applicant no. 1 tolerated her for well bringing of their son. She voluntarily left the company of non-applicant no. 1. He is doing private job in Thomas Cook Company and getting monthly salary of Rs. 35,000/-. His father is depend upon him. He is unable to pay her maintenance. Hence, prayed for rejection of the application.

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. The relationship is still in existence. The applicant is residing separately from the non-applicant no. 1. The son is depend upon the applicant. 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-applicant and documents on record to that extents.

8. In the present application, applicant has prayed for interim maintenance for herself and her son. The applicant has filed her affidavit in respect of her assets and liabilities at Exh.15. She has also

filed account statement of non-applicant no. 1 .

9. The non-applicant no. 1 has also filed his affidavit of assets and liabilities at Exh.16. He has also filed his salary slip which shows that he is getting salary of Rs.35,000/- per month. He has not made any submission regarding income source of the applicant. The applicant is depend upon her parents. The son is residing with the applicant. Being husband it is primary responsibility of non-applicant no.1 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 their 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) Non-applicant no.1 is directed to pay amount of Rs.4,000/- (Rupees Four 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.
- 2) Both parties are directed to proceed with main application expeditiously.

Dt. 30.08.2022.

Sd/-
(Jaheda M. Mistry)
I/C 2nd Jt. Judicial Magistrate,F.C.,
Umred.