

ORDER ON EXH. 03
(Passed on 16.02.2023)

01. This is an application for interim maintenance of Rs. 10,000/- per month to applicant No. 1 and Rs. 3,000/- per month to applicant No. 2 under section 23 of Protection of Women from Domestic Violence Act. Non-applicants filed Say thereon.

02. Heard advocate for applicants and Advocate for non-applicants. Perused the application (Exh. 03) and Say (Exh. 13) along with record.

03. It is the case of applicant No. 1 that she is the legally wedded wife of non-applicant No. 1 and applicant No. 2 is their son. She further contended that, non-applicants committed domestic violence and thrown her out of the house, therefore, now she is living in her maternal house. She further submitted that non-applicants never provided maintenance to her, therefore, she is asking for maintenance to this court. On the other hand, non-applicants admitted marital relations with applicant No.1, so also admitted paternity of applicant No. 2. But, non-applicants denied all the allegations of domestic violence. Non-applicants submitted that applicant No. 1 has voluntarily left her matrimonial house and therefore, she is not entitled for interim maintenance. Hence, they prayed for rejection of application.

04. I considered submissions of both parties. It is

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mentioned in application that, the applicant No. 1 & 2 are residing separately from non-applicants, same is not denied in the Say by the non-applicants. The relationship between parties is an admitted fact. Furthermore, it is also not denied specifically by the non-applicants that applicant No. 1 resided with him for considerable period of time. The fact of domestic violence requires evidence, which will take considerable time. Therefore, considering the allegations made in the application, at this initial stage, I am prima-facie of a view that applicants are entitled for interim maintenance.

05. I considered pleadings of both parties in respect of quantum of interim maintenance. The question whether non-applicant No. 1 has earning sources, requires evidence. Therefore, though there is nothing on record regarding the earning source of non-applicant No. 1, his physical capability can be constructed as his earning capacity. Non-applicant No. 1 is a able bodied person and physically fit for doing number of works and being admitted his relationship with the applicants, it is his responsibility to maintain them. Considering day to day expenses and status of parties, I am of the opinion that Rs. 3,000/- per month to applicant No. 1 and Rs. 2,000/- per month to applicant No. 2 would be sufficient as interim maintenance. Accordingly, I proceed to pass following order.

ORDER

1. Application (Exh.03) is partly allowed.

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2. Non-applicant No. 1 is directed to pay Rs. 3,000/- per month to applicant No. 1 and Rs. 2,000/- per month to applicant No. 2 as interim maintenance as per section 23 of Protection of Women from Domestic violence Act, from the date of this order.

Date : 16.02.2023.

(**Prasad B. Joshi**)
J.M.F.C., Chandwad.