

Order below Exh.5 in MA No.123 of 2017

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|----|--|-------------------------|
| 1] | Priya Madhukar Lahamge
and others |]Applicants |
| | Versus | |
| 1] | Madhukar (Madan) Walu Lahamge]
and others | Respondents
] |

Mr.D.V.Ponkshe, Advocate, for applicants

Mr.J.S.Sangle, Advocate, for respondents

The wife and daughters have filed the application under the provisions of sections 12, 18, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 against respondent No.1 Madhukar (father) and his relatives. The applicants have claimed interim maintenance allowance *pendente lite*.

2] The applicants' case, in brief, is that respondent No.1 is husband of applicant No.1, her marriage was solemnized on 28.04.2000 and the couple has begotten two daughters (applicants No.2 and 3). Initially, respondents have treated the applicant No.1 properly, but thereafter she was subjected to cruelty. The respondent No.1 is addicted to vices of drinking liquor. He has threatened her to set on fire. He was insisting upon her to give him divorce. The applicant No.1 took shelter at the house of her parents at Sinnar, but there also respondent No.1 used to come and assault her. On conciliation she had resumed cohabitation, but to no avail. The respondent No.1 has deserted applicants. The notice was issued to respondent No.1 through Advocate, but to no avail.

3] The applicants are unable to maintain themselves and they have no source of income. The respondent No.1 does business of sale of vegetables and earn Rs.50 to 60 thousands per month. The respondent No.1 has 10 acres of irrigated land at Vashala, Dist.Palghar and he gets net annual income of Rs.5 to 6 lakhs. The respondent No.1 has 3 to 4 houses at Nashik, he let out some houses on rent and gets rental income

of Rs.2 to 3 lakhs per year. The applicants have claimed interim maintenance allowance.

4] The respondent No.1 has resisted application by filing written say (Exh.10). He has admitted the relations of applicants with him. The allegations about domestic violence and cruelty are denied. According to him, applicant No.1 was not ready to cohabit with him. She always used to quarrel with him and leave his house. She was insisting upon respondent No.1 to stay separate from the family. He had resided separate alongwith her till birth of applicants No.2 and 3. However, applicant has insisted upon him to transfer the house property in her name. She was always going to her parental home leaving applicants No.2 and 3 at his home. He tried to resume cohabitation with applicant No.1 at Sinnar, but to no avail. The applicant has lodged false report with police against him. She herself has left the company of respondent No.1. According to him, he has no source of income. He is derailed and is pulling on his life at the mercy of his brothers. He has denied that he does business of sale of vegetables and earn Rs.50 to 60 thousands. The rest of the allegations about his income from agriculture and rent from houses let out are denied. On these grounds the application is sought to be rejected.

5] Perused documents. Heard learned counsel for both sides.

6] The following points arise for my determination and I record my findings against them for the reasons stated below :

POINTS

FINDINGS

1] Whether applicants *prima facie* prove that respondents had subjected them to domestic violence ?

Yes

2] Whether applicants are entitled to get interim maintenance allowance ?
If yes, at what rate ?

Yes

Rs.1,500/- to applicant No.1 and
Rs.1,000/- each to applicants
No.2 and 3.

Application is allowed.

REASONS

7] **POINT NO.1** :- The relations of applicant and respondents are admitted. The respondent No.1 himself has admitted in his written say that applicant has filed report with police and compelled him to sign on a stamp paper. This shows that as a last resort applicant has knocked the doors of police to seek redressal of her grievances.

8] A wife who has married in the year 2000 and who has two daughters aged 12 to 14 years respectively will not leave the company of her husband unless there are compelling reasons and she is left with no alternative but to stay at her parental home.

9] The serious allegations are made by applicant that respondent No.1 under the influence of liquor had tried to abuse her. The allegations of applicant are corroborated by domestic incident report lodged before the Protection Officer. In the said report also the allegations about domestic violence are made by applicant.

10] There is nothing to disbelieve the allegations of applicant. The applicants have *prima facie* proved that respondents have subjected them to domestic violence and cruelty. Point No.1 is answered in the affirmative.

11] **POINT NO.2**:- The core question to be determined in this application for interim maintenance allowance is what is the source of income to respondent No.1. Although applicant has alleged that respondent No.1 does business of sale of vegetables, he has irrigated lands and he has let out three houses on rent there is no clinching evidence on record to corroborate her version. Be that as it may.

12] A wife who has cohabited with her husband for about 16 to 17 years can very well know about the sources of income of her husband. The version of applicant that respondent No.1 does business of sale of vegetables is worthy of credence. A person doing business of sale of

vegetables can very well earn atleast Rs.500/- per day. If he works for 25 days in a month his monthly income can be determined at Rs.12,500/-.

13] At this stage it would not be in the interest of justice to saddle the responsibility of maintenance allowance of applicants on respondents No.2 to 6 because there is no *prima facie* evidence that respondent No.1 is staying in a joint family and that rest of the respondents have any source of income.

14] Considering the status of parties, income of respondent No.1, needs of applicant for food, clothing, shelter and medicines and education of applicant Nos.2 and 3, it would be just and proper to grant Rs.1,500/- per month to applicant No.1 and Rs.1,000/- each to applicants No.2 and 3 towards their interim maintenance allowance from the date of filing of application for interim maintenance. Point No.2 is answered accordingly in the affirmative.

15] The applicants succeed partly. In the result I pass following order.

ORDER

1] The respondent No.1 Madhukar (Madan) Walu Lahamge shall pay Rs. 1,500/- (Rs. One Thousand Five Hundred Only) per month to applicant No.1, Rs.1,000/- (Rs. One Thousand only) per month to applicant No.2 and Rs.1,000/- (Rs. One Thousand only) per month to applicant No.3 towards their interim maintenance allowance from 22.03.2017 the date of filing of main petition.

2] He shall also pay costs of Rs.2,000/- (Rs. Two Thousands only) to applicants.

3] Copy of this order be supplied to parties free of costs.

(P.C.Ramdin)

Judicial Magistrate,F.C.
Sinnar

Place : Sinnar
Date : 26.04.2018