

MHNS230013872020



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Decided on : 23.03.2026
Duration : 05Y:05M:.03Ds

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
IGATPURI, DIST. NASHIK**

(Presided over by Smt. A.C. Rokade)
Cri. M. A. No. 211/2020
Exh. 52

1. Mirabai Shantaram Bhatate,
Age: 63 Yrs., Occ.: Nil,
2. Kausabai Shantaram Bhatate
Age: 20 Yrs., Occ.: Nil,
Both R/o: Manikkhamb, Igatpuri,
Dist. Nashik

....Applicants

V/s.

1. Somnath Shantaram Bhatate
Age:40 Yrs., Occ.: Business,
2. Bhagabai Shantaram Bhatate
Age: 53 Yrs., Occ.: Labour
Both R/o: Manikkhamb, Igatpuri,
Dist. Nashik

.... Respondents

Appearances: Mr. B.S. Lahane: Advocate for Applicants
Mr. R.G. Waje: Advocate for Respondents

J U D G M E N T

(DELIVERED ON 23rd OF MARCH, 2026)

The application in hand is under section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred as the 'D.V. Act', for sake of brevity).

2) Facts of the applicant's case in brief are as follows :-

It is the case of the applicants that applicant no.1 is the legally wedded wife of deceased Shantaram Bhatate. On 09/12/2018, Shantram Bhatate died. The applicant no.1 is his first wife. Out of the said wedlock, they have one son Akash

and daughter i.e. applicant no.2. It is submitted that during the subsistence of their marriage, deceased Shantaram performed 2nd marriage with respondent no.2, from which respondent No.1 was born.

3) It is submitted that after the death of Shantaram Bhatate, Respondent No.1 induced Applicant No.1 to believe that he would pay her the pension amount. On this pretext, he got the name of Respondent No.2 recorded as nominee for the pension of the deceased Shantaram. Relying on the words of Respondent No.1, applicant no.1 gave her no objection. However, thereafter, Respondent No.1 refused to pay her any share in the pension and properties of the deceased Shantaram. It is further alleged that on this count, the respondents started ill-treating the applicants.

4) Applicants have further submitted that they have no independent source of income and are unable to maintain themselves. In contrast, respondent No.1 is financially sound and is engaged in a bakery business and earns Rs.40,000/- per month. Additionally, he is receiving a pension of Rs.20,000/- per month of the deceased Shantaram. Therefore, applicants have claimed maintenance of Rs.10,000/- each per month. They have also prayed for compensation of Rs.5,00,000/- and Rs.10,000/- towards litigation expenses.

5) On the other hand, the respondents have denied all the adverse allegations made by the applicants by filing their say at Exh.6. Respondents have categorically contended that, respondent no.2 is the 1st wife of deceased Shantaram but he was living with applicant no.1 separately. It is further

contended that the deceased Shantaram was employed in the Railway Department and he retired in the year 2001. Upon retirement, he received Rs.9,50,000/- towards gratuity. Out of the said amount, he constructed House No.406, and the remaining amount of Rs.7,50,000/- was kept in a fixed deposit which is retained by Applicant No.1. It is contended that Shantaram died on 09/12/2018 due to a heart attack. Applicant No.1 had been receiving the pension during his lifetime and they did not receive any benefit from the retirement dues of the deceased Shantaram.

6) It is further contended that son of applicant no.1 is permanently working in the Hotel Herb Farm and earning Rs.20,000/- p.m. Further, the amount of Rs.25 Lac received from the retirement benefits of deceased Shantaram is deposited in the bank account held by applicants. The applicant no.2 is doing tailoring work and earns Rs.700-800/- per day. It is contended that respondent no.2 is suffering from mental illness and respondent no.1 is bearing her medical expenses. Further, the elder brother of respondent no.1 namely, Pandhrinath is dead and respondent no.1 is maintaining his widow. They further contended that respondent No.1 have never ill-treated the applicants. They have filed the instant proceeding only to harass respondents. Hence, they prayed to reject the application.

7) Before proceeding to discuss the disputed facts between the parties, it is required to discuss admitted facts between them. Relationship between the parties, is an admitted fact. Both parties have further admitted that

deceased Shataram was working in the Railway department and died in the year 2018.

8) Considering the rival pleadings on record, the following points arose for my determination for which, I have recorded my findings for the reasons discussed below herein:

Sr. No.	POINTS	FINDINGS
1.	Whether applicants are subjected to domestic violence at the hands of respondents?	No.
2.	Whether applicants are entitled for maintenance amount as prayed? If yes, what is quantum?	No.
3.	Whether applicants are entitled for compensation as prayed?	No.
4.	What order?	Application is rejected.

REASONS

9) In order to prove her case, the applicant No.1 has examined herself at Exh.24 as AW No.1. On the other hand, respondent No.t 1 has examined himself at Exh.35. Both parties have relied on various documents, which will be referred at the relevant places.

10) Heard Mr. Lahane, Ld. advocate for applicants and Ld. Advocate Mr. Waje for respondents at length.

AS TO POINT No.1:

11) Affidavit of applicant No.1 (Exh.24) is similar to her application at Exh.1. In her affidavit she has deposed various instances of domestic violence meted out to her at the hands of

respondents. Her evidence is reiteration of her pleading. She firmly deposed that, after the death of her husband, respondents ill-treated her. After the 2nd marriage, respondent no.2 always backed respondent no.1 and supported him in all his illegal and derogatory acts.

12) The applicant was cross-examined at length. During her cross examination, she admitted that deceased Shantaram was working in the Railway Dept. She also admitted that the name of respondent no.2 was recorded as nominee at the service of deceased Shantaram. She further admitted that age of respondent is 75 Years and she is suffering from mental illness. She also admitted that due to mental illness of respondent no.2, deceased Shantaram performed 2nd marriage with her. She deposed that deceased Shantaram has not divorced the respondent no.2. She admitted that they are belong to Hindu Aagri Community and in their community 2nd marriage cannot be performed without divorcing the 1st wife. She admitted that in year 2001, deceased Shantaram retired form service. He built the house no.406 out of the returns of retirement. She admitted that the said house is recorded in her name. She admitted that after the retirement, deceased Shantaram was living with her at her home.

13) Upon careful consideration of the oral testimony of AW No.1 (Applicant No.1), read in light of her cross-examination, it is evident that several material admissions made by her go to the root of the matter and materially affect the credibility of her case. Her admissions regarding the status of respondent No.2 as nominee, her age and mental condition

as well as the circumstances surrounding the alleged second marriage create serious inconsistencies in the applicant's own version. Further, her acknowledgment that the residential house is in her name and that the deceased resided with her after retirement indicates that she was not deprived of shelter or basic support.

14) It is pertinent to note that the evidence of applicant no.1 in respect to alleged domestic violence remains vague and general in nature. There are no specific particulars of domestic violence and independent corroboration. The testimony appears to be a mere reiteration of pleadings and does not inspire sufficient confidence.

15) In view of these admissions and the absence of cogent and convincing evidence, applicants have failed to satisfactorily establish allegations of domestic violence or economic abuse against respondents.

16) Per contra, Respondent No. 1 deposed in consonance with his written statement and affidavit at Exhibit 35. He stated that the present proceedings have been initiated by the applicants with an intention to harass the respondents. He further deposed that the respondents have never inflicted any cruelty upon applicants. During cross-examination, he admitted that the agricultural lands belonging to the deceased Shantaram are in his possession. He further admitted that he has not paid the income derived from the said lands to the applicants. He also admitted that, since 2018, he has not paid the pension amount to the applicants. Apart from these admissions, he denied other suggestions put to him.

17) It is to be noted that the reliefs mentioned under Sec.12 are available to "Aggrieved person" and the reliefs which may be availed by invoking Sec.17, 18, 19, 20, 21 and 22 are dependent on one important aspect namely the said relief is available to an "aggrieved person" who alleges to have been subjected to any act of domestic violence by the respondent. The object of D.V. Act 2005, being to protect the rights of women who are offended by the act of domestic violence committed by the respondent. The term Domestic Violence has been given a specific connotation under Sec. 3 of the Act and any act, omission and commission or conduct of the respondent shall constitute domestic violence in case it:

(a) harms or injuries or endangers the health, safety, life, limp or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any lawful demand for any dowry or other property or valuable security person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(c) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

18) Thus, in order to claim relief under Sec.12 of the Act which permits an "aggrieved person" to present an application to the magistrate seeking one or more reliefs under the Act, leveling the allegations of Domestic Violence. Thus,

allegations about the commission of domestic violence act is prerequisite for the magistrate or Court of competent jurisdiction to exercise the powers under the Protection from Women from Domestic Violence Act, 2005, and grant of any reliefs contemplated under the Act.

19) In the instant case, upon careful scrutiny of entire record and evidence, it becomes evident that the applicants have failed to prove that the respondents have committed any act of domestic violence against them as defined under the Protection of Women from Domestic Violence Act, 2005. On the perusal of testimony, it reveals that applicants are residing separately from respondents. The allegations are not trustworthy and showing falsity made only to harass the respondents.

20) It is also relevant to emphasize that no prior complaints or reports of domestic violence have been placed on record to support claim of applicants. Looking to the admissions, inference can easily be drawn that applicants were never subjected to domestic violence. Therefore, this case as mentioned above is example how the benevolent provisions of the Act are misused. With these observations, I do not find allegations levelled against respondents are trustworthy. Accordingly, I answer point no.1 as "No".

AS TO POINT Nos. 2 AND 3:

21) In view of finding to point No.1, the applicant is not entitled for any relief. Therefore, I answer this point as "No".

AS TO POINT No.4:

22) Considering the findings on point Nos.1 to 3, in response to answer point no.4, I proceed to pass following order:

ORDER

1. The application is rejected.
2. A copy of this judgment and order be provided free of cost to both parties.

(Dictated and delivered in open court)

Date: 23/03/2026

(A.C. Rokade)
JMFC, Igatpuri, Dist. Nashik

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of Stenographer : S. G. Sonawane
Court : J. M. F. C. & C.J.J.D.at Igatpuri.
Date : 23-03-2026
Order signed by the
Presiding Officer on : 23-03-2026
Order uploaded on : 27-03-2026