

ORDER BELOW EXHIBIT NO.5 IN PWDVA No.289/2023.
(Order passed on dated 15.11.2024)

The application has filed by the applicant under section 23 of the Protection of Women From Domestic Violence Act, 2005 (Hereinafter refereed as 'the Act') for seeking interim reliefs under sections 18, 19, 20 and 22 of the Act.

02] The applicant in her petition as well as in the present application have made several allegations against non-applicants in respect of an act of domestic violence.

03] Non-applicants have filed their reply. Wherein they denied all the allegations made by the applicant and put their own theory.

04] The admitted facts between parties are domestic relationship between them and the applicant is not residing with non applicant no.1.

05] Perused the application, say and record. Heard both the sides at length.

06] Based upon rival pleading of respective parties following points arise for my determination, to which I recorded my finding for the reasons thereunder :-

Sr. No.	Points	Findings
1	Does the applicant prima-facie proves that non-applicants have subjected act of domestic violence ?	Yes.
2	Is the applicant entitled to get interim protection order ?	Yes.
3	Is the applicant entitled to get rent of Rs.12,000/- per month and security deposit amount Rs.50,000/- from non-applicant	Partly Yes.

no.1 ?

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| 4 | Is the applicant entitled to get a relief of interim maintenance to the tune of Rs.50,000/- and in addition Rs.30,000/- per month from non applicant no.1 ? | Partly Yes. |
| 5 | Is the applicant entitled to get relief of compensation of Rs.40,00,000/- from the non-applicant no.1 ? | No. |
| 6 | Is the applicant entitled to get her stridhan from non-applicant no.1 ? | No. |
| 7 | Is the applicant entitled to get cost of Rs.50,000/- from non-applicant no.1 towards expenses of the application ? | No. |
| 8 | What order ? | The application is partly allowed. |

REASONS

AS TO POINT NO.1 :-

07] As per Section 23 of the Act the applicant should first establish prima-facie case pertaining to the act of domestic violence as provided under Section 3 of the Act. In this respect on perusal of the contention made in the main petition as well as in the present application, the applicant advanced allegations in respect of physical, mental and economical violence at the hands of non-applicant, which prima-facie indicates the elements of domestic violence at the hands of non-applicant.

08] Non-applicants have denied allegations advanced by the applicant. However, whatever the allegations made by respective parties are considerable at the time of evidence and at present it is required to be seen whether the applicant has established prima-facie case or not and as

noted above the allegations in application itself shows prima-facie element of domestic violence. Apart from that the domestic incident report corroborates to applicant version made in the application pertaining to act of domestic violence.

09] In the light of aforesaid discussion I am of the opinion that, the applicant is entitled to get relief which is prayed under section 19 of the Act at interim stage. Therefore, I answer point No.1 in affirmative.

AS TO POINT NO.2 :-

10] The applicant has prayed for interim protection order. As discussed in point no.1 the applicant has prima facie brought on record that she has been subjected with an act of domestic violence at the hands of the non-applicants. Under such circumstances, the applicant is entitled to get of relief of protection order till the disposal of the main application. Hence, I answer point No.2 in affirmative.

AS TO POINT NO.3 :-

11] The applicant prayed for rent of Rs.12,000/- per month and Rs.50,000/- towards security deposit from non-applicant no.1. No doubt the applicant has prima facie establish that she has been subjected with an act of domestic violence at the hands non-applicants. It is admitted fact that the applicant is residing with her parents on their mercy and not with non-applicant no.1. Thus, under such circumstances, the applicant is entitled to get only rent of Rs.6,000/- from the date of filing of application. The applicant is not entitled to get amount of security deposit of Rs.50,000/-, as she is residing in her parents house. Hence, I answer point no.3 in partly affirmative.

AS TO POINT NO.4 :-

12] The applicant prayed for maintenance of Rs.50,000/- per month and addition to that she claimed Rs.30,000/- towards emergency financial assistance. So far as, source of income of non-applicant no.1 is concerned the applicant stated that non-applicant no.1 has completed his education from Engineering Stream and getting salary more than Rs.1,00,000/- per month. Further, non-applicant no.2 retired from the Government service and getting handsome pension. Non-applicants are having plot and house at Nagpur. Nobody is dependent upon non-applicant no.1. As against this non-applicant no.1 contended that the applicant is highly educated and serving as a Manager in one huge Company and getting salary of Rs.60,000/- per month. So far as source of income is concerned both parties have of filed documentary evidence. However, both parties have filed their respective affidavit and assets and liabilities. On perusal of the affidavit of assets and liabilities of the applicant it appears that she is having qualification of B.Tech (Food Science and Technology), she has no monthly income as she is not doing any job. On perusal of assets and liabilities of non-applicant it appears that he is M.Tech but he is doing any work and having no income.

As discussed point no.1 the applicant prima facie brought on record that she has been subjected an Act of Domestic Violence at the hands of the non-applicants. Therefore, under such circumstances I am of the view that even if non applicant no.1 having no source of income he is under moral obligation to maintain the applicant being wife. As the present Act is beneficial legislation to protect the women from the Act of domestic violence. Thus, the applicant is entitled to get monetary relief to herself. So far as, quantum of maintenance is concerned it is not luxury to the applicant and penalty to the non-applicants. Thus, considering the

present rate of inflation as well as considering the assets and liabilities affidavits of the respective parties Rs.15,000/- per month to applicant would be appropriate amount towards maintenance from the date of the filing of the main application. Apart from that the applicant prayed for Rs.30,000/- for immediate relief. However, already interim maintenance granted to the applicant from the date of the application. Therefore, she is not entitled to get Rs.30,000/- towards immediate relief. Thus, I answer point no.4 in partly affirmative.

AS TO POINT NO.5 :-

13] The applicant prayed for compensation of Rs.10,00,000/- towards personal loss and Rs.30,00,000/- towards mental, economical and physical abuse. However, I am of the view that after, considering the evidence of the respective parties these reliefs can be granted and not at this interim stage. Hence, I answer point No.5 in negative.

AS TO POINT NO.6 :-

14] The applicant prayed for stridhan. However, I am of the view that after, considering the evidence of the respective parties this relief can be granted and not at this interim stage. Hence, I answer point No.6 in negative.

AS TO POINT NO.7 :-

15] The applicant prayed for Rs.50,000/- towards expenses of present application. The applicant in support of this relief never made specific pleading about the nature of the expenses and also, never produced evidence in support thereof. However, I am of the view that after, considering the evidence of the respective parties this relief can be

granted and not at this interim stage. Hence, I answer point No.7 in negative.

AS TO POINT NO.8 -

16] In view of discussion as to point no.1 to 7, the application deserves to be partly allowed. Hence, in answer to this point I pass following order:-

ORDER

- 1] The application is partly allowed.
- 2] Non-applicants are prohibited from committing any act of domestic violence, aiding or abating in the commission of domestic violence against the applicant till decision of the main petition.
- 3] Non-applicant No.1 shall pay Rs.15,000/- per month towards maintenance to the applicant from the date of filing of this application.
- 4] Non-applicant No.1 shall pay Rs.6,000/- per month towards rent to the applicant from the date of this application.
- 5] The copy of this order be given to respective parties without payment.

Sd/-

Place : Pune

Date : 15/11/2024

(A.A.Kulkarni)
2nd Jt. Judicial Magistrate First Class,
Cantonment Court, Pune.

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

Name of the Stenographer	P.N. Chhatre (L.G.)
Name of Court	A.A.Kulkarni, 2 nd Jt. Judicial Magistrate First Class, Cantonment Court, Pune.
Date of Dictation	15/11/2024
Order signed by the P.O. on	15/11/2024
Order uploaded on	15/11/2024