

MHPU090008492012

R.C.S. No.73/2012



Anusaya Richard Thoras
Vs
Balkrishna Thirumalai Nadar and other

ORDER BELOW EX.268

(Passed on this 12/02/2026)

By this application, defendant No. 3 is seeking protection and compensation orders provided under sec. 18 and 22 r/w. sec. 26 of the protection of women for domestic Violence Act. However, the maintainability of the said application is in question.

Material contentions in application:-

2. The defendant no. 3 stated that, plaintiff and defendant no. 3 were in a domestic relationship. The plaintiff by emotionally manipulating the defendant no. 3 has cheated her of her hard earn money by which the plaintiff purchased the suit property and her misdeeds have caused the defendant no. 3 tremendous economic domestic violence.

3. In the year 1988 the defendant no. 3 got an opportunity to immediate to the USA before that defendant no. 3 executed power of attorney dated 18-07-1988 in favour of her mother Smt. Mary Swamy Francis and advocate Mohanrao V. Dongare to do various Act and deeds. Defendants no. 3 used to send large sums of money in the form of cashier's cheques in the name of her mother. As the mother of defendant no. 3 was illiterate, the plaintiff started using the authority of her mother our her finances and started managing all her finances.

4. In the year 1990 the plaintiff informed the defendant no. 3 that, she has purchased the suit property in the name of defendant no. 3 and to keeps ending money for construction of building on the same property. The plaintiff used to emotionally blackmail the defendant no. 3 from more money. The plaintiff informed defendant no. 3 that, she has sold her silver and gold jewellery for the construction.

5. In the year 1995 the construction on the suit property was not completed when defendant no. 3 returned to India. On asking to the plaintiff in respect of purchase of property she replied that she has purchased the suit property in her name. Defendant no. 3 states that, the plaintiff has cheated her of her hard earned money and used the same to purchase the suit property in her name. Therefore, defendant no. 3 caused their wrongful loss. Due to the economic and domestic violence of the plaintiff, the defendant no. 3 is an "aggrieved women". Therefore, defendant no. 3 prayed for protection u/s. 18 and compensation of Rs. 50 Lacks u/s. 22 of the said Act. Further, it is also prayed for interim protection order.

Material contentions in say:-

6. Plaintiff opposed the application by filing say at Exh.276 contending that the application filed by the defendant no. 3 is false and vague. The defendant no. 3 did not file a counter claim therefore the application under the protection of Women from Domestic violence Act is not maintainable. The suit property is self acquire property of plaintiff and the defendant no. 1 has been in illegal possession of the same. Therefore, the

plaintiff has filed suit for possession. This court does not have a jurisdiction for said application to decide. The present application needs ocular and documentary evidence to decide it on merit. No reason for defendant no. 3 to file the present application. Now the suit is pending for evidence of defendant no. 3 and with the intention to prolong the suit, the present application has been filed.

7. The defendant no. 3 has no ground to file the present application under the said Act. The defendant no. 3 did not come with clean intention, only to cause mental agony to plaintiff the present application is filed. The contentions of the said applications are false and unacceptable to plaintiff. Thus, he prayed to reject the application.

8. Heard Ld. advocate for plaintiff and defendant no. 3. Perused the application, say and relevant record.

9. Following points arise for my determination, I have recorded my findings thereon with reasons stated under -

Sr. No.	Points	Findings
1.	Whether the application of defendant no. 3 filed u/s. 26 r/w 18 and 22 of the Protection of Women from Domestic Violence Act is maintainable ?	Yes..
2.	What order?	Application is allowed.

:: REASONS ::

AS TO POINT NO. 1 :-

10. Ld. Advocate Shri. Mavinkurve for defendant No.3 submitted that, plaintiff and defendant no. 3 are real sisters. A

female can be respondent in the proceeding filed under protection of women from Domestic Violence Act. The plaintiff purchase suit property in her name by using money of defendant no. 3. The plaintiff misused the money of defendant no. 3 which can be said economic abuse u/s. 3(d)(IV). The defendant no. 3 being aggrieved person is entitled to claim relief under the said Act. The Ld. advocate for defendant no. 3 placed is reliance on case laws of Hon'ble Apex Court in *Vaishali Abhimanyu Joshi Vs. Nansaheb Gopal Joshi AIR 2017 (SC) 2926*, *Hiralal P. Harsora and others Vs. Kusum Narottamdas Harsora and others 2016 Supreme (SC) 832*, *Kamatchi Vs. Lakshmi Narayanan 2022 Supreme (SC) 323*. He also placed in reliance on case laws of Hon'ble Bombay High Court *Narayan Babi Salgaonkar Vs. Jaishree @ Manasi narayan Salgaonkar 2018 (2) Mh LJ (Cri)91*. I have gone through the case laws cited supra and with due respects they have been considered at relevant point.

11. Ld. advocate Shri. D.R.Shinde for plaintiff submitted that, the defendant no. 3 has filed the present application after thought. Defendant no. 3 has been impleaded in the suit on 03-01-2022. In her written statement she did not mentioned incidents of domestic violence. As per the said Act the defendant no. 3 cannot be a respondent. As per section 2(f) of the said Act. The plaintiff and defendant no. 3 did not have domestic relationship, because defendant no. 3 did not mentioned the nature of domestic relationship as a joint family or not. Only to harass the plaintiff present application has been filed. He prayed to reject the application. He placed his reliance on the case laws

of Hon'ble High Court, Bench at Nagpur in *Kishor S/o Shrirampant Kale Vs. Shalini W/o Kishor Kale & Ors.* 2010 *CJ(Bom) 3815* and also case of Hon'ble High Court, Bench at Aurangabad in *Jayesh Uttamrao Khairnar and others Vs. State of Maharashtra and others* 2009 *CJ (Bom) 674*. I have gone through the case laws cited supra and with due respects they have been considered at relevant point.

12. This is the suit for possession. The plaintiff has stated that, she is owner of the suit property on the basis of registered sale-deed and defendant no. 3 denied the same. Record shows that, the matter is pending for evidence of defendant. As per the contention of defendant no. 3 the present application is maintainable u/s. 26 of the Protection of Women from Domestic Violence Act. The plaintiff denied the same. In such circumstances Section 26 of the Protection of Women from Domestic Violence Act is to be considered.

Section 26 of the Protection of Women from Domestic Violence Act contemplates that,

Relief in other suits and legal proceedings:-

(1) Any relief available under sections 18, 19,20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.

13. As per section 2(q) the female can be respondent and Section 3(d)(iv)(a)(b)(c) of the said Act provides the inclusive circumstances of economic abuse. The application discloses that, the defendant no. 3 alleged that, the plaintiff has cheated her by misusing her money. The defendant no. 3 stated that she and plaintiff were in domestic relationship. The section 26 of the said Act contemplates that, any relief available under sections 18, 19,20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act. Taking into consideration the said provision defendant no. 3 is entitled to seek any relief provided under above provisions. The domestic violence incidents need cogent and coherent evidence to prove the same. At this stage the contention of defendant no. 3 in respect of domestic violence cannot be sight of. Therefore, as per section 26 of the said Act, the application of defendant no. 3 filed under Section 26 of the Protection of Women from Domestic Violence Act is maintainable.

14. For all the reasons stated, for the all reasons application is maintainable. Therefore, I answer point No.1 in affirmative. In the result, I pass following order.

: ORDER :

1. Application is allowed.
2. Parties to bear their own costs.

Pimpri.
Date: - 12/02/2026

(K.K. Waghmare)
6thJt. Civil Judge (J.D.), Pimpri.