

MHPU090033902023

PWDVA No.112/2023

Priyanka Harpude & anr. **Applicant...**

Vs

Kiran Harpude & ors. **Respondents...****ORDER BELOW EXH. 05**

(04/07/2024)

This is an application filed by the applicant under sec 23 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the DV Act'). The applicant by way of this application claims interim maintenance of Rs.20,000/- per month, Rs.15,000/- per month towards house rent and Rs.10,000/- towards for monthly expenditure of education till decision on the original application.

02. The applicant filed the original application on 14/06/2023 under Section 12 of the DV Act praying for various reliefs under Sections 12, 13, 18, 19, 20, 21, 22 and 23 of the DV Act. As per contention of the applicant, the applicant is wife of the respondent No.1. Respondent Nos.2 and 3 are brother-in-law and mother-in-law of the applicant. The marriage of the applicant and respondent No. 1 took place on 25/03/2016 at Aalandi as per Hindu Religion rites and ceremonies. Daughter namely Gargi born to them out of the said wedlock. Applicant has narrated incident of domestic violence committed by respon-

dent in detail in original application and in present application. As per her contention, since 17/08/2022 the applicant resides with her parents.

03. Perused the application, say and affidavits of assets and liabilities filed by the both parties. Heard both sides at length. The points which arise for my determination along with my findings thereon are as below.

Sr.No.	Points	FINDINGS
01.	Is there a prima-facie proof of the domestic violence ?	...Yes.
02.	Whether the applicant is entitled to the interim maintenance as prayed?	...Partly Yes.
03.	Whether the applicant is entitled to receive rent of the flat and expenditure for education of their daughter from the respondent as prayed?	...No.
03.	What order ?	As per final order.

04. The learned advocate for applicant submitted that the applicant is a helpless lady. She is unable to maintain herself and her son. She is subjected to domestic violence and the allegations made on affidavit are prima-facie proof of it. The applicant is residing with her parents. She has to maintain herself and her daughter. Though the applicant is earning lady but, the salary is insufficient to maintain themselves. The respondent No.1 is a working in a Private Company and earning Rs.40,000/-

per month in hand salary. Nobody is dependent on him. Therefore, the respondent No.1 be directed to pay interim maintenance to the applicant.

05. In spite of availing sufficient opportunities respondent failed to enhance his arguments on this application. Hence, this application is proceeded without argument of the respondent. However, this court taken into consideration the documents and affidavit of assets and liability while deciding this application.

06. The applicant has filed on record her affidavit in support of this application at Exh.6. She has filed on record her assets and liability affidavit at Exh.10. The respondent No.1 filed on record his assets and liability affidavit at Exh.14. Both parties have filed other documents in order to substantiate their contentions. The documents placed on record is taken into consideration while deciding this application.

REASONS

As to Point No. 1

07. From the pleading of applicants reveal multiple instances of domestic violence. This is interim application. Therefore, the applicant is not required to prove the incident of domestic violence beyond reasonable doubts. The applicant has alleged the incident of domestic violence on affidavit (Exh. 6). Re-

spondent though resisted the allegations of domestic violence in their Say (Exh. 12) but, the contentions of the applicant regarding domestic violence is made on affidavit. Therefore, at this stage there is prima facie proof to my satisfaction that the applicant was subjected to violence. Thus, the point Nos.1 is answered accordingly.

As to Point No. 2

08. The applicant has claimed amount of Rs.20,000/- per month as amount of maintenance from the respondent No.1. The applicant in her affidavit of assets and liability (Exh. 10) stated that at present she is working as the senior client associate in 3 Gen Consulting services, Pvt. Ltd. Baner. She affirmed that she is earning Rs.40,000/- per month salary out of her private job. She contended that the said salary isn't enough to maintain herself and her daughter. Per contra the respondent No. 1 in his affidavit of assets and liability (Exh.14) affirmed that he is working as admin and H.R. in Lear Chakan And earns monthly salary of Rs.35000/-. Applicant has filed her salary certificates and the respondent has filed his bank statements on record to shows their real income to this court.

09. As per contention of applicant the respondent has not made any provision for the maintenance of applicant and her daughter. From pleading of both parties it appears that the

daughter of applicant and respondent namely Gargi is residing with the applicant. She is more than 5 years old. There is no dependent on the respondent No.1. It is evident from the affidavit of assets and liability of the respondent No.1 he is having sufficient means to provide interim maintenance to the applicant and her daughter.

10. The respondent No.1 can not run away from the responsibility to maintain the applicant and there daughter on any count. On perusal of contention of both parties it appears that applicant earn more than respondent no.1 it can not be a shield to the respondent for run away from his responsibility. Admittedly, he has not made any provision for the maintenance of the applicant and her daughter. Therefore, considering the financial status of both parties it would be appropriate to direct the respondent No.1 to pay Rs. 8,000/- per month to the applicant and her daughter towards maintenance that too from the date of filling of application i.e. from 26-06-2023 Therefore, Point No.2 is answered accordingly.

As To Point No. 3

11. The applicant in her application also prayed to grant her Rs.15,000/- towards rent of flat and Rs.10,000/- for education of their daughter. After considering financial status and earning capacity of both parties at this juncture this court is not

inclined to pass any order regarding payment of rent and other expenditure by the respondent to the applicant. Hence, Point No. 3 is answered accordingly.

As to Point No.4

12. In view of findings recorded as against point No.1 to 3, following order is passed-

ORDER

1. The application Exh. 5 is partly allowed.
2. The respondent No.1 is directed to pay interim maintenance of Rs. 8,000/- per month to the applicant and her daughter from the date of filling of application i.e. from 26.06.2023 .
3. The copy of this order to be provided to the applicant free of cost.

Pimpri, Pune
Dated : 04/07/2024

(T.S.Mahadik)
Judicial Magistrate First Class,
Pimpri, Pune.