

**ORDER BELOW EXH. 11 FOR INTERIM MAINTENANCE U/S. 23
OF DOMESTIC VIOLENCE ACT.**

1] This an application under Section 23 of Protection of Women from Domestic Violence Act, 2005 (hereinafter refereed as D. V. Act, for sake of brevity) seeking half salary of non-applicant No. 1 amounting to Rs. 40,000/- per month and Rs. 20,000/- per month interim maintenance.

2] The non-applicant appeared in the matter on 18.11.2022, however till today not filed reply to the present application which is filed on 06.05.2023.

3] Heard learned counsel for applicant. None appeared on behalf of non-applicants for hearing. Perused record of case along with documents filed on record. Following point arises for my determination to which I have recorded my findings as under.-

Sr. No.	Points of determination	Findings
1.	Whether applicant prima facie to establish that she is subjected to domestic violence as encrypted in Protection of Women From Domestic Violence Act, 2005 at the hands of non applicants ?	Yes.
2.	Whether applicant is entitled for relief claimed ?	Yes. For partly reliefs.
3.	What order ?	As per final order.

R e a s o n s

As to Point No. 1:-

4] For granting interim relief under Section 23 of Domestic

Violence Act, the court has to satisfy prima facie that, non applicant has committed an act of Domestic Violence or that there is likelihood that and he may commit such act. As per scheme of Section 23 of D.V. Act, the statement of applicant on affidavit are sufficient to prove prima facie case. In present matter, the applicant has filed affidavit sworn by her in prescribed form in support of main application. There is nothing on record to show that, the non-applicant has made any sufficient arrangement for her maintenance and residence of applicant. Considering the story, it is clear that the matrimonial relationship between applicant and non applicants were not cordial. There are specific allegations against non applicant and there is nothing on record to disbelieve the statement made on affidavit. The contents of applications remained unopposed. Thus, the contents of application are sufficient to establish prima facie that, applicant has been subjected to domestic violence at the hands of non applicant. Hence, I answer **Point No.1 in affirmative.**

As to Point No. 2:-

5] From record prima facie it is seen that, there are several allegations of domestic violence at the hands of non-applicants. It is contended that, due to conduct of non-applicants the applicant is residing separately. There is nothing on record to show that, the non-applicant No. 1 has made any arrangement for maintenance of applicant. Being husband, it is his duty to maintain her. Thus, I have no hesitation to hold that applicant is entitled to get interim maintenance order.

6] Now, question remains in respect of quantum of maintenance amount. It is averred by applicant in present application that, the non applicant No. 1 is working in wholesale shop and earning salary of Rs. 40,000/- per month. His father is watchman having salary of Rs. 15,000/- per month. The non-applicants are having own house in area of 1 guntha. On the contrary, the applicant is unable to maintain herself and she is dependent on her father, who is vegetable vendor.

7] It is significant to note that, the present application is not supported by an affidavit and there are no pleadings in main application in respect of salary and earning capacity of non-applicants. However, the non-applicants have not opposed present application, even after granting sufficient opportunity. The amount of salary and earning capacity is a fact within special knowledge of non-applicants, however they are silent on said point. Hence, I have to do some guess work. In today's world even labour can earn Rs. 400/- to Rs. 500/- per day which approximately comes to Rs. 15,000/- per month. The non-applicant No. 1 prima facie appears to be in job and earning more salary. Even his father is alleged to be earning salary by doing job of watchman. Therefore, prima facie the non-applicant No. 1 is having helping hand and he is not having sole responsibility to maintain his parents. Therefore, considering the aforesaid discussion, the prevailing prices of essential commodities, cost of living, medical and educational expenses, as well as the financial status of both parties, in my opinion an amount of **Rs. 5,000/- per**

month towards monthly interim maintenance would suffice the purpose of applicant. Hence, the other prayer in respect of half monthly salary and maintenance of Rs. 20,000/- per month cannot be granted fully. Resultantly, I answer **Point No. 2 in partly affirmative.**

As to Point No. 3 :-

8] In view of my findings as to point Nos. 1 and 2, the applicant is entitled for maintenance order. Hence, I proceed to pass following order.

ORDER

1. The application is partly allowed.
2. The non applicant No. 1 is directed to pay Rs. 5,000/- (Rupees Five Thousand Only) per month to the applicant towards monthly interim maintenance from the date of present application i.e. 06.05.2023.
3. The copy of this order be given free of cost to the applicant and non applicants.
4. Copy of this order be forwarded to the concern Protection Officer.

Sd/-

(A.S. Agrawal)

6th Jt. Judicial Magistrate First Class
Vadgaon Maval, Pune

Date : 09/10/2023

CERTIFICATE

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

Name of the Stenographer	G. B. Mitha,
Name of the Court	Shri. A. S. Agrawal, 6 th Jt. C.J. J.D. & J.M.F.C., Vadgaon Maval, Pune
Date of Order & Judgment	09/10/2023
Order/Judgment Signed by the P.O. On	09/10/2023
Judgment/Order uploaded on	09/10/2023