

**ORDER BELOW EXH. 5 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 monthly interim maintenance of Rs. 15,000/- per month.

2] The application is opposed by the non-applicant by filling written statement below **Exh. 14.**

3] Heard learned counsel for both the sides. 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.-

<b>Sr. No.</b>	<b>Points of determination</b>	<b>Findings</b>
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 applicant ?	<b>Yes.</b>
2.	Whether applicant is entitled for relief claimed ?	<b>Yes. For partly reliefs.</b>
3.	What order ?	<b>As per final order.</b>

**Reasons**

**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. The inter-se relationship between the parties is not disputed. The question whether non-applicant has given divorce and whether same is valid cannot be considered at this stage. At present there is nothing on record to show that the non applicant has made any sufficient arrangement for her maintenance of applicant No. 1 to 3 i.e. his wife and two minor children. Considering the story, it is clear that the matrimonial relationship between applicant and non applicant 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-applicant. It is contended that, due to conduct of non-applicant the applicant is residing separately. There is nothing on record to show that, the non-applicant has made any arrangement for maintenance of applicants. Being husband and father, it is his duty to maintain them. Thus, I have no hesitation to hold that applicants are

entitled to get interim maintenance order.

6] Now, question remains in respect of quantum of maintenance amount. It is averred by applicant that, the non applicant is sales executive earning salary of Rs. 30,000/- to 35,000/- per month. He is having his own house and his financial position is sound. On the other hand, the applicant is unable to maintain herself. In this context, there is nothing on record to show that, non-applicant is doing job of sales executive, neither the details of the same has been given by the applicant.

7] It is significant to note that, the non-applicant has not stated that, his amount or source of income in his reply. The said fact is within special knowledge of non-applicant, but he has not given any details. A judicial note can be taken that, in today's world even labour can earn Rs. 400/- to Rs. 500/- per day which approximately comes to Rs. 15,000/- per month. However, in present case non-applicant stated in his affidavit of assets and liabilities at Exh. 18 that, he is Rikshaw driver and earning monthly income of Rs. 20,000/- per month. 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. 7,500/- per month** towards monthly interim maintenance would suffice the purpose of applicant No. 1 to 3.

**As to Point No. 3 :-**

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

**ORDER**

1. The application is partly allowed.
2. The non applicant is hereby restrain from committing any act domestic violence, in any manner during pendency of the application.
3. The non applicant is directed to pay Rs. 7,500/- (Rupees Seven Thousand Five Hundred Only) per month to the applicant Nos. 1 to 3 towards their monthly interim maintenance from the date of application.
4. The copy of this order be given free of cost to the applicant and non applicant.
5. Copy of this order be forwarded to the concern Protection Officer.

Sd/-

**(A.S. Agrawal)**

6<sup>th</sup> Jt. Judicial Magistrate First Class  
Vadgaon Maval, Pune

Date : 25/10/2023

**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 <sup>th</sup> Jt. C.J. J.D. & J.M.F.C., Vadgaon Maval, Pune
Date of Order & Judgment	25/10/2023
Order/Judgment Signed by the P.O. On	25/10/2023
Judgment/Order uploaded on	25/10/2023