

MHPU26004084-2021

Cri.M.A No.761/2021.



Yogita Shailenda Mundale

Applicant...

Vs

Shailenda N. Mundale

Respondents...**INTERIM ORDER BELOW EXH.05**

01. The application is filed for interim maintenance and Protection of against with the non-applicants.

02. It is prayed by the application that she is legally wedded wife of non-applicant no.01. She further stated that the non-applicant has subjected the applicant with mental, physical and economical harassment. Non-applicant no.01 denied to cohabit with her. Non-applicants draws the applicant from her matrimonial house and compelled her to reside separately. The applicant is unable to maintain herself and subjected to domestic violence at the hands of non-applicant. Therefore, she has filed an application against the non-applicant vide section 12, 18, 19, 20, 21, 22 of D.V. Act. The application will take its own time to decide, therefore, in the mean time, the applicant is unable to maintain herself and hence filed application vide Exh-05 to grant her interim maintenance of Rs.20,000/- per month as well as protection order against non-applicants. She further stated that non-applicant no.01 is earning rupees more than 50,000/- per month. Hence, prayed to allow the application.

03. On the contrary, non-applicants filed their reply and denied the contents the application as well as allegations alleged by the applicant. Non-applicant replied that the applicant herself is

irresponsible as well as having no interest to cohabit with the applicant. The non-applicant has attempted to give understanding to the applicant on various occasion, but the applicant never ready to understand and she herself left the house of non-applicant and not ready to cohabit. Non-applicant no.01 has responsibility of his old parent and he is a person having no particular fixed earning. He himself unable to maintain his parent on his earning, therefore, the application may reject.

04. Read the application, say of non-applicant. Heard Ld. Advocate for both sides. I have gone through the assets and liability filed by the both sides.

05. Considering rival submissions and contents of application as well as say, the documents filed on record, to decide the application I have framed following points for determination and my decision on it are as follows:

Sr.No.	Points	Decision
01.	Whether applicant has prima-facie application to get interim maintenance ?	In the affirmative.
02.	Whether applicant is entitled for the interim maintenance ? If yes ? What is quantum ?	In the affirmative.
03.	What order ?	As per final order.

As to point no.01

06. Both points are interlinked, therefore, to avoid of repetition of reasons. I discussed both the point collectively.

07. Considering the point of prima facie case to the extends of domestic violence, there is no domestic violence report on record, but there are specific allegations of domestic violence at the hands of non applicants to the applicant and it is supported with applicant's affidavit. The allegations of domestic violence are denied by the non applicant in toto. However, the application is at primary stage. Mere denial cannot consider that the allegations of domestic violence are false. Hence, when the allegations supported with affidavit, then it can be set that there is prima facie case of domestic violence to the applicant. Hence, I am answering point no. 1 in the affirmative.

As to point no.02

08. When there is prima facie case for the applicant, then point of quantum of interim maintenance is a core question. The non applicant not denied that applicant is residing separately. In these circumstances it is a legal duty of the non applicant to maintain the applicant as the applicant is his illegal wedded wife.

09. Applicant and non applicant have disclosed their assets and liabilities and it's supported with their affidavit. On perusal of assets and liabilities of both parties, it appears that the applicant is unable to maintain herself. On the contrary, on perusal of assets and liabilities of the non applicant no. 01, it shows his earning source and his earning is of Rs. 13,500/- (Rupees Thirteen Thousand Five Hundred Only) per month. Considering liability of non applicant, he is definitely able to give interim maintenance of Rs. 3,000/- (Rupees

Three Thousand Only) per month as well as towards the expences for separate residence of Rs. 1000/- (Rupees One Thousand Only) per month. Hence, I am answering point no. 2 in the affirmative.

10. At the conclusion of my reasoning I proceed to pass following order.

ORDER

- 1.** The application is partly allowed.
- 2.** The non applicant is hereby directed to pay monthly interim maintenance of Rs. 3,000/- (Rupees Three Thousand Only) per month to the applicant from the date of filling of application and amount of Rs. 1,000/- (Rupees One Thousand Only) per month towards the rent of separate premises of residence to the applicant till final decision of the main application.
- 3.** Prayer of “Stree – Dhan” and other articles is hereby rejected as said issue is subjected to trial and proof.
- 4.** Oral order dictated on computer and pronounced in open Court.

Date :- 05/07/2023.
Place:- Vadagaon Maval.

(R.N.Chavan)
Judicial Magistrate F.C.
Vadagaon Maval, Dist.Pune.

I affirms that the contents of this P.D.F file order are same word to word as per original order.

Name of Steno : Shri. A. U. Patil
Court Name : Shri. R.N.Chavan, 2nd Jt. C.J.J.D. &
J.M.F.C., Vadgaon Maval, Pune
Date of order : 05/07/2023
order signed by P.O. on : 05/07/2023
Order uploaded on : 20/07/2023