

MHRT130002242023 	Received on	:	29.08.2023
	Registered on	:	29.08.2023
	Decided on	:	03.08.2026
	Duration	:	02Ys 11Ms 04Ds

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, CHIPLUN

(Presided by D.B.Mhalatkar)

PWDVA Appeal No. 06/2023

(Exhibit Number 19)

	Shri. Sajid Mehmood Kaskar Age : 46 years, Occu: Service R/o. Paag, Kaskar Aali, Chiplun, Taluka Chiplun, District Ratnagiri	Appellant
	Versus	
1.	Saher Sajid Kaskar Age : 38 years, Occu: Housewife	
2.	Muhammed Adeeb Sajid Kaskar Age : 14 years	
3.	Hasnain Sajid Kaskar Age : 6 years Respondent No.1 herself and No.2 and 3 minors Mother R/o. Gowalkot, Chiplun, Taluka Chiplun, District Ratnagiri	Respondents
4.	Khalid Mehmood Kaskar Age : 43 years, Occu: Service	

5.	Nahida Khalid Kaskar Age : 38 years, Occu: Housewife	
6.	Mohsin Hisamuddin Tisekar Age : 59 years, Occu: Service	
7.	Shehnaz Mohsin Tisekar Age : 51 years, Occu: Service	Respondents
8.	Altamash Mohsin Tisekar Age : 29 years, Occu: Education	
9.	Shabana Samir Dalvi Age : 48 years, Occu: Housewife Respondent No.4 to 8 R/o. Paag, Chiplun, Taluka Chiplun, District Ratnagiri	
10.	The State of Maharashtra	

Appearance :-

For Appellant	Advocate Shri. F. G. Pathan
For Respondents No.1 to 3	Advocate Shri. S. S. Butala
For Respondent No.4 to 10	Pro forma Parties
For Respondent No.10	Exparte

CRIMINAL APPEAL UNDER SECTION 29 OF THE PWDV ACT

(Arising out of order dated 31.03.2023 passed Below Exh. 36 by
J.M.F.C., Chiplun in PWDV Application No.35/2022)

J U D G M E N T

(Pronounced and Delivered on 03rd day of August 2026)

The appellant/original opponent filed this appeal against the impugned order passed below Exh. 36 on 31.07.2023 by the learned JMFC Chiplun in PWDVA Application No.35/2022, wherein the learned trial court allowed the application in respect of restraining the opponent No.1 from alienating the assets and properties.

(The parties and the documents before the trial Court are referred to by the same status as in the trial Court to avoid confusion.)

The Factual Matrix of an appeal is as follows:-

2. The respondent No.1 filed a petition under the Protection of Women from Domestic Violence Act, seeking various reliefs such as maintenance and residence. It is claimed by respondent No.1 that the appellant has a salary of more than Rs.5,00,000 per month. To evict respondent No.1, the appellant paid her Rs.5,00,000 as rent and also filed several cases through his relatives. To undermine respondent No.1's rights, the appellant is alienating properties in his name to prevent the execution of the maintenance order. Therefore, respondent No.1 filed an application to restrain the appellant from selling land bearing Survey Number 169/A1/3, 170/1/1A3, 205/1/1A, 207/1B/2, 210/4, 211/2/4, 212/A1A/1/1A1A, 170/1/1A/2, 266/A/8, 212A/1/1/2B, 205/1/1B, 295/A1A1A/39 from village Chiplun; Survey Number 715 from village Bhile; Survey

Number 52/19 from village Pimpali Khurd; and Chiplun Municipal Council House No. 963 & 964, as well as Chiplun City Survey Number 7422/A.

3. The appellant filed a reply at Exh.52 to the application and opposed the prayer of respondent No.1. The appellant claimed that the properties are ancestral properties and he holds a joint share. In the affidavit at Exh.49, the appellant stated that he purchased a property at village Bhile along with his brother Khalid, and without his brother's consent, he cannot transfer the property. Respondent No.1 has no right to claim an injunction, as the 7/12 extract of the ancestral properties of the appellant records the names of 40 persons. Any order regarding this property will affect the rights of other persons. Additionally, the appellant transferred his share to respondent No.2, 5, and 7 through a registered gift deed. Under Muslim Law, respondent No.1 has no share in the property. Therefore, the appellant prayed that the application be rejected.

4. I heard learned Advocate for appellant and learned Advocate for respondents.

5. In view of rival contentions, the following points arise for my determination, and I have given my findings with reasons given below.

Sr. No	Points	Findings
1.	Whether the original applicant proved that she is entitled to protection regarding the restraining of the respondent from alienating the immovable property held by him?	Yes.
2.	Did the order of the learned trial court require interference?	Partly Yes.
3.	What order?	Appeal is partly allowed.

REASONS

As to Point No.1 to 3:

6. It is argued for the appellant that under section 18 of the Protection of Women from Domestic Violence Act, there is no provision to grant a blanket temporary injunction to restrain the appellant from alienating the properties. He pointed out the proviso that the appellant may be restrained from alienating without the leave of the court. The learned advocate relied on the judgment of the Hon'ble Kerala High Court in the matter of **Rajan Subramanyam v/s. Siji 2014 KER 28128**.

7. On the contrary, it is argued on behalf of the respondent that by executing the Gift Deed, the appellant clarified his intention to prevent the respondent No.1 from benefiting from any order that

the trial court may pass. The order is just and legal, and consistent with the provisions of the law. Therefore, he requested the dismissal of the appeal.

8. The learned trial court considered the provisions under section 18 of the Protection of Women from Domestic Violence Act and passed an order of injunction to restrain the appellant from selling or alienating the abovementioned properties to the extent of his share.

9. Section 18(e) of the Protection of Women from Domestic Violence Act 2005 read as under;

18. Protection orders:-

The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from

(e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by

the parties or separately by them without the leave of the Magistrate;

10. Threat of alienation or attempt to alienate the property by the appellant/original respondent to avoid future liability for maintenance can be considered domestic violence of an economic nature. In this matter, the appellant executed two gift deeds dated 02.05.2023 in favour of his brother and sisters. This shows that the appellant is attempting to alienate the properties without any consideration to defeat the claim of the respondent/original applicant. Therefore, the order of the Magistrate to grant an injunction prohibiting the appellant/original respondent from alienating the properties mentioned in the application is warranted. The judgment of the Hon'ble Kerala High Court in the matter of Rajan Subramanyam v/s. Siji, 2014 KER 28128, pertains to a final decision after the evidence was presented. Moreover, the property in respect of which the order is passed is owned by the husband's mother. Therefore, the said judgment is not helpful to the appellant at this interim stage. The provision under section 18(e) of the Protection of Women from Domestic Violence Act is useful at this interim stage and for the execution of any order passed in favour of the original applicant.

11. However, section 18(e) of the Protection of Women from Domestic Violence Act provides for a limited form of injunction. The husband can be prohibited from alienating property held either jointly or separately without the leave of the Magistrate. In other

words, such an order cannot be a blanket injunction. The husband may seek the Magistrate's permission for alienation. Therefore, the order of the learned trial court needs to be modified accordingly. Hence, I answer point No.1 in the affirmative and point No.2 partly in the affirmative, and in response to point No.3, I proceed to pass the following order.

O R D E R

1.	The PWDVA Appeal No.06/2023 is partly allowed.
2.	The Judgment & Order of the learned Court of Judicial Magistrate First Class, Chiplun on application Exh.36 dated 31.07.2023 in PWDVA Application No.35/2022 is modified as follows.
	The respondent No.1 is restrained and prohibited from alienating the assets and properties specified in the application to the extent of his share without leave of the Magistrate.
3.	Both parties to bear their own costs.
4.	The copy of this judgment be provided free of cost to both the parties.
5.	The copy of this judgment be sent to the learned JMFC Chiplun forthwith.

(D.B.Mhalatkar)

Date: 03.08.2026

Additional Sessions Judge, Chiplun

Case No. PWDVA Appeal No.06/2023 (By Judgment)

I affirm that the contents of this pdf file order are same word as per original order.

Name of Grade I Stenographer : Sandeep S. Patil

Court Name : Addl. Sessions Judge, Chiplun.

Date of Decision : 03.08.2026

Order Signed by P.O. on : 03.08.2026

Order uploaded on : 03.08.2026