MHSN030005162021

PWDVA No. 19/2021
Madhuri Vs. Somayya

Order below Exh.5

01] Read. Heard the learned advocate of applicant. In order to give a glimpse to this application, without making much ado therefor, this application is for interim relief under Section 23 (1) of *Protection of Woman From Domestic Violence Act, 2005* (PWDVA Act). To understand the subject matter, facts are succinctily put hereunder.

02] The applicant is legally wedded wife of respondent. After marriage she had been to her matrimonial home for cohabitation. After some days she had to face illtreatment from respondent. He neglected her and did not take proper care of her. Applicant came to know from reliable source that respondent has developed extra marital relationship with somebody. When she asked him about it, he dodges from giving reply and answering as to why he is avoiding the applicant. Thereafter, when the conduct of her husband was beyond any reformation and more particularly when he was incorrigible, she narrated the incident her parents and relatives. They intervened to convince the respondent for behaving properly. Despite of this, no change is seen in the behaviour of respondent. He was heedless. She faced agonies due to illtreatment meted out against her. Applicant and

her parents informed about the conduct of respondent to his parents and relatives. Thereafter, he tendered apology and assured that he will behave properly. Yet, there was no respite from the dodging conduct of accused. Thereafter, he started taking liqour and under its influence started beating applicant. In this way, she has suffered the turmoil in her matrimonial home as well as in her married life. She was threatened of her exit from matrimonial home. He was compelling applicant to leave him and for culminating the marital tie. Considering the fear that, any untoward incident may occur, she came to Sangli and started residing with her parents. Accordingly, she claimed protection order, maintenance of Rs. 6,000/- per month from respondent.

03] Considering the verbose pleading of applicant, I deem it appropriate to frame the following point against which I given my finding and reasons to follow-

Sr. No.	Point	Findings
1.	Does applicant prima facie discloses that respondent is committing or has committed an act of domestic violence or there is likelihood that respondent may commit and act of domestic violence ?	...In the Affirmative
2.	Whether applicant is entitled for interim protection order under Section 18 of PWDVA Act ?	....In the Affirmative

3.	Whether applicant is entitled for monthly maintenance of Rs. 6,000/- under Section 20 (1) (d) and Section 20 (3) of PWDVA Act ?	She is entitled for lumpsum maintenance under Section 20(3) of PWDVA.
4.	What Order ?	As per final order.

Reasons

As to points No.1 to 4

04] The application proceeded without say of respondent. Applicant submittted documents such as marriage card, photographs snapped at the time of marriage, 7/12 extract of the land in block No.15/2 situated at Jath to the extent of 1.71Ares which is commonly possessed. The repsondent appeared through his Ld. Advocate vide vakilpatra at Exh. 9. Propitious opportunity has been rendered to repondent for submission of his say. For the want of his steps of say, it is not out of place to draw an inference that, he has admitted the contents of this application. Therefore, it is not incorrect to *prima facie* opine that, applicant was subjected to domestic violence under Section 3 of PWDVA, more particularly within the parameters of explanation II of Section 3 of PWDVA.

05] The capacity to pay monthly maintenance of respondent is not rebutted at this stage. But, the court is bound to assess the capacity of respondent to pay. Prima facie the 7/12

extract as stated above would generate a belief that he has landed property in his name. Therefore, he can provide maintenance to his wife. It is also necessary to be alive to the situation that, this application under Section 23 (1) of PWDVA is allowed in letter and spirit for monthly maintenance, the relief in the main application under Section 12 of PWDVA will remain under abeyance. The progress in the main application will get delayed. Therefore, I have arrived at a conclusion, that this is a fit case to award lumpsum maintenance at this stage because obvisouly there is no serious dependency on maintenance of applicant is projected at this stage. Hence, a lumpsum maintenance of Rs. 20,000/- under Section 20 (3) of PWDVA would be justifiable and suffice for the present stage. It is also necessary to direct applicant to conduct evidence promtly to expediate this matter. Resultantly, I have answered point No. 1 and 2 in the affirmative and point No. 3 accordingly and in answer to point No. 4 I proceed to pass following order.

	O R D E R
1.	This application Exh. 5 for interim relief under Section 23 (1) of PWDVA is partly allowed.
2.	Respondent is restrained from committing, aiding, abetting in the commission of domestic violence against applicant. Flouting of this order by respondent will be treated as an offence.

3.	Respondent is directed to pay Rs. 20,000/- (Twenty thousand only) as lumpsum maintenance under Section 20 (3) of PWDVA to applicant positively.
4.	Issue letter to the Protection Officer for implentation of this order. Copy of the order be sent to the Protection Officer.
5.	Applicant shall conduct evidence promtly.
6.	Applicant and respondent may resort to mediation for their reunion.
7.	Copy of the order be given free of costs to the applicant under Section 24 of PWDVA.

SYED WAHAB ABDULLAH
Digitally signed by SYED WAHAB ABDULLAH
Date: 2022.06.24 10:36:42 +0530

(Wahab A. Syed)
3rd Judicial Magistrate, F. C.
Sangli.

Date: 22.06.2022

CERTIFICATE

I affirm that the contents of this PDF file are same as per original.

Name of the Court	:-	Shri. Wahab A. Syed 3rd Jt. Civil Judge Jr. Dn., & J.M.F.C., Sangli.
Name of Stenographer	:-	A.P.Patil.
Date of decision	:-	22.06.2022
Order signed by P.O. on	:-	23.06.2022
Order uploaded on	:-	24.06.2022