

MHSN060010942022 	PWDVA Appln.48/2022 Jiyaparvin Shaikh Vs Nazir Shaikh
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ORDER BELOW EXH.138

1. The applicant has filed the present application seeking issuance of a recovery warrant against the respondent for recovery of arrears of interim maintenance amounting to Rs.1,43,500/-.
2. The record reveals that an order of interim maintenance was passed in favour of the applicant. According to the applicant, the respondent has failed to pay the entire amount as directed by the Court and, therefore, recovery proceedings are required to be initiated against him.
3. Upon perusal of the record, it appears that the respondent has already paid an amount of Rs.3,42,500/- towards interim maintenance. Such substantial payment made by the respondent indicates his readiness and willingness to comply with the order of interim maintenance. Though certain arrears are shown to be outstanding, the conduct of the respondent does not indicate a deliberate or willful refusal to comply with the order passed by this Court.
4. It is further revealed from the record that the present application came to be filed on 04/06/2022. The interim application itself came to be decided on 04/03/2023. The arrears reflected on record appear to have accumulated during the pendency of the proceedings. At the same time, the payments made by the respondent from time to time

demonstrate that he has been making efforts to discharge his liability under the interim order.

5. It is also pertinent to note that the main proceeding is already part-heard. The evidence of the applicant has been closed and the matter is presently fixed for the evidence of the respondent. Considering the stage of the proceeding, there is every possibility that the matter can be concluded within a short period. Therefore, instead of adopting coercive measures at this stage, it would be appropriate to direct the respondent to proceed with his evidence without seeking unnecessary adjournments and to clear the outstanding arrears at the earliest.

6. Issuance of a recovery warrant is a coercive measure and ordinarily becomes necessary when a respondent persistently neglects or deliberately avoids payment despite having sufficient means to comply with the order. In the present case, considering the substantial amount already paid by the respondent, his continued readiness to comply with the maintenance order and the advanced stage of the main proceeding, this Court is of the opinion that it would not be just and proper to issue a recovery warrant at this stage.

7. The ends of justice would be met by granting an opportunity to the respondent to clear the outstanding arrears within a reasonable period and to continue paying the monthly interim maintenance regularly. Hence, the application deserves to be rejected.

ORDER

1. The application for issuance of a recovery warrant is hereby rejected.

2. The respondent is directed to clear the outstanding arrears of interim maintenance as early as possible.
3. The respondent shall continue to pay the monthly interim maintenance regularly and punctually in accordance with the order already passed by this Court.
4. The respondent shall adduce his evidence on the next date of hearing without seeking unnecessary adjournment. In case of failure, appropriate orders including closure of evidence shall be passed in accordance with law.
5. In case of default in payment of arrears or regular interim maintenance, it shall be open for the applicant to take appropriate steps in accordance with law.

Miraj
Dt. 01.06.2026

(Smt. P. D. Gaikwad)
Judicial Magistrate F.C., Miraj
(Court No.3)

CERTIFICATE

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

Name of Stenographer	:- Mr. U.PPatil			
Name of Court	:- 2 nd Jt. Civil Judge (J.D.) and Judicial Magistrate First Class, Miraj, Dist., Sangli.			
Date of decision / typed	:-	01	06	2026
Judgment/order signed by the P.O. on	:-	01	06	2026
Judgment/order uploaded on	:-	01	06	2026