

**Order Below Exh.15 in Cri.M.A 150/2023**  
**Prema Vs Ramesh and Ors**  
**(CNR-MHSN080010302023)**

The instant proceedings is under the provisions of the Protection of Women from Domestic Violence Act, 2005 (the DV Act) for various reliefs.

2 The applicant has sought consolidated interim monetary relief of Rs.15,000/- (Rs Fifteen Thousand only) under Section 23 of the DV Act in and house rent of Rs.7000/- (Rs Seven Thousand only) per month.

3 Brief facts :-

The applicant is the legally wedded wife of non-applicant No.1. The marriage of the applicant with non-applicant No.1 was solemnized on 14/05/2002 as per the Hindu rites and customs. The expenses of the marriage was born by the parents of the applicant. the applicant went to cohabit with non-applicant No.1 at Bangalore. Non applicant 2 is the second wife of non applicant 1. The marital tie between the applicant and non-applicant No.1 is intact. Non-applicant No.3 and 4 are respectively, the mother and brother-in-law's wife of non-applicant No.1. Non applicant 5 is the brother-in-law and non applicant 6 is the non applicant 1's sister. The applicant could not conceive. Non applicant 1 got her examined. The applicant was harassed for failure to conceive, physically and mentally. Non applicant 1 and non applicants 3 to 5 instigated non applicant 1 to consent to the second marriage of non applicant 1. The applicant was driven out of the house. Non applicant 1 went to Malaysia for job. Non applicant 1 accompanied the applicant. Non applicant 3 to 6 instigated non applicant 1 for the second marriage. The applicant and non applicant 1 returned to India (from Malaysia). Non applicant 1 made the applicant to consent for his second marriage and in consideration agreed to transfer two acres land at Mauje Shivangi bearing No.785. The applicant consented for second marriage of non

applicant 1. Non applicant 1 performed second marriage and went to Malaysia, with the applicant and non applicant 2. They remained there for three years. The applicant was illtreated and harrassed. In 2021, non applicant 1 sold six acres land for consideration of Rs.65,00,000/-(Rs.Sixty Five Lakh only) and gave the entire amount to non applicant 2. In December 2021, the applicant was beaten and driven out of the house. Non-applicant 1 is a chemical engineer also having anugrah agro kendra, and earns Rs.30,00,000/- (Rs.Thirty lakh only) per year income from the business. Non applicant 1 has agricultural land bearing S.No.785, Mauje Shivangi admeasuring 6 acre 6 Guntha and earns Rs.20,00,000/-(Rs.Twenty lakh only) per year. Hence, the present application.

#### 4 Brief contentions of non-applicant 1:-

The non-applicant 1 contested the instant application by filing detailed say below Exh.13. The factum of marriage and the relation inter se the parties is an admitted fact. It is vehemently denied by the non-applicants, that the applicant was ever treated or met with physical, mental or otherwise cruelty or harassmet of any nature whatsoever. The contentions have been raised alternatively. The domestic incident report and the application are denied and disputed. The non applicant has never raised quarrel with the applicant. For conceiving, the applicant was treated in Bangalore, and for the same incurred heavily i.e., Rs.25,00,000/-(Rs.Twenty Five lakh only) as the medical expences. The applicant was also treated in Malaysia, however she could not conceive. At the instance of the applicant, non applicant 1 contracted second marriage with non applicant 2 on 13/06/2016, and the applicant has offered consent to the same. Non applicant 1 left the job in Malaysia and returned to Bangaluru. During the stay in Bangaluru, there was no dispute. Non applicant 1 has purchased the agricultural land at Mauje Shira on 17/09/2017. Non applicant 1 suffered loss, who has availed agricultural loan, from the private persons etc., The brother of applicant started demanding

Rs.25,00,000/- from non applicant 1 to be kept in a fixed deposit. Non applicant 1 was not in a position to comply the same. On 03/08/2021 the applicant left to her parental house, together with the stridhan. The applicant insisted that unless Rs.25,00,000/- is kept in FD receipt, she would not join the conjugal society, The non applicant 1 suffered mental shock. Non applicant 1 has house property at Mauje Shivangi. The applicant insisted for seperate residence at Vijaypur. Non applicant 1 is heavily indebted, and availed a private loan and running shop. Hence, the application is opposed.

5 Perused the instant application, Say (Ex.13), documents on record filed by the parties, the affidavits of assets and liabilities of the applicant and non-applicant No.1.

6 Heard both the sides at length.

7 The following points arise for my determination, to which I record my findings together with reasons thereof.

Sr.No	Points for determination	Findings
1	Whether the applicant is an aggrieved person under the DV Act?	Yes
2	Whether the applicant prima facie makes out incidents of domestic violence?	Yes
3	Whether the applicant is entitled to interim monetary reliefs? If yes, the quantum thereof.	Yes As per the final order
4	What order?	As per the final order

**Points No.1 to 3**

8 The above points for determination are taken up for hearing together for the sake of brevity, convenience and to avoid repetition.

9 One of the relevant provisions in Section 23 of the Act, which provides for the power of the Court, is to grant interim and ex-parte orders.

10 For sake of convenience and to avoid repeating the same is reproduced herein below

S.23- Power to grant interim and ex-parte orders.- (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under Section 18, Section 19, Section 20, Section 21 or, as the case may be, Section 22 against the respondent.

11 The monetary relief under Section 20 (2) of the DV Act, is in addition to the maintenance order granted under Section 125 of the Code of Criminal Procedure,1973 or any other law, for the time being in force. The monetary relief, if granted should be adequate and reasonable and consistent with the standard of living to which the aggrieved person is accustomed. The Court is required to consider the nature and circumstances of the case if the monthly payment/ interim monetary relief(s) is to be allowed.

12 For grant of interim monetary relief, it is a sine qua non that the application prima facie discloses that the respondent-non applicant is committing or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence [Section 23(2) of the Act].

13 The application (Ex.1) is on oath, which **prima facie** mentions are various incidents of domestic violence met out by the applicant, at the hands of the non-applicants particularly the allegation that the applicant is unable to conceive, second marriage etc.,

14 The relations are admitted. Further, the parties were living in a domestic relationship i.e., the applicant and non-applicant No.1 as

wife and husband. The act of domestic violence is not confined to physical cruelty/violence but includes mental or economic abuse, under Section 3 of the Act. The application (Ex.1) prima facie specifies incidents of physical, mental, economic abuse/violence/cruelty at various points of time in the past. There is a prima facie mention of physical and mental cruelty as to non-applicant No.1 drowing out of the house the applicant more particularly mentioned in Para 4.4 of the application (Ex.1) etc., The Protection Officer has filed his Domestic Incident Report (DIR) on record.

15 It further prima facie, appears that the applicant has stated that the applicant was beaten and abused.

16 The relations interse the parties is an admitted fact. Therefore, in the above premises, it may be said, that the applicant is an aggrieved person within a domestic relationship. Therefore, **prima facie**, it may be said that the non-applicants and more particularly non applicant 1 committed domestic violence on the applicant.

17 It is vehemently argued that the matrimonial relationship is admitted. For the admitted domestice relationship non applicant 1 is under legal and moral obligation to maintain the applicant. Non-applicant No.1 being the husband of the applicant failed and neglected to maintain her and therefore, the application may kindly be allowed in toto.

18 Per contra, it is argued that since no case of domestic violence has been made out, the application is misconceived. The applicant left for her paternal home on her own, afforded consent for the second marriage, and left the conjugal society and while doing so carried away all her Stridhan. Non applicant 1 is running a shop. The applicant is doing agricultural work having source of income. Non applicant 1 incurred heavily on the medical treatment of the applicant so that she may conceive. The other non applicants have been arrayed

to harass them. Therefore, it would be prayed that the application may kindly be rejected.

19 Though, below Ex.2 the date of separation of the parties is not mentioned, it is the case of non-applicant No.1 below Ex.31 that the date of separation is 03/08/2021. Notwithstanding, the above fact, it may be said that admittedly, the applicant is residing at her parental home since December 2020 or August 2021.

20 The applicant failed to bring on record any document to suggest the source of income etc., of non-applicant No.1. Non-applicant No.1 contended that he is running a shop. Non-applicant No.1 failed to produce on record, any material to suggest that the applicant is doing agricultural work. Therefore, the pleadings, documents etc., have to be appreciated and the guesswork method has to be applied, for the law laid down in **Rajnish Vs Neha (2021) 2 SCC 324**.

21 On perusal of the affidavit of the assets and liabilities of the applicant (Ex.2), it may be said that there is a clear mention of the fact, that no maintenance or interim maintenance has been allowed in any other proceedings in favour of the applicant. There is no mention of any source of income of the applicant. The education is mentioned therein is as HSC. The education of non applicant below Exh.2 is mentioned as chemical engineer, and source of income from fertilizer shop. Non-applicant 1 below Ex.31, it has been mentioned as Diploma in Chemical engineering. Therefore, it may be safely contended that the applicant wife, has the minimum education. Nothing has been produced on record, to substantiate the fact, that the applicant has source of income.

22 From Ex.31 it may be said that non-applicants 2 and 3 and master Nandan (age 7 years) are shown as dependants upon the applicant. The approximate expenses incurred on account of the dependants, has not been mentioned, and it has been mentioned that "as per filing say". This when considered with the details of income of non-applicant 1, HDFC Car loan of Rs.12,00,000/-, agricultural

loan of Rs.3,50,000/-, other loan of Rs.15,00,000 and hand loan of Rs.10,00,00/- has been shown as the liabilities. One agricultural undivided land has been mentioned to be owned by non applicant. As per the non applicant 1 he is an income tax payee, and he has submitted a copy of IT returns. In the affidavit below Exh.31, however, no such documents have been annexed. The applicant has produced below Exh.34, the record of rights duly translated in Marathi from Kannada which shows that one of the agricultural land bearing No.785 is owned and possessed by non applicant 1. The applicant has prayed for Rs.15,000/- towards monetary relief or alternatively rent of Rs.7000/- a month. For the liabilities vis-a-vis, the revenue record is considered, it is suggestive of the fact, that unless, non applicant 1 has financial capacity, he could not bear the expences. From the DIR, there is a mention of occupation of non applicant 1 as business. This when considered with the detailed income of the deponent below Exh.31, small business at village Shivangi, has been mentioned. Therefore, this has to be considered as the source of income.

23 Non-applicant No.1 has flatly denied his responsibility to pay for any amount towards maintenance to the applicant (Ex.12) and having any source of income. Non-applicant No.1 is an able bodily person. Non-applicant No.1 has mentioned his education qualification to be Diploma in Chemical engineering.

24 The non applicant 1 has served an experience of working in Malaysia. Prima-facie, nothing to suggest that the applicant has source of income. the general expenses required below Exh.12, for the applicant is mentioned to be Rs.10,000/- including rent etc., Therefore, prima-facie, the interim monetary application, and the contents in Exh.2 are contradictory. When the liabilities of non applicant 1 is considered, certainly a person having financial credit can avail such huge loan of Rs.40,50,000/-. Therefore, at least non applicant may have income of Rs.60,000/- to 70,000/-, he cannot

repay the car/agricultural loan etc., and bear expences of the deponent. If the facts are prima-facie, considered from the angle, that the other agricultural lands below Exh.34/Sr.Nos.2 and 3 are not held by non applicant 1 but by other non applicants, the fact remains if they are dependents on non applicant 1 certainly, the income generated from their agricultural lands, would an additional source of income to non applicant 1. Therefore, in the peculiar facts the applicant may be entitled to a monetary relief of Rs.10,000/- per month towards the interim monetary relief, including the house rent etc., There is no decree of divorce.

25 There is nothing to prima-facie, suggest that the applicant is earning. So far, as the submissions on behalf of non-applicant No.1 is concerned that the applicant is guilty of desertion, the fact remains there is nothing on record to suggest that non-applicant No.1 made attempt to join the conjugal society of the applicant. There is no decree of restitution of conjugal rights in favour of non-applicant No.1 on the contrary second marriage has been pleaded. It is settled law that only when such decree is obtained, the other spouse may be said to have deserted.

26 The contentions of non applicant 1 is prima-facie, contradictory while alleging consent by applicant 1 to perform second marriage, having a child from the second marriage and accepting the applicant to reside with him.

27 The fact remains non-applicant No.1 is under moral and legal duty to maintain the applicant, who is prima-facie unable to maintain herself.

28 No specific details of the amount claimed under various heads such as educational, food, medicine etc., or the like mentioned by the applicant or documents to suggest the same. Nevertheless, the interim monetary relief should be just, fair, reasonable and adequate. The interim monetary relief may not be too luxurious nor too penurious. The necessary considerations are the standard of living of both the

parties etc., Therefore, the consolidated interim monetary relief @ Rs.10,000/- (Rs Ten Thousand only) per month may be justified.

29 Admittedly, no interim maintenance has been allowed by any of the competent Civil Court/Criminal Court, in favour of the applicant. Non-applicant No.1 has a sufficient source of income. The applicant is dependent upon non-applicant No.1. The applicant is residing at Jath.

30 Prima-facie the standard of living of non-applicant No.1 is on a higher pedestal than the applicant. Prima-facie, no brother may ask for rent from his sister i.e., the applicant. No prima-facie, documents to suggest the same. Costs follow the event. Accordingly, the points for determination are answered. Hence, the following

### **Order**

The application is partly allowed in the following terms.

2 Non-applicant No.1 to pay interim monetary relief to the applicant-Wife a sum of Rs.10,000/- (Rs Ten Thousand only) per month, from the date of filing of the application (Ex.1) i.e 23/06/2023 until disposal of the main proceedings within 2 months from today.

3 Costs of the application is quantified @ Rs.5000/- (Rs. Five Thousand and Five Hundred only) payable by non-applicant No.1 to the applicant.

4 The free copies of the instant order be provided to the parties to the application under Section 24 of the Protection of Women from Domestic Violence Act, 2005.

5 Both the parties to expedite the disposal of the proceedings.

6 Applicant to file separate execution proceedings for the payment or part payment or arrears.

Jath

Date:-11/07/2025

(Sanjay P.Bunde)

J.M.F.C, Jath (Court No.2)