

ORDER BELOW Exh.04 IN P.W.D.VA. No.36/2022

1. Applicants are claiming, in the main application, various reliefs u/s.18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 ('the Act' for short). By the present application applicant No.01 has prayed for interim relief in the form of maintenance allowances for herself and her son.
2. Respondents have filed reply and contested the application. They have also opposed the prayer for interim maintenance by filing say at Exh.08.
3. Read the applications and say. Perused documents on record including affidavit of assets and liabilities submitted by applicant No.01 and respondent No.01. Heard learned advocate for the applicants and learned advocate for respondents.
4. Learned counsel for the applicant has submitted that the relation between parties are not in dispute. The allegations in respect of domestic violence of the applicant at the hands of respondent are prima-facie established. Thus, the applicant is entitled for the reliefs, as claimed.
5. Learned counsel for the respondent, on the other hand, has submitted that the applicant No.01 was not interested to cohabit with the respondent No.01. They have not committed domestic violence against the applicant No.01. Respondent No.01 is ready to cohabit with the applicants. He has no permanent source of income. His mother and two daughters are dependent upon him. Thus, she is not entitled for the reliefs claimed.

6. Admittedly, applicant No.01 is the wife and applicant No.02 is the son of respondent No.01 Ganesh. Thus, the domestic relationship between the parties has prima facie made out. It is alleged by the applicant that the respondents have subjected her to domestic violence. She was harassed and ill-treated for the reason of demand of dowry. Further, respondent No.01 has illicit relations with another lady.

7. On the other hand, according to respondents, applicant was not willing to cohabit with the respondent. At her own, she left the matrimonial house. Thus, he prayed for rejection of the application.

8. Applicant and respondents are alleging against each other. Applicant alleges that she was ill-treated by the respondents and he denied her cohabitation. According to respondents, applicant herself left the company of respondent No.01. Further, she subjected the respondent No.01 to cruelty. Noticeably, the relations between the parties are admitted. It is not in dispute that two daughters and applicant No.02 are children of applicant No.01 and respondent No.01. It is also not in dispute that at present both daughters are residing with respondent No.01 and son i.e. applicant No.02 is residing with applicant No.01.

9. In view of contentions and counter contentions of the parties, at this stage, it is difficult to accept that respondents caused domestic violence against the applicant. Respondents have filed on record the copy of the judgment and decree passed in HMP No.226/2022. It reads that the respondent No.01 filed petition

under Section 9 of Hindu Marriage Act, for Restitution of Conjugal Rights. Said petition came to be allowed and applicant is directed to join cohabitation with petitioner i.e. respondent No.01 within 30 days. It appears that the applicant have not complied with the said judgment and decree. Mere filing of appeal against the said judgment and order is not sufficient.

10. According to applicant, respondent No.01 is getting huge income from agricultural land Gat No.420 admeasuring 01 H 16 R. Further, respondent No.01 is doing messers work and getting Rs.1500/- to 1600/- per day income. She is need in money for the maintenance of herself and applicant No.02. Therefore, according to her, she is entitled for the maintenance allowances of Rs.25000/- per month for herself and applicant No.02 and Rs.3000/- per month for rent of the house, as claimed.

11. The applicant has filed her affidavit of assets and liabilities. In the said affidavit its stated that she is getting maintenance of Rs.3500/- per month from the respondent No.01 in HMP No.226/2022. Respondent No.01 also filed his affidavit of assets and liabilities. In said affidavit it's stated that he is not getting income more than Rs.6000/- per month.

12. As per the contentions of applicant, respondent No.01 is doing messers work. Thus, it is clear that he has not permanent source of income. The applicant has filed on record 7/12 extract of land Gat No.420 situated at Shembal-pimpri. It goes to show that there is 01 H 16 R land in the name of respondent No.01. It is not in dispute that two daughters namely Shradha and Purva of

applicant No.01 and respondent No.01 are with the respondent No.01 and he is maintaining to both these daughters. Respondent No.03 and 04 are married sisters of the respondent No.01. They were residing at their matrimonial house. Respondent No.02 is the mother of respondent No.01. Her age is more than 60 years. It is not case of the applicant that respondent No.02 getting income from any of the source. Thus, the respondent No.01 has to maintain his old age mother. Therefore, it appears that the mother of the respondent No.01 is solely depend upon him.

13. Thus, respondent No.01 has liability to maintain his two daughters and mother. The interim maintenance amount of Rs.3500/- has been already granted to the applicant in HMP No.226/2022. Further, the copy of the judgment and decree passed in HMP No.226/2022 reads that the respondent No.01 has directed to pay the arrears of maintenance. Considering the liabilities of the respondent No.01 and his income, he is not able to provide further maintenance amount. In the circumstances, I pass following order:-

ORDER

1. Application at Exh.04 is rejected.

Sd/-

(Subhash D. Tare)
Judicial Magistrate F.C.,
(2nd Court) Mangrulpir.

Date- 18/11/2024

CERTIFICATE

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

Name of Court :- 2nd Jt. Civil Judge (Jr.Dn.) and J.M.F.C.,
Mangrulpir, Dist. Washim.

Presiding Officer :- Subhash D. Tare

Judgment uploaded by :- A. B. Padole (Stenographer L.G)

Date of Judgment :- 18.11.2024

Judgment/Order signed :- 18.11.2024
by the presiding officer
on

Judgment/Order :- 25.11.2024
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