

<u>MHWS100002772021</u> 	<u>ORDER BELOW EXH.14 IN D.V.No.04/2021</u> <u>(Gajala Parvin Vs. Mohammad Vasim)</u> (Date:-11/07/2022)
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- 1) The applicant filed this application, for grant of interim maintenance of Rs.65,000/- per month from respondent and for protection order again the respondents, and to get return the Stridhan and to grant the expenses to proceed the matter.
- 2) Perused the application and say. The respondent filed say at Exh.16.
- 3) Heard Ld. Advocate for the applicants and Ld. Advocate for the respondent.
- 4) I have given thoughtful consideration to the argument advanced by Ld. Advocates for both parties.
- 5) Considering argument advanced by both parties following points arose for my determination and I record my answers thereon for the reasons stated thereunder.

Sr. No.	Points	Answers
1	Whether applicant is entitled for interim maintenance? If yes what is the quantum ?	Yes. As per final order
2	Whether the applicant is entitled for to get return stridhan?	No
3	Whether applicant is entitled for expenses to proceed the present application?	Yes
4	What order ?	As per final order

REASONS

AS TO POINT NO.1 :-

6) The applicants filed main application under section 12 of the Protection of Women from Domestic Violence Act (the D.V. Act) for various reliefs. The respondents have admitted relationship to applicants. At the time of deciding application for interim maintenance it is not necessary to discuss on merit of the application. The main purpose of granting interim maintenance is to support the person who is unable to maintain himself during pendency of this application.

7) It is the responsibility of respondent No.1 to maintain applicant No.1 being his wife and applicant No.2 being his son. The respondents in their say submitted that applicant left her matrimonial house on her own wish. Respondent No.1 is not having any movable and immovable property. The Respondent No.1 submitted that he is not in any employment. He has denied the contentions of the applicant. Perused the affidavit of Assets and liabilities of applicant and respondent at Exh.20 and 21 respectively. It is pertinent to note that the affidavits are not in a prescribed format. Perusal of the affidavit of applicant reveals that she has no source of income. On the contrary respondent stated that his monthly income is 8,500/- per month. The applicant also reveals that respondent No.1 is earning Rs 80,000/- to 90,000/- per month. He is working as estate broker. As the relationship is not admitted, it the bounden duty of respondent No.1 to maintain applicant and her child. Therefore, prima facie itself appears that, the applicant is unable to maintain themselves. At this juncture, prima facie neglects and refuses to maintain is the sufficient ground to grant the interim relief.

8) Considering the documents and contents of application, prima-facie it appears that the respondent has sufficient means of income from his salary. The object of the act is the protection and welfare of the aggrieved person. Therefore, I am of the opinion that, the applicant is entitled for maintenance.

9) In order to decide main application more time is required. The applicants must be in proper condition to proceed with this application. The respondent is legally as well as morally bound to maintain the applicant being his wife. At the time of deciding this application it will not just and proper to discuss on merit of the application and on income of respondent. Therefore, taking into consideration prima facie income of respondent and basic needs of applicants and standard living of the applicant and respondent, it is necessary to provide a reasonable interim maintenance to the applicants. Considering all these aspect, I am of the opinion that, the applicants are entitled for interim maintenance of Rs. 2500/- per month from the respondent No.1. Therefore, I answer point No.1 in affirmative.

AS TO POINT NO.2 AND 3 :-

10) Applicants prayed to return the stridhan in the application. At this juncture there is not document on record, it shows that the stridhan has been given to respondents. It will decide after parties led their evidence. Applicant also prayed to grant expenses to proceed with the matter. Therefore, it cannot be overlooked that applicant is not making expenses in this proceeding. Applicant has no source of income but due to neglect and refusal of respondents, applicant has to incur the expenses. Hence, such circumstances it is proper to grant Rs.1000/- for the proceeding of this case. Hence, I answer point Nos.2 in negative

and 3 in affirmative.

AS TO POINT NO.4 :-

11) In view of my affirmative answer as to point no.1 and 3 the applicants are entitled for interim maintenance of Rs.2500/- (Two Thousand Five Hundred only) each applicant per month from the date of filing of this application till final disposal of main application. Therefore, this application is liable to be partly allowed. The application has been filed on 06/01/2022. Therefore, an amount of interim maintenance is to be granted from the date of filing of this application i.e. 06/01/2022. Hence, in order to answer point No.4, I pass following order.

ORDER

1	This application is hereby partly allowed.
2	The respondent No.1 is directed to pay interim maintenance of Rs. 2500/- (Two Thousand Five Hundred only) each applicant per month from the date of filing main application i.e. 06.01.2022, till the final disposal of the main application.
3	The respondent is directed to pay amount of Rs.1000/- to applicant towards the expenses of this application.
4	Copy of this order be given free of costs to the parties of application vide section 24 of the Protection of Women From Domestic Violence Act.
5	Copy of this order be given to Police Officer In-charge of Police Station, Malegaon vide section 24 of the Protection of Women From Domestic Violence Act.
	(Pronounced in open Court)

Date. 11/07/2022

Place:Malegaon

(Pravin U.Kulkarni),
Jt.C.J.J.D.& J.M.F.C.Malegaon,
Dist.Washim.

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 the Stenographer	:	N. F. Syed, Stenographer (L.G.)
Name of Court	:	Joint Civil Judge, [Jr. Divn.] & Judicial Magistrate, First Class, Malegaon, Dist. Washim.
Date:	:	11/07/2022.
Order signed by the Presiding Officer on	:	11/07/2022.
Order uploaded	:	12/07/2022.