


MHWS100005262023 	<p><b><u>ORDER BELOW EXH.5 PWDVA NO.13/2023</u></b>  <b>Kavita Gopal Gunjkar Vs. Ashok Sakharam Gunjkar</b>  <b>Passed On 22<sup>th</sup> February, 2024</b></p>
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01. The applicant No.1 filed this application, for grant of interim maintenance of Rs.25,000/- (Twenty Five Thousand Rupees) per month from respondent No.1 till disposal of the main application.

02. Perused the application, say (Exh.11) and arguments of the Ld. Advocate for the applicants and the respondents. Respondent No.3 and 4 failed to file say. Hence, matter shall proceed without their say.

03. I have given thoughtful consideration to the argument advanced by Ld. Advocates for both parties.

04. 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.	<u>POINTS</u>	FINDINGS
1.	Whether applicants are entitled for interim maintenance ? If yes what is the quantum ?	<b>Yes.</b>
2.	What order ?	<b>As per final order.</b>

### REASONS

#### AS TO POINT NO.1 :-

05. The applicants filed main application under Section 12 of the Protection of Women from Domestic Violence Act for various

reliefs. The respondents have admitted relationship with applicants. At the time of deciding application for interim maintenance, it is not necessary to discuss on merits of the application. The main purpose of granting interim maintenance is to support the person who is unable to maintain herself during pendency of this application.

06. I have carefully gone through the contention of the applicants. Applicant is the daughter in law of respondent No.1. Respondents constrained the applicants to left the house of respondent. Respondent committed domestic violence.

07. Before deciding the interim maintenance amount, it is necessary to consider whether the applicants *prima-facie* shows the domestic violence. In view of submissions it is better to rely on the judgment of the Hon'ble Supreme Court in the case of **Prabha Tyagi Vs. Kamlesh Devi, 2022 (8) SCC 90** wherein one of the issue of consideration is whether there should be the subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed?. In this Judgment Hon'ble Supreme Court has held that :-

“The subsisting domestic relationship must be interpreted in a broad and expansive way, so as to encompass not only a subsisting domestic relationship in presentia but also posted domestic relationship. Therefore, the parliament has intentionally used the expression ‘domestic relationship’ to mean a relationship between two persons who not only live together in the shared household but also between two persons who ‘have at any point of time lived together’ in a shared household”.

08. Applying the aforesaid decision to the facts of the present case, it *prima-facie* appears that applicants are in a domestic

relationship with respondent and they have lived together. It is the responsibility of respondent No.1 to maintain the applicants being his daughter in law. In the **Prabha Tyagi case (Supra)** the Hon'ble supreme Court held that :-

*“There should be subsisting relationship between the aggrieved person and the person against whom the relief is claimed vis a vis allegation of domestic violence. If a domestic relationship is subsisting then applicant is entitled to file the application under Section 12 of the D.V.Act”*

09. In a given case, *Prima-facie*, on perusal of the allegations in the application it appears that respondents have committed domestic violence and there is domestic relationship. Applicants have resided with respondents before the death of husband and after the death of her husband. Respondents have committed the domestic violence after the death of her husband also. Respondents also come within the ambit of the definition of respondent.

10. The respondents in their say and in the argument submitted that there is no *prima-facie* case to grant an interim maintenance. No document is placed on record which shows that domestic violence has been occurred. Though it is so, there is no reason to disbelieve the applicants. At this juncture, the *prima-facie* case needs to be considered. The applicants have filed the 7/12 Extract of Gut No.43 below list of document at Exh.13. On perusal of the same, it appears that the respondent No.1 is having agricultural land. On the contrary, applicant is not having source of money. The respondents have alleged that before the death of her husband, they reside at Mehkar. The government has granted Rs. 1,00,000/- to the

applicant and applicant is doing beauty parlour work. However, it is requires strict proof. Applicant is having the responsibility of her daughter.

11. Perused the affidavit of assets and liabilities of applicant at Exh.07 which show that she has no source of income. On the other hand, on perusal of affidavit of assets and liabilities of respondent No.1 and 2 at Exh.15 and 16, it shows that they have responsibilities. They have the health issues.

12. As the relationship is not disputed, it is the bounden duty of respondents to maintain the applicants. At present, applicant is residing at her parental house with her children. Therefore, the respondents are having responsibility to maintain the applicant. *Prima-facie*, it appears that applicant is unable to maintain herself. At this juncture, *prima-facie* neglect and refusal to maintain are the sufficient grounds to grant interim relief. The object of the act is to protect and welfare of the aggrieved person. Therefore, I am of the opinion that applicant is entitled for interim maintenance. In order to decide the main application more time is required. The applicants must be in a proper condition to proceed with the main application. Respondent is legally as well as morally bound to maintain the applicant being his daughter-in-law and other respondent being in laws. At the time of deciding this application it will not just and proper to discuss and the merits to the application and income of respondent. Therefore, taking into consideration *prima-facie* income of respondent, basis needs of applicant and standard leaving of the applicant is necessary to consider to provide reasonably interim

maintenance to applicant. Considering all these aspect, I am of the opinion that, applicant No.1 is entitled for interim maintenance of Rs.2000/- per months from the respondents and applicant No.2 is entitled for interim maintenance of Rs. 1000/- per month from the respondents. Therefore, I answer point No.1 in affirmative.

**AS TO POINT NO.2 :-**

12. In view of my affirmative answer as to point No.1 the applicant No.1 is entitled for interim maintenance of Rs.2000/- and applicant No.2 is entitled for interim maintenance of Rs.1000/- from the date of filing of this application till disposal of main application. Therefore, this application is liable to be partly allowed. Hence, in order to answer point No.2, I pass following order.

**ORDER**

1. This application is partly allowed.
2. The respondents do pay interim maintenance of Rs.2000/- (Two Thousand only) to applicant No.1 per month and Rs.1000/- (One Thousand only) to applicant No.2 from the date of filing of this application i.e. **27.03.2023** till the disposal of the main application.
3. 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.
4. 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.  
(Dictated and pronounced in open Court)

Place : Malegaon.  
Dated : 22.02.2024

**[Pravin U.Kulkarni]**  
J.M.F.C. (Court No.2) Malegaon  
Distt. Washim

**CERTIFICATE**

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

Name of the Stenographer : **Shri. Shivam B. Patange (L.G.)**

Court & Judge Name : P.U.Kulkarni  
Jt. C.J.J.D. & J.M.F.C., Malegaon.

Date of Order : 22.02.2024

Order signed by the  
Presiding Officer on : 01.03.2024

Order uploaded on : 01.03.2024