

**ORDER BELOW EXH- 17 IN PWDVA NO. 9 OF 2025**

Sau. Dipali Mahesh Dhongade Vs. Mahesh Arjun Dhongade

The present application at Exh. 17 is filed by the non-applicant seeking permission to lead evidence by invoking Sections 28(1) and 23(2) of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “the D.V. Act”).

02. It is contended by the non-applicant that the main application does not disclose specific acts of domestic violence and that no evidence to that effect has been filed on record. On the said ground, it is prayed that permission be granted to the non-applicant to lead evidence so as to bring all necessary facts on record.

03. The applicant has filed her say and opposed the application. It is contended that no ex-parte relief under Section 23(2) of the D.V. Act has been sought by the applicant. It is further contended that the application for interim maintenance is legal and maintainable and that it is the statutory obligation of the non-applicant to maintain the applicant. According to the applicant, the application at Exh. 17 is devoid of merit and is filed with the intention of delaying the proceedings.

04. The matter is presently fixed for arguments on interim maintenance. I have heard the learned counsel for both sides and perused the record.

05. It is required to be noted that the present proceedings are at the stage of deciding interim maintenance under the D.V. Act. At this stage, the Court is not required to conduct a detailed trial or record oral evidence. The interim relief under Section 23 of the D.V. Act is required to be decided on the basis of prima-facie satisfaction, pleadings, and available documentary material.

06. Section 23(2) of the D.V. Act empowers the Magistrate to pass ex-parte orders in appropriate cases. In the present matter, admittedly, the applicant has not prayed for any ex-parte relief.

07. The contention of the non-applicant that permission to lead evidence is required at this stage on the ground that domestic violence is not disclosed cannot be accepted. Whether domestic violence is ultimately proved or not is a matter to be decided at the stage of final adjudication. For the purpose of interim maintenance, the Court is only required to examine whether a prima-facie case, domestic relationship, and entitlement to maintenance are disclosed.

08. The scheme and object of the D.V. Act clearly indicate that interim reliefs are intended to be speedy and efficacious, and permitting oral evidence at this interlocutory stage would frustrate the very object of the Act.

09. Both parties are entitled to place prima-facie documentary evidence on record in support of their respective contentions. However, granting permission to lead oral evidence at this stage is neither necessary nor warranted.

10. The judgment **Krishna Murthy Nookula v. Y. Savitha, Criminal Revision No.815/2009** relied upon by the non-applicant does not state that oral evidence must be allowed in every case while deciding an application for interim maintenance under Section 23 of the D.V. Act. In the present matter, the Court is concerned only with an interim application for maintenance. At this stage, the Court is required to consider the pleadings, prima-facie material and available documents, and not to conduct a detailed inquiry by recording oral evidence. The stage for leading and testing oral evidence arises at the time of final

hearing of the main application. The cited judgment was rendered in a different factual and procedural context and relates to final adjudication. Hence, the said judgment is distinguishable and is not applicable to the present proceedings

11. In view of the above discussion, this Court is of the opinion that the application at Exh. 17 is premature, misconceived, and not maintainable at this stage.

12. The question of permitting parties to lead oral evidence may be considered, if necessary, at the stage of final disposal of the main application. Hence, I pass the following order :-

**:- ORDER :-**

01. The application at Exh.17 filed by the non-applicant is hereby rejected.
02. The matter shall proceed for arguments on interim maintenance.
03. Both parties are at liberty to place relevant prima-facie documentary material on record, if any.

Place : Malegaon  
Date : 05.02.2026

[ **A.S.Koshti** ]  
J.M.F.C. (Court No.2) Malegaon  
Distt. Washim.