


MHWS100007012022 	ORDER BELOW EXH.05 P.W.D.V.A. NO.17/2022 (Laxmi Sachin Gawai Vs. Sachin Subhash Gawai) (Date : 25 th May, 2023)
---	---

1. The applicant filed this application, for grant of interim maintenance of Rs.20,000/- per month from respondent No.1 till disposal of the main application.
2. Perused the application and say. The respondent No.1 filed say to this application at Exh.12.
3. Heard learned advocate for the applicant and learned advocate for the respondents.
4. I have given thoughtful consideration to the argument advanced by learned 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.	<u>POINTS</u>	FINDINGS
1.	Whether applicant is entitled for interim maintenance ? If yes what is the quantum ?	Yes. (Rs.3000/-)
2.	What order ?	As per final order.

REASONS

AS TO POINT NO.1 :-

6. The applicant 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 themselves during pendency of this application.

7. The Ld. Advocate for the applicant submitted that it is the responsibility of respondent No.1 to maintain the applicant. Applicant is residing her parental house. She has no source of income. She has the responsibility of her children. Hence, prayed to allow the application.

8. Per contra, 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. There is no any domestic violence. It is concocted story. The allegations are false. The applicant do not want to cohabit which the respondent No.1. Hence, prayed for rejection of application.

9. Perused the affidavit of assets and liabilities of applicant at Exh.09 which show that she has no source of income. The custody of daughter with applicant No.1. The respondent No.1 has not filed his affidavit of assets and liabilities. The opportunity is given to the respondent No.1 to file affidavit of discloser of assets and liabilities. He fails to file despite the opportunity. As per Judgement of the Hon'ble Supreme Court in the case of Rajnish Vs. Neha Criminal Appeal No.730 of 2020 Decided

on 04.11.2020 wherein “it is directed to the Trial Courts Courts may not grant more than two opportunities for submission of the affidavit of discloser of assets and liabilities to the respondent. On failure to file the affidavit within the prescribed time the Courts may proceed to decide the application for maintenance on basis of the affidavit filed by applicant and the pleadings on record”. In the present case, on perusal of proceeding it appears that three days have been given to the respondent No.1 but he failed to file the same.

10. As the relationship is not disputed, it is the bounden duty of respondent No.1 to maintain the applicant. At present applicant is residing at her parental house. Therefore, the respondent No.1 is having responsibility of applicant and her daughter. *Prima-facie*, it appears that applicants are unable to maintain themselves. 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 protection and welfare of the aggrieved person therefore, I am of the opinion that applicants are entitled for maintenance.

11. In-order to decide the main application more time is required the applicant must be in a proper condition to proceed with this application. The respondent No.1 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 merits of the application and income of respondent. Therefore, taking into consideration *prima-facie* income of respondent and basic needs of applicant and standard living of the applicant, it is necessary to provide a reasonable interim maintenance to the applicant. Considering all these aspects, I am of the opinion that, the

applicant Nos.1 and 2 are entitled for interim maintenance. Applicant No.1 is entitled for interim maintenance of Rs.2000/- (Two Thousand Rupees only) per month and applicant No.2 minor daughter is entitled for interim maintenance of Rs.1000/- (One Thousand Rupees only) from the respondent No.1. 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 applicants are entitled for interim maintenance of Rs.3000/- (Three Thousand Rupees only) 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 respondent No. 1 do pay interim maintenance of Rs.2000/- (Two Thousand Rupees only) to the applicant No. 1 and Rs.1000/- (One Thousand Rupees only) to the applicant No.2 each per month from the date of filing this application i.e. 07.04.2022 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.
Date : 25.05.2023

(Pravin U.Kulkarni)
J.M.F.C. (Court No.2) Malegaon
Dist. 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 : **Shivam B. Patange (L.G.)**

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

Date of Order : 25.05.2023

Order signed by the

Presiding Officer on : 25.05.2023

Order uploaded on : 25.05.2023