

**ORDER BELOW EXH.16**

(Dt.02-01-2024)

01. The applicant has filed petition under section 12 of the Protection of Women from Domestic Violence Act, 2005 wherein by this application she has prayed to grant interim maintenance at the rate of Rs.10,000/- per month for applicant No.01 and Rs. 5,000/- for applicant No. 02 from non-applicant No. 01.

02. In short it is a case of the applicant that she is legally wedded wife of non-applicant no. 01 and and applicant No. 02 is their daughter. Their marital relations are still in existence. It is submitted that after marriage the non-applicants have committed an act of domestic violence and refused to maintain her. Hence, she has filed present application against the non-applicants under section 23 of the Protection of Women from Domestic Violence Act, 2005. It is submitted that the application would be decided after hearing both sides and it will take much time to attain its finality. However, presently the applicant is unable to maintain herself as she has no income source. It is submitted that non applicant no. 01 is milk seller business, Compounder and having 7 acre agricultural land, he earns Rs. 7,00,000/- to 8,00,000/- per Year. In the above circumstances he can easily pay Rs. 15,000/- per month towards interim maintenance. Hence, the applicant has prayed to allow this application in terms of prayer clause.

03. The applicant in her application categorically stated that she is legally wedded wife of non-applicant no. 01. She further stated that the non-applicants have committed an act of domestic violence and refused to maintain her. Hence, she prayed to grant interim maintenance. In view of provisions laid down in section 23 of the Protection of Women from Domestic Violence Act, 2005 the court may grant interim maintenance, if the applicant prima facie satisfied that the non-applicants are committing or has committed an act of domestic violence. It is to be noted here that the application filed by the applicant is supported by her sworn affidavit.

04. Non-applicant no. 01 to 04 have resisted this application by filing their written say (Exh.No.18) and except marital relations denied all adverse allegations. It is contended that the petition filed by the applicant under section 12 of the Protection of Women from Domestic Violence Act, 2005 is not in prescribed format and liable to be dismissed on that count only. It is contended that the applicant has suppressed material facts and filed present application only to get sympathy from the court. The non-applicants never caused any harm or injury to the applicant. It is contended that there is no economical abuse or domestic violence so as to grant interim maintenance to the applicant. It is contended that non-applicant no. 01 is doing labour work and does not have any land in his name or any other property in his name. His family members are depend upon him. The applicant has filed present application only with intend to harass the non applicants. In the above

circumstances non applicant no. 01 is not in a position to pay separate maintenance to the applicant. Ultimately, non applicant no. 01 has prayed to reject this application.

05. It is the claim of applicant that, non-applicant caused mental and physical harassment to her in domestic relationship. Non-applicants ill-treated her. As the application is on affidavit and therefore it is prima-facie seen that non-applicant No. 1 have caused domestic violence to the applicant i.e. his legally wedded wife. Because of, if there is no violence then applicant will not file such application. Therefore, till disposal of main application it is necessary to grant interim maintenance to the applicant for her lively-hood.

06. I have carefully gone through record and heard Adv.Smt. S.V.Pandharipande, learned counsel for the applicant Adv.Shri.A.V.Khairmode, learned counsel for the non-applicant.

07. The applicant prayed for Rs. 15,000/- per month of interim maintenance for applicant no.01 and 02. According to applicant, non-applicant No. 1 is earning more than Rs. 7,00,000/- to 8,00,000/- per year but the applicant did not file any document to show the income of the non-applicant No. 1. However there is no evidence to show that non-applicant no. 01 is earning Rs.7,00,000/- to 8,00,000/- per year as alleged by the applicant. So also non-applicant no. 01 is able bodied person and he being husband of the applicant is liable to

maintain her.

08. Applicant lives with her parents. Therefore, she does not require rent amount for accommodation. However, she requires good clothes, good food and good medical treatment. These are the basic requirements of applicant. In the above circumstances the applicant is entitled to claim interim maintenance. At this stage, the Applicant needs at least Rs.3,000/- per month interim maintenance and applicant no. 02 needs Rs.2,000/- per month. In the above circumstances considering needs of the applicant and financial condition of non-applicant no. 01, I pass the following order.

### **ORDER**

- 01 The application is partly allowed.
- 02 Non-applicant no. 01 is directed to pay Rs.3000/- (Rs. Three Thousand Only) per month to the applicant no.01 and Rs.2,000/- (Rs. Two Thousand Only) to applicant no. 02 towards interim maintenance from the date of filing this application till final decision.
- 03 Copy of this order be given to both the parties free of cost.

Dated:02/01/2024

**(N.G.Vyas)**  
Judicial Magistrate F.C.,  
Pusad.