

**ORDER BELOW EXH. 2 IN PWDVA APP. NO.117/2018.**

**01]** This is an application u/sec.23 of Protection of women from Domestic Violence Act, 2005 seeking interim maintenance for applicant.

**02]** It is submitted by applicants that they have filed this case under Protection of Women from Domestic Violence Act, 2005 meanwhile, they have also filed present application. Non-applicant No.1 is driver, who is driving Auto and earns Rs. 400/- to 500/-per day. The non-applicant No. 3 and 4 are also driving the Auto getting sufficient income. The Non-applicants having Rs 50,000/- income per month. Thus, non-applicants having good financial condition. Non-applicant No.1 has not provided any financial help to applicant. Financial condition of applicant and her family is very poor. Hence, applicants have prayer for grant interim maintenance of Rs.10,000/-per month to applicant No.1and applicant No. 2 Rs.10,000/-per month.

**03]** Non-applicants have appeared and non-applicant No. 1 has filed his say vide Exh.13. He is denied each and every contention of applicants, but he is admitted relation between them. He has further submitted that, the non applicant No 1 is resided at the house of father of applicant no. 1. Therefore, he has not income source as pleaded by applicants. There is no relation with the other non applicant. Hence, they have prayed, application is liable to be rejected.

**04]** I have heard Mr Ansar Shaikh Advocate for applicants submitted that, due to cruelty, applicant No. 1 is not residing with non-applicant. She has no source of income and non applicant

having sufficient income. Hence, interim maintenance is granted.

**05]** I have heard Mr. R.H. Khan Advocate for Non-applicant No 1. It is submitted that, the applicant No. 1 has voluntarily deserted the non-applicant No. 1. The non-applicant No. 1 having no source of income. He is living alone from other Non-applicants. He is not having source of income. Therefore, he is unable to pay any maintenance to applicants. As the applicant No. 1 has voluntarily deserted the non-applicant No.1, she is having one glossary shop, she is able to herself. Therefore applicants are not entitled to interim maintenance.

**06]** Peruse the application and say it is shown that, the relationship between applicants and non applicant No. 1 is admitted. The application is supported by affidavit. The applicant No 1 has no source of income. On the other hand the non-applicant No 1 has admitted that he has living separate from other Non-applicants. I have gone through the record of case, which is clear shown that, both of them have not filed any documentary evidence to show the income of them. Hence, the applicants have established that they are unable to maintain themselves. As per the applicants are residing with her parents.

**07]** The only objection raised by non-applicant No 1 is that, the applicant no 1 is voluntarily residing with her parents against their will, is not sufficient to prove. Hence, the allegation of cruelty, made by applicant no. 1 holds ground at this stage. Therefore, the objection raised by non-applicant NO 1 not acceptable. Considering the fact that relationship between parties is admitted. It is legal and moral duty of non-applicant No.1 to

maintain his wife.

**08]** From record, the main application is filed by applicants on 23.03.2018. Since then the non-applicant has not paid any amount to applicants, which shows economic deprivation of applicants at the hands of non-applicant No. 1. considering the object of section 23 of Protection of women from Domestic Violence Act, 2005 and relationship between parties, it is a fit case to grant interim maintenance. Therefore, I pass the following order:

### **O R D E R**

1. The application is partly allowed.
2. The non-applicant No. 1 do pay Rs. 1000/- per month to applicant No. 1 and Rs. 500/- per month to applicant No. 2 as interim maintenance from the date of filing of this application i.e. 23.03.2018 till the disposal of this case.

Place:-Umarkhed  
Date:-11.09.2018

( Shyam S.Tondchire)  
2<sup>nd</sup> Jt. Judicial Magistrate F.C.,  
Umarkhed.