

ORDER BELOW EXHIBIT 14 IN M. Cri.C.No. 18/2017

01. That present application is filed by opponent Vilas to set aside interim relief of maintenance granted vide order below Exh.9 under Protection of Women From Domestic Violence Act. Perused say filed below Exh.15 by applicant. Heard Advocate Ms. R.N. Jadhav for opponent and Advocate Mr. S.N. Dolas for applicant.

02. It is stated in present application that last date was fixed for filing of say. However the opponent went for funeral of his deceased relative. Therefore he was unable to contact with his Advocate. Moreover the Advocate for opponent was busy in another Court, so he was unable to attained and filed say in Court. Therefore opponent has prayed to set aside the order passed without say below Exh. 9 and allow him to file say to the application for interim relief.

03. On the other hand applicant has strongly opposed the present application. It is alleged that opponent has filed application in order to prolong the case. Opponent had opportunities to filed say to the application for interim relief. Further prayed to reject the present application.

04. Whereas record shows that on 13/09/2017 application Exh.9 is filed for interim maintenance of Rupees 20,000/- per

month from opponents. But opponents appeared in this case through Advocate Mr. R.N. Jadhav on 28/08/2017 i.e. before the filing of application for interim relief. The case further fixed for say on 06/09/2017, 13/09/2017, 04/10/2017. Time for filing of say is also granted to opponents vide order passed below Exh.8 dated 06/09/2017, order passed below Exh.10 dated 04/10/2017 and order passed below Exh11 dated 04/11/2017. On the contrary opponents have failed to filed say. It shows that opponents had intentionally avoided proceeding of this case for filing of say. Therefore an order passed on 04/11/2017 below Exh.9 and thereby case was fixed for "No Say" order on next date. Still opponents have not taken any steps for filing of say on next date on 13/10/2017. Therefore on 13/10/2017 an order passed below Exh. 9 to proceed the application for interim relief without say by opponents.

05. Thereupon on 04/12/2017 an order passed below Exh.9 whereby Opponent No. 1 Vilas is directed to pay the interim maintenance of Rupees 4000/- (Rs. Four thousand) per month to applicant Ranjana from the date of institution of application until disposal of proceeding of main application of this case. According to section 23 of said Act ex-part order for maintenance can also be awarded. In present case time to time opportunities have been given for filing of say. There was also time to file say when case was fixed for "No say Order". On the contrary opponent Vilas has not filed say. Opponent vilas had ample opportunities to filed say to application for interim relief.

06. According to section 25 of said Act if the Magistrate, is satisfied that there is a change in the circumstances requiring alteration, modification or revocation of any order made under this Act, he may, for reasons to be recorded in writing pass such order, as he may deem appropriate. However applicant has not shown change of circumstances requiring to set aside the said order.

07. Opponent Vilas is only claiming set aside interim relief on the ground his Advocate was unable to contact him, and unable to attained for filing of say. However this is not the ground under said Act for set aside the order. Moreover, there was ample opportunities for filing of say as discussed above. Relief granted to applicant is not on merit. It is granted during inquiry. Court has also considered the Salary certificate of opponent Vilas while allowing interim relief of maintenance. Even if opponent Vilas allowed to file say, there will no change in order of interim maintenance. Hence present application is liable to be rejected. Hence order.

ORDER

Application Exhibit 14 is rejected.

Date :-11/04/2018

Sd/-
Pavan H. Bansod.
Judicial Magistrate, F.C. Umarkhed
Dis. Yavatmal.