

RCS No. 61/2021
Shital -V- Swati

MHYA210019142021



ORDER BELOW EXH.10
(Passed On: 04/11/2022)

The plaintiff has filed the present suit against defendant for grant of decree of divorce. The defenant has filed present application under Section 151 of the Code of Civil Procedure against plaintiff for granting her interim maintenance and other expenses. The defendant has submitted that the she has filed her Written Statement. Presently, she is residing at mauza Wadhona Bazar, Ta.Ralegaon, District Yavatmal alongwith with her parents. He has no income source. To defend the suit, she has to come with the assistance of her brother or father. The distance between Wadhona Bazar to Wani is approximately 150 K.M. In the present matter, she engaged laywer. For travelling and other work, she has to bear huge expenses. Plaintiff filed their his say at Exh.12.

02. It is the contention of defendant that plaintiff has filed present suit for . The plaintiff is working as Senior Technician in the Electricity company and from it he get Rs.50 to 60 thousand payment. He has one Swift Desire four wheeler and he put the said vehicle on transport business. From it, he used to get Rs.30 to 40 thousand. In all, plaintiffff is earning Rs.1,00,000/- per month. It is alleged that except defendant, no one is dependent on plaintiff. By way of this application, the defendant is seeking relief of interim maintenance of Rs.40,000/- per month for herself and Rs.5,00,000/- for other miscellaneous expenses from non-defendants.

03. The plaintiff appeared in the matter and filed reply cum say (Exh.12) and he denied all adverse allegations and submitted that defendant having no reason has filed application under various Sections of Protection of Women from Domestic Violence Act, 2005 before the Hon'ble Court at Ralegaon. In the said application, she has asked for expenses required of miscellaneous work and daily needs. He further alleged that defendant is highly qualified and running beauty parlour. Prior to marriage, she was doing private service at Yavatmal. The defendant used to go anywhere without any assistance. The defendant used to live with her parents on her own free will and enjoying her life. The father of defendant is having 5 Acre high yield field. He further submitted that he is getting Rs.16 to 17 thousand from his job. He is residing at Wani in a rented room and used to go at mess. He incurred Rs.3000/- per month for rent and Rs.2,500/- for his mess. His old parents and younger brother is dependent on him and for that purpose he has to spend Rs.12,000/- per month. On the other hand, applicant/defendant is running beauty parlour and earn much more money. Thus, she is herself able to bear expenses incurred by for attending the Court and defending the case. She, herself left the company of non-applicant/plaintiff and therefore, she is not entitled for any cost. Hence, non-applicant/plaintiff prayed for rejection of application.

04. Pursued the application and say. Relationship is not disputed. The applicant/defendant has filed Domestic Violence application before the Hon'ble Judicial Magistrate First Class, Ralegaon for claiming various reliefs under the Act including monetary relief. This fact is not disputed by non-applicant/plaintiff. Defendant's application is pending before the Court. It is not in dispute that applicant/defendant is presently residing at Ralegaon in the house of her parents. The distance of Ralegaon from Wani is approximately 90 to 100 kilometers. Though, non-applicant/plaintiff claims that applicant/defendant is running beauty parlour. However, no documents

in this regard has been filed by the non-applicant/plaintiff on record. On the other hand, non-applicant/plaintiff is doing service. No monetary relief has been granted by the Court to the applicant/defendant in her DV application till today. Applicant/defendant attending the Court for defending the case. Thus, in order to properly defend the case filed by the non-applicant/plaintiff, applicant/defendant needs to attend the Court, engage the Advocate and some other travelling expenses ought to be borne by her. No documents which discloses the fact that applicant/defendant having sufficient earning source to maintain herself and also defend the present case. On the other hand, non-applicant/plaintiff is government servant and he is duty bound to provide adequate maintenance as well as necessary expenses to the applicant/defendant. Thus, I pass following order.

ORDER

Non-applicant/plaintiff shall pay interim maintenance (including cost of litigation for defending the case) of Rs.5,000/- (Rupess Five Thousand Only) per month to the applicant/defendant from the date of institution of this suit till conclusion of this suit.

Dt. 04/11/2022

Sd/-
(P. C. Bachhale)
Judicial Magistrate First Class,
Court No.2, Wani