

IN THE COURT OF JUDICIAL MAGISTRATE (FIRST CLASS),
23RD COURT, ESPLANADE, MUMBAI.
ORDER BELOW APPLICATION DTD. 01.11.2023 FOR INTERIM
RELIEFS U. SEC 12 OF the PWDV ACT
C. C. No. 19/DV/2023

This is an application by the Applicant for Interim reliefs u. sec. 12 of the PWDV Act.

2] It is submitted by the Applicant that Respondent No. 1 is her husband and Respondent No. 3 is her paternal father in law and Respondent No. 4 is paternal mother in law and Respondent No. 5 is girlfriend of Respondent No. 1. Marriage of Applicant was solemnized with Respondent No. 1 on 24.02.2020. Out of wedlock, they have procured son Diyan and he is in custody of the Applicant. After some days of the marriage respondents ill treated Applicant and used to abuse her and they used to taunt her unreasonably. Respondent No. 1 is earning Rs. 65 to 75 thousand per month as he is working in Mutthut Axim Pvt. Ltd. Respondent No. 2 also gets good pension. No one is dependent on Respondent No. 1 and he is financially stable. Therefore, prayed that that interim maintenance of Rs. 25,000/- per month be granted to Applicant and Rs. 5000/- be granted to her for monthly medical expenses. Also prayed for Rs. 5000/- per month for maintenance of her child and restraining respondents from renouncing rights in flat situated at Virar.

3] The application proceeded ex-parte against respondents no. 2 to 5. Respondent No. 1 filed reply at Exh. 7 and resisted application on the grounds that the application is false and vexatious. The Applicant has filed frivolous application, however, Respondent No. 1 admitted

relations with the Applicant. He contented that for stable and securing marital home for Applicant and child, he obtained loan of Rs. 7 Lakhs from HDFC bank and has also obtained loan of Rs. 3 Lakhs for renovation of house and also borrowed Rs. 5 Lakhs from friend to book a new house. He is under burden to repay the loans and EMI's. Applicant never treated Respondent No. 1 with respect and she used to refrain Respondent No. 1 to attend family gathering. She used to taunt him. Respondent No. 1 is responsible father and he used to take care of his child. The Applicant has made concocted story of domestic violence. She has made false allegations against him. The Applicant has made false claims against him. He does not earn Rs. 65 to 75 Thousand per month but he works in Private Organization. He is not financially stable. He is paying EMI of Rs. 54,000/- per month. There is no any evidence to prove claim of the Applicant. Applicant is well qualified and financially independent and has work experience. She is employed in corporate sector. In the year 2023, she was working with BSI a company and she was earning more than Rs. 50,000/- per month. He is ready to take responsibility of minor child. Applicant has not provided bills regarding her medical expenses. Applicant is able to her expenses for accommodating. He is ready to pay reasonable and genuine educational expenses of his child. The respondents are not intending to renounce their right in the flat. The respondents are not alienating any right in the shared household. Therefore, prayed that application be rejected.

4] Perused the record. Heard Ld. advocate for Applicant. Despite of opportunities, Ld. advocate of respondents failed to render arguments on the application. In the present case, the relationship and domestic relationship is admitted fact and the Applicant was residing with shared household of the respondent is also not disputed. At the outset, it pertinent to note that at the time of deciding application for

interim relief the Court should take into consideration that whether there is prima facie, domestic violence against Applicant or not. In this context, it is pertinent to note that Applicant has filed affidavit in support of her application. Which prima facie, shows that Applicant was subjected to domestic violence by respondents. Therefore, I am of the considered view that prima facie in the present case the Applicant was subjected to domestic violence by the respondents.

5] On perusal of affidavit of assets and liabilities of the Applicant and respondent prima facie, it appears that Applicant does not have source of earning.

6] On perusal of the record, prima facie, it appears that respondent has not made any provision for maintenance of Applicant and child. This fact prima facie, amounts to domestic violence as it will be covered within purview of economic abuse. On perusal of affidavit of assets and liabilities of the Respondent he has stated that his monthly income is Rs. 64,000/- per month and he is doing a job.

7] In this situation, it is necessary to direct Respondent No. 1 to pay monthly interim maintenance to Applicant and child considering the factors like inflation, the status of the parties and financial position of the parties. The prayer of Applicant regarding prohibiting respondents from renouncing right in shared household can be considered after recording evidence. At this juncture, the Court cannot go into the root of that question as the Court is dealing with prima facie, case. Moreover, on perusal of averments in the application prima facie, the Applicant has not placed any documents on record which shows that the alleged flat is owned by which respondent. Thus, the order regarding the respondents for restraining the right to renounce

the name cannot be pass blanketly. In the present case, it is pertinent to note that the application u. Sec. 12 of the PWDV Act is supported with an affidavit of Applicant. Prima facie, the Applicant has not placed on record anything which shows that she bears monthly medical expenses of Rs. 5000/-. Therefore, considering all above discussion I pass following order :-

ORDER

- 1) The application is partly allowed.
- 2) Respondents are directed to restrain themselves from committing any act of domestic violence against Applicant .
- 3) Respondent No. 1 is directed to pay Rs. 10,000/- per month to Applicant as interim maintenance and Rs. 5000/- per month towards Interim maintenance of his child from the date of application .
- 4) The copy of this order be delivered to Applicant and Respondents free of costs and its copies be sent to concern police station and Protection Officer.

(P. S. Ghodke)

Judicial Magistrate (First Class),
23rd Court, Esplanade, Mumbai.

Date - 20.01.2026.