

In the Court of Judicial Magistrate, 4th Court, Calcutta
Present. Smt. Yozna Lama, J.O. Code No. WB01349
MISCS/456/2022
Reg No. MISCS/456/2022
CNR- WBCS02-125669-2022

Order dated 01.12.2025

Today is fixed for passing of the interim order.

The petitioner is present by filing Hazira.

The Respondent is also present by filing Hazira.

Now the record is taken up for passing of the interim order.

The petitioner's case in brief is that the petitioner was married to Late Avinash A. Chandiramani, son of Respondent No. 1 and 2 and the brother of Respondent No.3, on 28.01.2007 as per Hindu Rights and Rituals and their marriage was duly registered before the appropriate authority on 26.10.2006 i.e. prior to the date of social marriage. All the said rituals were observed in flat i.e. 2D/1, Embassy Building, Embassy Co-operative Housing Society, 4, Shakespeare Sarani, Kolkata-700071. The said marriage between the petitioner and her husband was a love marriage. Since the first day of marriage, the respondents decided to put the petitioner along with her husband in another flat being No. 2D/1, Embassy Co-Operative Housing Society, 4, Shakespeare Sarani, P.S. Shakespeare Sarani, Kolkata-700071 and since then the petitioner had been living with her husband in the said flat. From the end of 2013, the petitioner started noticing that her husband started becoming sick and her inlaws instructed her not to visit the doctor's chamber with her husband. From 2014, her husband's health started deteriorating. When she asked her father-in-law about the health of her husband, both her husband and Respondent No.1 did not state anything about the treatment of her husband. On 22.04.2014, her husband expired and after the demise of her husband and after the Shradh Ceremony, the petitioner came to know from the house physician of her in-laws Dr. Ashok Banerjee that her husband during his life time was suffering from HIV (AIDS) and she also came to know that her husband had contracted the said disease when he was about 17/18 years old as the husband of the petitioner had multiple sexual relationships with numerous women. On 06.05.2014 the complainant for examination and came to know that she had also contracted the same disease. She contended that Respondent No. 1 and No.2 deliberately and intentionally did not inform the petitioner about the terminal disease of their son and intentionally suppressed the said facts as the Petitioner was not of their choice prior to the said marriage and the said respondents never accepted the Petitioner as their daughter-in-law. After the demise of her husband, the Petitioner was looking after her husband's business but Respondent No.1 and 2 forcibly closed down the said business under the name and style of "EZEESOFT" by closing down the office space, which was her only source of income. After her husband's demise the Petitioner was subjected to immense mental and physical torture and humiliation in the hands of Respondent No.1 and 2 at her matrimonial home. Respondent No.1 and 2 denied to bear her medical expenses. As a result, the Petitioner had to do some freelancing job of Art Direction and event management and in order to carry out her profession the Petitioner had to go out of Kolkata for such assignments. In the month of March, 2016 the Petitioner had to go out of Kolkata on account of one of her assignments and on returning back to Kolkata on 15.03.2016 the Petitioner found that the doors of the flat being No. 2D/1, Embassy Co-Operative Housing Society, 4, Shakespeare Sarani, P.S. Shakespeare Sarani, Kolkata-700071 were locked and the Padlocks had been changed and finding the doors of the flat locked with different Padlocks, the petitioner immediately rushed to her parents-in-law flat being No. 5D/1, in the same building but to her utter dismay, the Respondent No.1 slammed the main door on her face and abused the Petitioner with filthiest of terms. Thereafter, she had to take shelter in one of her friend's house and reported the same before Shakespeare Sarani P.S dated 16.3.2016. The petitioner came to know that one Title Suit being No. 35396 of 2014 was filed by the Opposite Parties herein and the said suit had already been decreed Ex-Parte on 05.10.2015 against the Petitioner and pursuant to such Ex-Parte Decree and in execution of the same through Title Execution case No. 02 of 2016, the Respondents had taken the possession of the said flat being No. 2D/1 & 5D/1, Embassy Co-Operative Housing Society, 4, Shakespeare Sarani, P.S. Shakespeare Sarani, Kolkata-700071 through Court bailiff by breaking open the Padlocks of the said flats. The Petitioner alleged that by suppressing the actual address of the Petitioner, the Opposite Parties had obtained the said decree from the Learned Court and thereby filed the said execution when the Petitioner was out of station for her assignments. The petitioner contended that now she has nowhere to go and has been ousted from the flat where she was in a Domestic Relationship with Respondent No.1 and 2. She is in dire situation and not even in a position to bear her medical expenses. The petitioner contended that the Bank account of her deceased husband is also being operated by Respondent No.1. Hence she has sought for certain relief u/s 18, 19, 20, 22 of the P.W.D.V Act in terms of the prayer portion of the application.

The counter allegation of the respondents in brief is that they have denied all the material contentions of the petitioner save and except the marriage with the son of Respondent No.1 and 2 and the fact of the death of their son. The specific case of the Respondents in brief is that they contended that their son and the petitioner

knew each other three (3) years prior to their said marriage and that the petitioner married their elder son to extort money and not out of love and affection. It has been admitted that after marriage, the petitioner came to their home, being her matrimonial home but lead their conjugal life at Flat No. 2D/1, 4, Shakespeare Sarani, Embassy Co-operative Housing Society, Police Station-Shakespeare Sarani, Kolkata-700071. It has been contended that both the flats being Flat No. 2D/1 and 5D/1 belonged to the respondents and not to their deceased son elder son and was only allowed to stay in the said flat. It has been stated they used to stay in the same building but on different flats altogether situated on different floors of the apartment, i.e. the petitioner and their elder son used to stay in Flat No. 2D/1 at Second Floor and the Respondents used to stay in Flat No. 5D/1 at fifth floor. The respondents have contended that their deceased son was under treatment for Blood cancer and not HIV+ and it was only after he died that they came to know that their son had contracted HIV disease. They contended that it was the petitioner who had been suffering with HIV Positive and not their son and it was the petitioner who had deliberately concealed such fact from the respondents. They contended that the petitioner has never been subjected to mental or physical torture. The petitioner is very much capable to maintain herself. Respondent No.1 and 2 are old aged persons and no domestic relation existed nor exists between the parties and all along the petitioner used to reside in separate flat. Hence, the present complaint is liable to be dismissed.

Heard both sides.

Perused the materials available on record. Considered.

At this stage, on perusal of the Domestic incident report, it appears that the petitioner was subjected to mental torture by her in laws which have also been supported by the complaints dated 01.08.14 and 16.03.2016, 19.04.2016, 20.04.2016. It also transpires from the medical documents and the Affidavit submitted by the petitioner that she is HIV+ patient and is in need of financial support for her medical needs. At this stage, the question whether the allegations as leveled by the petitioner against the respondents are true or not are all matters of trial. Therefore, at this stage a prima facie case of domestic violence is made out against the respondents. I do not find any sufficient reason to refuse the prayer of interim maintenance allowance.

Now, in order to facilitate the petitioner to meet her basic expenses, I am of the view that it would be proper to direct the respondent no.1 to pay interim monetary relief of Rs. 5,000/- per month to the petitioner. I am also considered view that the order for interim monetary relief should be effective from the date of the application.

In the result the application for interim relief succeeds.

Hence, it is

ORDERED

that the application under section 23 of Protection of Women from Domestic Violence Act, 2005 be and the same is allowed on contest but without any order as to costs.

The Respondent No.1 is hereby directed to pay-

1. Rs. 5,000/- per month to the petitioner as interim monetary relief to the petitioner, from the date of filing of the present case in compliance to the Decision of the Hon'ble Supreme Court in the case of Rajnesh vs Neha (2021) SCC 324. If the respondent fails to make payment as ordered, the petitioner may take recourse to Court for execution of the order.

The respondents shall continue to pay the monthly relief, within 10th day of each successive English Calendar Month and failing which, the petitioner will be at liberty to realize the entire amount along with current allowance of the interim monetary relief by putting this order into execution

The reliefs which are not granted are deemed to be rejected at this stage.

Let the copies of this order be given to the party of this case and be sent to the Protection Officer, Kolkata for information.

BC-II to comply at once.

To 02.01.2026 for evidence.

Dictated & Corrected by me,

Judicial Magistrate, 4th court
Calcutta

Judicial Magistrate, 4th Court
Calcutta