

C.R. Case no. 56/2025 (CIS 56/2025)

WB 01110

Order No. 02 dated 16.10.2025

The record is putup today.

The petitioner filed a petition u/s 23(2) of Protection of Women from Domestic Violence Act, 2005 and herein after referred as D.V. Act.

By filing the petition, petitioner prayed for ex-parte interim order as per section 23(2) of the Act considering the fact stated by the petitioner swearing on affidavit as there exist urgency in the matter.

The Ld. Advocate for the petitioner stated that being the Advocate appointed by Legal Aid, the petition is filed and the fact of filing the matrimonial suit by the respondent against the petitioner being Matrimonial Suit no. 30/2025 and thereafter the petitioner is continuous in threat by respondent no. 2 to drive her out from the Matrimonial Home with her two daughters. Ld. Advocate submitted that the respondent being a Gazetted Officer presently posted in Kolkata earns a lot but neglecting to maintain the petitioner and her daughter for which the petitioner was forced to file the instant case.

Considered.

The entire petition u/s 23(2) is swearing on affidavit by the petitioner.

The petitioner has filed the certificate of marriage issued by Mary Mother of God Church, aadhar card and birth certificate of the children.

As per the petition, the petitioner is staying in her matrimonial house and she is taking care of two daughters and her mother in-law i.e. respondent no. 2. It is stated that respondent no. 1 has filed a Matrimonial Suit no. 30/2025 against her and after filing the divorce case, the respondents are asking the petitioner to leave the matrimonial house which is in the name of respondent no. 2. It is stated by the petitioner that she and her daughter are staying in fear of getting thrown out from her matrimonial house. Therefore, the instant petition inter alia prayed for protection order u/s 23(2) of the Act.

Considered.

The fact of filing matrimonial case against the petitioner by respondent no. 1 itself prima facie shows that there is threat of domestic violation against the petitioner. As per the petitioner, she is still staying at her matrimonial house with her two daughters in the fear of being dispossessed by respondents.

In these circumstances, I am of the view that an interim order should be passed in favour of the petitioner till the disposal the main petition as there is urgency in this matter.

Hence, it is

ORDERED

that petition u/s 23(2) of the D.V. Act filed by the petitioner is partly allowed ex-parte. The respondents are hereby restraint from dispossessing the petitioner and her daughters from the shared household and from disturbing their peaceful possession in the said shared household and causing any act of domestic violence against the petitioner.

The I.C., Kalimpong is directed to provide assistance to the petitioner Rezeemith Lepcha in this regard as and when requisitioned.

The petitioner is directed to file declaration of assets as per the judgement of Rajnesh vs. Neha and others. The petitioner is directed to file requisites for the purpose of service of summons upon the Opposite Party.

*Fix **10.12.2025** for S/R and appearance of the Opposite Party.*

Let a copy of this order be supplied to the petitioner free of cost.

D/c by me,

CJM, Kalimpong.

CJM, Kalimpong.