

Misc. Case No.177 of 2023
Smt. Sutapa Gupta @ Kundu vs. Sri Shumanto Gupta

Order dated. 09.01.2024

Today is fixed for order with respect to the interim application filed by the aggrieved person u/s. 12/23(2) of the Protection of Woman from Domestic Violence Act, 2005 (in short P.W.D.V Act).

Petitioner files hazira.

It is submitted that the due to the mental and physical torture inflicted upon the petitioner the petitioner was compelled to leave her matrimonial home. The petitioner then initiated a criminal proceeding against the respondent no.1 before the Nager Bazar P.S Case being no.474 of 2022 dated 14.12.2022 under Section 498A/506 of IPC. The petitioner also lodged another GDE being no.1802 dated 23.04.2023 against the respondent no.1 before Nager Bazar P.S. It is further submitted that the respondent no.1 is threatening the petition as such she is not feeling safe. Thus, she has prayed for protection under Section 18 of the Act against all the respondents.

It is also submitted that the petitioner has been staying at her paternal home along with her minor daughter since the day she was driven out of the matrimonial house. It is not possible for the petitioner to go to her matrimonial house due to safety reasons. Thus, the petitioner has prayed for alternative accommodation in the share household or to pay a rent for the same u/s.19 of the Act. Further the respondent no.1 has neglected and refused to maintain the petitioner and her minor child. The petitioner has no independent source of income as such she has prayed for monetary relief of Rs.30,000/- for herself and Rs.25,000/- for her minor child. Thus the petitioner has prayed for an ex parte ad interim order under sec.18, 19 and 20 of the Act.

The petitioner has filed several documents in support of her claim. The petitioner has not file any document as to the income of the OP. Considering the facts and circumstances of this case and the materials in the record it is found that the petitioner is residing at her parental house along with her child. It is not that the petitioner is without any shelter at this point of time. This court is of the opinion that the that the respondent should get an opportunity of being heard before deciding any matter with respect to the residence and monetary relief.

Considered.

I make it clear that Interim relief is to be considered in a stage where there is extreme urgency. Thus upon perusal of the record I am of the opinion that the petitioner is entitled to the following reliefs.

Protection Orders: Such aspect is considered and allowed to the effect that the respondents are restrained from committing any act of domestic violence upon the petitioner.

Hence, it is,

ORDERED

that the ex-parte hearing of petition u/s.23(2) of PWDV Act is allowed.

that the respondents are restrained from committing any act of domestic violence upon the petitioner.

All other prayer are not discussed and are rejected at this stage. Those prayer are to be considered on conclusion of the trial.

The Officer-in-charge of Nager Bazar P.S is directed to give protection to the petitioner for the implementation of this orders.

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

Let a copy of this order be sent to the O/C, Nager Bazar P.S for information and necessary action.

To **04.04.2024** for DIR.

Typed & Printed by me,

(Pratigya Pradhan)
J.M, 3rd Court, Barrackpore

(Pratigya Pradhan)
J.M, 3rd Court, Barrackpore.