

Misc. Case 08/2022

Regn. No. – 08/2022

Smt Rumpa Maity Complainant

Tapan Maity and another Respondent

Date: 05.04.2024

The petition for interim relief u/s-23 of PWDV Act is taken up for passing order.

Perused the petition dated 17/02/24 filed by the respondent and other materials on record and also the documents filed by the both parties.

During hearing ld. Advocate for the respondent has submitted that the application filed by the aggrieved party u/s 12 of the PWDV Act is not maintainable as there is no domestic relationship between the parties. Ld advocate further submitted that the respondents are the parents in law of the petitioner but she never lived with the respondents at the shared household and so there is no domestic relationship in between the parties.

On the other hand, Ld. Advocate for the petitioner submitted that the petitioner's husband died in the year 2020 and that the petitioner was driven out of her matrimonial home by the respondents during lifetime of her husband and after demise of her husband, the respondents are trying to disposes her from the property of her husband. So, there is domestic relationship in between the parties.

The term 'domestic relationship' is defined under section 2(f) of PWDV Act as a relationship between two persons who live or have at some point of time, lived together in a shared household related by consanguinity, marriage, adoption etc. So it is clear from the definition itself that if the petitioner and respondents at any point of time lived at the shared household it is sufficient to hold that there is a domestic relationship between the parties.

In this case admittedly the petitioner is the daughter in law of the respondents. It is the specific case of the petitioner that the respondents drove her out of her matrimonial home during lifetime of her husband.

The respondents has not filed any W/O against the application u/s 12 of the PWDV Act . So there is no specific denial of the case of the petitioner on the part of the respondent. Instead of filing a W/O the respondents filed only a maintainability petition against the petitioner's petition.

In such circumstance, considering the facts and circumstances I am inclined to reject the petition of the respondents.

Hence, it is

ORDERED

That the petition dated 17/02/24 filed by the respondents is rejected without cost on contest.

The Protection Officer, South 24 Parganas is directed to file the DIR as early as possible. the petitioner to file requisite.

To 11/06/24 For W/O positively and DIR and Interim petition hearing.

Dictated and corrected by me

Sd/-
Addl. Chief Judicial Magistrate,
Berhampore.

