

## ORDER BELOW EXH.5

1. Perused record. Heard both sides. The main application is filed under Section 12 of Protection of Women from Domestic Violence Act, 2005, *hereinafter referred as D.V. Act* and present application in it for interim reliefs, mainly maintenance.
2. The applicant is 55 years old lady, approached this court contending that her marriage solemnized with respondent on 07.09.1986. Two daughters born out of said marriage. They are now married and residing abroad. After considerable period of settled married life, some differences occurred and in the year 2021, respondent sent the applicant to Mumbai, assuring her of providing maintenance and other basic necessities. But he has not followed his promise. During married life he caused various acts of domestic violence, more particularly described in the main application, Exh.1. Applicant has no source of income. She is ill and having health issues. Three dogs are also dependent on her, besides other requirements. The respondent is running business at Bengaluru and he is having various other sources as well. Therefore, she claimed maintenance of Rs.70,000/- per month.
3. The respondent vide his say, Exh.11, denied all these adverse allegations. He denied that he had caused any act of domestic violence as alleged by the applicant. The summary of his reply is that the applicant left house on her own without any fault on the part of respondent. He has no means of income as claimed by applicant. He suffered losses in the business and unable to provide any maintenance. It is also brought to notice that in the intervening period he paid certain amounts.
4. Submissions of both the parties are in tune with their respective contentions. Considering adverse pleadings, submissions of both the parties, and other facts and circumstances I framed following points for

my determination and recorded my findings on each of them as follows for the reasons discussed below-

	<b>POINTS</b>	<b>FINDINGS</b>
1.	<i>Does from the material on record applicant succeeded in making out prima facie case of commission of domestic violence against her by the respondent ?</i>	<i>....In the affirmative.</i>
2.	<i>Whether applicant is entitled for the relief of interim maintenance as prayed for ?</i>	<i>....In the affirmative.</i>
3.	<i>What order ?</i>	<i>....Appli. is partly allowed.</i>

### **R E A S O N S**

5. Both the parties in support of their respective contentions filed on record certain documents and affidavits. The fact of separation and non-arrangement of any means for survival of the applicant by the respondent is admitted. It is also admitted that applicant have no sources of income and she is solely dependent on the respondent. Her age is also considerable and there are other factors such as illness and pets kept by her, are also accruing financial liability on her. Against these facts if we considered the defence pleaded by respondent and material produced it is clear that, there noticed nothing which will dis-entitle the respondent from payment of maintenance, as these admitted facts clearly constitute economic violence.

6. The comparative perusal of material produced by respondent against the allegations of other sorts of domestic violence, also reflects that the allegations made by the applicant can not be ignored. Prima facie it can be inferred that respondent has caused these acts, atleast, to the extent of decision of the present application. In view of these facts discussed it can be inferred that respondent caused various acts of

domestic violence, hence, I recorded my finding on Point No.1, in the affirmative.

7. So far as reliefs claimed are concerned the applicant mainly sought maintenance. Though it is denied that respondent has suffered business losses and unable to provide maintenance, there is no concrete material produced to draw any such inference. Further, even if it is presumed that he has suffered any such losses this fact itself is not enough to disown liability. The parties belonged to good financial back ground, the maintenance must be granted and that too with a lifestyle and requirements suitable to her. It is also argued that applicant is also claimed maintenance for her three pets i.e. Rottweiler dogs. Such ground can not be considered. I am not agree with these submissions, the pets are also part and parcel of descent lifestyle. Pets are necessary for human beings to lead healthy life as they fulfill the emotional deficit occurred on account of broken relationships. Therefore, this can not be ground to mitigate the maintenance amount.

8. Considering all these aspects of the matter, status of the parties, contents of affidavits of Assets and Liabilities and requirements of the applicant I am of the opinion that following order will serve the cause of justice -

### **ORDER**

- a. The application is partly allowed.
- b. The respondent [REDACTED], is herewith directed to pay the amount of Rs.50,000/- (Rupees Fifty Thousand Only) per month to the applicant, towards interim maintenance, from the date of filing of application till the decision of the main application.
- c. The copy of this order shall be given free of costs to both the parties and if Respondent failed to comply the order the applicant is

directed to file separate application bearing separate number for recovery of arrears.

**MUMBAI**

**(KOMALSING RAJPUT)**

**DATE – 20.06.2023**

**M.M., 12TH COURT, BANDRA, MUMBAI**