



\$~101

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 2935/2024**

SMT RAJNI BALODI

.....Petitioner

Through: Mr. Anjaneya Mishra, Mr. Sahil and
Mr. Mr. Nidish Gupta, Advocates.

versus

VINAY BALODI & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **23.09.2024**

CRL.M.A. 28752/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(CRL) 2935/2024 & CRL.M.A. 28753/2024

1. The Petitioner has approached this Court with the following prayers:-

“a) Issue a writ, order or direction to the Ld. MM (Mahila Court), Patiala House District Court, Delhi to expeditiously adjudicate and pass order in the application filed by the Petitioner on 17.09.2024 in C.C. no. 8467 of 2020 titled as “Rajni Balodi vs. Vinay Balodi”;

b) Issue a writ, order or direction to the Respondent No. 2 through its representative, agents, attorneys, heirs and any other persons, acting on behalf of the Respondent No.2 Bank that until the payment of the EMI dues by the Respondent No. 1, the Petitioner and her minor son may not be dispossess from the Property i.e. Residential Flat No. S-5, (L.I.G.), Second Floor, (Back Side), situated at Plot No. 6/210, Sector-6,



Vaishali, Tehsil & District Ghaziabad, Uttar Pradesh;

c) Issue a writ, order or direction to the Respondent No. 3 to disclose and furnish the details of income including all the benefits and perquisites of the Respondent No. 1;

d) Issue a writ, order or direction to the Respondent No. 3 to attach the salary of the Respondent no. 1 along with other monetary benefits and perquisites so that the dues of the Respondent No. 2 be cleared;

Or in alternative of prayer (a) & (b)

e) Issue a writ, order or direction, thereby directing the Respondent No.1 to immediately clear the outstanding dues of the Respondent No.1 Bank and regularise the home loan account with the Respondent No. 2 Bank and to ensure the timely payment of the EMIs towards the loan availed by the Respondent No.1 from the Respondent No.2 Bank;

f) Issue a writ, order or direction to the Respondent No. 2 through its representative, agents, attorneys, heirs and any other persons, acting on behalf of the Respondent No.2 Bank that until the payment of the EMI dues by the Respondent No. 1, the Petitioner and her minor son may not be dispossess from the Property i.e. Residential Flat No. S-5, (L.I.G.), Second Floor, (Back Side), situated at Plot No. 6/210, Sector-6, Vaishali, Tehsil & District Ghaziabad, Uttar Pradesh; and/or

g) Pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case and render justice. ”

2. The present petition arises out of the proceedings under the Protection



of Women from Domestic Violence Act, 2005. The facts of the case reveal that the marriage of the Petitioner and Respondent No.1 was solemnized on 13.04.2008. It is stated that there is a child, i.e., a minor son, out of the wedlock.

3. It is stated that a complaint was filed by the Petitioner herein under Section 12 of the Domestic Violence Act before the learned Metropolitan Magistrate, Mahila Court, New Delhi. During the pendency of the aforementioned complaint, the learned Metropolitan Magistrate vide Order dated 09.09.2021 granted ad-interim maintenance of Rs.8,000/- per month to the Petitioner herein and Respondent No.1 was directed to pay the same exclusive of the payments of school fee, EMI of the house, electricity bills etc.

4. It is pertinent to mention here that a house has been purchased by Respondent No.1 for which he is paying EMI and the Petitioner along with her child is residing there. It is stated by learned Counsel for the Petitioner that Respondent No.1 has stopped paying the EMI. Resultantly, the bank has started taking steps for evicting the Petitioner herein and the child from the house.

5. It is the contention of the learned Counsel for the Petitioner that the act of Respondent No.1 in stopping the payment of EMI is in gross violation of the Order dated 09.09.2021 passed by the learned Metropolitan Magistrate. He states that an application has been filed before the learned Trial Court for an order to direct Respondent no.1 to pay the EMI as directed by the learned Metropolitan Magistrate vide Order dated 09.09.2021. The said application is now listed for hearing on 14.10.2024 along with the main petition under the Domestic Violence Act.



6. When this Court gave a suggestion to the Petitioner that the Petitioner can move an application for preponment of the date of hearing on the application for execution of the Order dated 09.09.2021, learned Counsel for the Petitioner has accepted the suggestion given by this Court and prays for withdrawal of the present petition with liberty to move an application for early hearing.

7. Permission and liberty, as prayed for, is granted.

8. At this juncture it is apposite to reproduce the relevant portions of the Order dated 09.09.2021 passed by the learned Metropolitan Magistrate, which reads as under:-

“It is submitted by the Ld. Counsel for the complainant that respondent No.1 is not making any payment to the complainant for maintenance of her and the children and that she has two children who are dependent upon the complainant and it is prayed that some ad-interim maintenance may be fixed as she is facing hardship in maintaining herself and the children.

It is stated by the counsel for the respondent No.1 that complainant is residing in the household of which the EMI is being paid by the respondent No.1.

It is stated that WS and income affidavit has been filed by the respondent No.1. Further the respondent No.1 is also making the payment of the fees of the children and voluntarily making payment of Rs.5,000/in the account of the complainant. He has prayed for physical hearing for arguments on the application of interim maintenance.

Submissions heard.

Considering the submissions and that children are



dependent upon the complainant and in the interest of the children, the respondent No.1 is directed to pay ad-interim maintenance of Rs.8,000/- per month to the complainant (exclusive of payments of school fees, EMI of house, electricity bills, if any, etc.) on 5th of each Calendar month from today. Respondent No.1 is directed to make payment of this month by 20th of September, 2021. Respondent No.1 is directed to transfer the same in the bank account of the complainant till the decision of the interim maintenance application.”

9. In view of the findings of the Order dated 09.09.2021, as and when an application for preponment of the date of hearing in the application is made, the learned Trial Court is requested to consider the same on its own merits and pass appropriate orders in accordance with law.

10. It is made clear that this Court has not made any observation on the merits of the case.

11. The petition is disposed of as withdrawn along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SEPTEMBER 23, 2024

hsk