

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 09TH DAY OF JUNE, 2022

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.11265 OF 2022 (GM-RES)

BETWEEN:

SMT.RAJAMMA H.,

... PETITIONER

(BY SRI RAGHAVENDRA GOWDA K., ADVOCATE FOR
SRI MOHAN KUMAR D., ADVOCATE)

AND:

THIMMAIAH V.,

... RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF
CR.P.C., PRAYING TO DIRECT THE LEARNED METROPOLITAN

MAGISTRATE TRAFFIC COURT-III AT BANGALORE TO DISPOSE THE MATTER IN CRL MISC NO.120/2021 WITHIN THE OUTER LIMIT OF 3 MONTHS VIDE ANNEXURE-C AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is before this Court seeking a direction by issuance of a writ in the nature of mandamus to the Metropolitan Magistrate Traffic Court-III, Bangalore to dispose of the interlocutory/main application filed under the Protection of Women from Domestic Violence Act, 2005 ('the Act' for short) in Criminal Miscellaneous No.120 of 2021 in an outer limit of three months.

2. Heard Sri K. Raghavendra Gowda, learned counsel for the petitioner.

3. The petitioner files application invoking Section 12 of the Act on several allegations. The allegation made in the application is not the issue before this Court. Along with the application the petitioner also filed an interlocutory application seeking maintenance in her favour. The said application was

filed on 12-11-2021 along with the main application. Notice is issued in the case on 20-12-2021 after which, the order sheet reveals that there has been no consideration of the application filed by the petitioner seeking maintenance.

4. The learned counsel for the petitioner would submit that every application accompanying the main application should be decided by the learned Magistrate within three months from the date of its presentation in terms of Section 12 of the Act. Since there is no compliance with the provision, the petitioner has presented the present petition seeking a direction for expeditious disposal of the interlocutory application by the learned Magistrate.

5. The application is filed admittedly invoking Section 12 of the Act. Sub-section (5) of Section 12 of the Act reads as follows:

“12. Application to Magistrate.-

(5) The Magistrate shall Endeavour to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing.”

Sub-section (5) mandates that every application filed under the Act shall be disposed of by the Court within six months from the date of its presentation. The order sheet reveals that the application was filed on 12-11-2021 seeking maintenance. Six months have passed by. The order sheet does not demonstrate any consideration of the application. Therefore, the petitioner is entitled to a mandamus at the hands of this Court or a direction to the learned Magistrate to dispose of the application for maintenance expeditiously.

6. For the aforesaid reasons, the writ petition is allowed and the Metropolitan Magistrate Traffic Court-III at Bangalore is directed to dispose of the application filed by the petitioner, along with Criminal Miscellaneous No.120 of 2021 seeking maintenance, within a period of two weeks from the date of receipt of a copy of this order.

**Sd/-
JUDGE**

bkp
CT:MJ