



C.M.A. No. 1539 of 2022

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**M.SUNDAR,J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

(Order of the Court was made by M.SUNDAR, J.)

Captioned 'Civil Miscellaneous Appeal' (hereinafter 'CMA' for the sake of brevity) has been listed under the cause list caption 'FOR EXTENSION OF TIME - LOWER COURT' today. The reason for listing under such a cause list caption is a communication dated 08.02.2024 bearing reference No.Dis.No.394/2024 from learned 'VII Additional Principal Judge's Court, Chennai' (hereinafter 'said Family Court' for the sake of brevity and convenience) to the learned Registrar General of this Court (Madras High Court) seeking extension of time for disposal of OP No.1284 of 2019 on the file of said Family Court. To be noted, vide an order dated 01.12.2022 another Hon'ble Division Bench had fixed a six months time frame for disposal of IDOP and there will be allusion to this with more details elsewhere infra in this proceedings.

2. Before we proceed further, a bird's eye view of short facts and trajectory the matter has taken thus far will help in



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appreciating this order and therefore, we make an adumbration of the same which is as follows:

2.1 'Dr.Rajiv Verghese' (hereinafter 'husband' for the sake of convenience) and 'Ms.Rosy Chakkramakkil Francis' (hereinafter 'wife' for the sake of convenience) are spouses and their marriage was solemnized in Chennai on 15.09.2008;

2.2 Husband and wife fell into marital discord resulting in husband filing I.D.O.P. No.1284 of 2019 on the file of said Family Court inter-alia seeking divorce under Section 10 (1)(x) of 'The Divorce Act, 1869 (4 of 1869)' (hereinafter 'Divorce Act' for the sake of brevity, convenience and clarity);

2.3 Pending aforementioned IDOP for divorce, wife filed an application in I.A. No.1 of 2019 (in I.D.O.P. No.1284 of 2019) seeking *pendente lite* alimony of Rs.2.5 lakhs per month and litigation expenses of Rs.2 lakhs. This application for alimony *pendente lite* is under Section 36 of Divorce Act and said Family Court awarded a sum of Rs.1.75 lakhs per month as alimony *pendente lite* vide an order dated 14.06.2022;



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WEB COPY 2.4 Aforementioned 14.06.2022 *pendente lite* alimony order was carried in appeal to this Court by the husband vide C.M.A. No.1539 of 2022 (captioned CMA) and this appeal as regards substantive provision is concerned is under Section 55 of Divorce Act. Be that as it may, the appeal appears to have been presented under Section 55 of Divorce Act read with Section 19 of 'The Family Courts Act, 1984 (Act 66/1984)' (hereinafter 'F.C. Act' for the sake of brevity, convenience and clarity);

2.5 A Hon'ble Division Bench of this Court disposed of aforementioned/captioned CMA i.e., C.M.A. No.1539 of 2022 partly allowing the appeal i.e., reducing alimony *pendente lite* to Rs.80,000/- per month with a further direction to said Family Court to dispose of the aforementioned IDOP (I.D.O.P. No.1284 of 2019) as expeditiously as possible and in any event within a period of six months from the date of receipt of a copy of the order;

2.6 The aforementioned 01.12.2022 order of another Hon'ble Division Bench has been received by said Family Court on 24.01.2024. Therefore, six months therefrom elapsed on 24.07.2023.



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3. This Court having captured a thumb nail sketch of facts essential for appreciating this proceedings and also having captured the trajectory the matter has taken thus far reverts to the listing today pursuant to aforementioned 08.02.2024 letter from the learned Presiding Officer of said Family Court. In this letter, learned Presiding Officer of said Family Court has mentioned that he took charge of said Family Court only on 04.10.2023 and has also mentioned that wife filed I.A.No.6 of 2023 (after aforementioned Division Bench order dated 01.12.2022) with a rejection of plaint prayer and we are also informed that the husband has also filed another interlocutory application being I.A.No.8 of 2024 with a prayer for marking additional documents. We are informed that I.A. No.6 of 2024 has since been dismissed by said Family Court. Mr.Rahul Jagannathan, learned counsel for wife submits on instructions that legal quietus has been given to this order and counter has been filed in main IDOP. This submission is recorded.

4. In the hearing today, Mr.T.Saminathan, learned counsel on record for husband is before us in the physical Court and Mr.Rahul Jagannathan, learned counsel on record for wife is before us on the



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VC (Video Conferencing) platform. To be noted, this is a hybrid hearing, which is a regular/routine/daily feature in this Court.

5. Both learned counsel submitted that both husband and wife have carried the aforementioned 01.12.2022 order of another Hon'ble Division Bench in captioned CMA to Hon'ble Supreme Court by way of two separate 'Special leave Petitions' ('SLPs' in plural and 'SLP' in singular for the sake of convenience). SLP filed by the husband is SLP No.6387 of 2023 and the SLP filed by the wife is SLP No.20922 of 2023.

6. We were informed by learned counsel for wife that the SLP filed by wife is next scheduled to be listed on 19.03.2024, however, we went into the official website of Hon'ble Supreme Court and find that tentative listing date for both SLPs is 30.04.2024 and scanned reproduction of the downloads from the official website of Hon'ble Supreme Court are as follows:



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SLP No.20922 of 2023

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SLP No.6387 of 2023



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34/24, 6:56 PM

Case Status (SUPREME COURT OF INDIA)

SUPREME COURT OF INDIA (/)

(सर्वोच्च न्यायालय)

https://www.sci.ernet.in/case-status/ (For public access) **Public** https://www.sci.ernet.in/case-status/ (For public access) **Public**

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Case Information (Public View)

Case Number	Case Number	Party Name	Act	Court / Tribunal	Final Verdict

2392

Case No. 2021 Year 2021

Case No. 2021 - 2022

RAJIV VIKHRESE vs. ROSE CHANDRAMAMANI, PRINCE

Case Details

Case No.	2021/2022 Filed on: 24-03-2022 12:24 PM (SECTION-40)	PENDING
Case No.	SUPD No. 2041/20 - 2022, Registered on: 24-03-2022 (Created on: 24-03-2022)	
Presented Label On	27-08-2022 (REGISTRATION (Court & Building))	
Current Stage	PENDING before hearing (AFTER NOTICE FOR PROSECUTION - CIVIL COMPLAINT filed on 27-08-2022)	
Next hearing date may be fixed on (Reply to be filed on)	08-04-2024 (Computer generated)	
Category	1000 Family Law Matters - Adoption & Maintenance matters	
Act		
Provision(s)		
Regulation(s)		
Act Amendment	2002/2021 M.L.	
Help / Assistance	RASHMI KAMAL JURETIA (C)	
Collection		

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https://www.sci.gov.in/case-status

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7. Therefore, there is no disputation or contestation that the order made by another Hon'ble Division Bench in captioned CMA which has fixed the aforementioned six months time frame has been assailed in Hon'ble Supreme Court by both parties i.e., husband and wife, Hon'ble Supreme Court has issued notice and is in seizin of the matter. In other words, Hon'ble Supreme Court is testing the correctness or otherwise of the order dated 01.12.2022 made in captioned CMA.

8. Learned counsel on both sides i.e., Mr.T.Saminathan, learned counsel for husband and Mr.Rahul Jagannathan, learned counsel for wife very fairly submitted that no interim orders have been made by Hon'ble Supreme Court and therefore no interim orders are operating and therefore they will now take steps to move Hon'ble Supreme Court to seek clarification as to *(a) Whether said Family Court can proceed with the main IDOP at all? and (b) If yes, the time frame if any which may be fixed at the discretion of Hon'ble Supreme Court.* Both learned counsel also submitted that they will also seek any other interim order qua IDOP proceedings i.e., to be put on hold and await orders of Hon'ble Supreme Court.



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9. In the light of the fair stand taken by learned counsel on both sides, we deem it appropriate to say that it would only be appropriate, as a matter of judicial discipline in the hierarchy of Courts, for Hon'ble Supreme Court to decide the request for extension of time prayer rather than we making any orders.

(M.S.J.) (K.G.T.J.)

05.03.2024

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P.S. I: *Upload forthwith*

P.S.II : *All concerned including VII Additional Family Court, Chennai to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.*



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05.03.2024