



WEB COPY



CMA No.1054 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **07.08.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**  
**and**  
THE HONOURABLE MR.JUSTICE **V.LAKSHMINARAYANAN**

**CIVIL MISCELLANEOUS APPEAL No.1758 of 2023**  
**and CMP No.17237 of 2023**

M.L.Arivazhagan

... Appellant/Respondent

-VS-

1. P.Valarmathi

2. A. Srividhya (minor)  
Rep. by her mother and  
natural guardian P.Valarmathi

... Respondents/ Petitioners

**Civil Miscellaneous Appeal** filed under Section 19 of the Family Courts Act, prayed to set aside the order dated 25.05.2023 passed by the learned III Additional Principal Family Court, Chennai in I.A.No.1 of 2023 in H.M.O.P.No.3135 of 2022.

For Appellant : Mr.B.Balaji



CMA No.1054 of 2023

WEB COPY

## **J U D G M E N T**

*[Judgment of the Court delivered by V.LAKSHMINARAYANAN,J.]*

This is an Appeal by the husband against the order of the interim maintenance granted by the III Additional Principal Family Court at Chennai, in IA No.1 of 2023 in HMOP No.3135 of 2022 .

2. The respondent wife had filed the petition under Section 24 of the Hindu Marriage Act, claiming Rs.15,000/- per month for herself and Rs.10,000/- per month for the minor girl child and Rs.50,000/- towards the litigation expenses. The husband is working as Master Chef and he is also claiming to do freelancer work.

3. The affidavit of assets filed as per the direction of the Hon'ble Supreme Court states that the husband is earning about Rs.1000/- per day, but the learned counsel for the appellant would allege that he is working only for 15 days, the other 15 days he is not working. The learned Family Court went through the affidavit of the husband and came to the conclusion as follows:

(i) He has failed to maintain the wife and the



CMA No.1054 of 2023

daughter;

WEB COPY

(ii) On account of the failure he is liable to pay maintenance;

(iii) It had granted Rs.10,000/- as maintenance towards the wife and Rs.5,000/- towards the maintenance of the child; and

(iv) It has also directed payment of Rs.50,000/- towards litigation expenses to the wife.

assailing this order, the husband is on Appeal before us.

4. The learned counsel for the appellant would submit that the appellant had undergone Hernia operation and therefore, he is not in a position to pay the maintenance. Hernia operation is a one time operation and is not a recurring expense. Apart from that sickness of the husband cannot be a ground to deny maintenance towards the wife and minor child, who in the present case happens to be a girl child. The husband has not produced a income certificate before the Court to substantiate that he is earning only Rs.15,000/- per month. The Family Court has also taken into consideration that the wife is staying in her own accommodation. It has also recorded the fact that the husband is doing



CMA No.1054 of 2023

catering business apart from being a Chef.

WEB COPY

5. Being the discretionary order and the amount not being unreasonable, we are not inclined to interfere with the Appeal. The Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

**(R.SUBRAMANIAN, J.) (V.LAKSHMINARAYANAN, J.)**  
**07.08.2023**

jv

Index : No

Internet : Yes

Speaking order

Neutral Citation: No

To

1. The III Additional Principal Family Court,  
Chennai.
2. The Section Officer,  
V.R. Section,  
Madras High Court, Chennai 104.



WEB COPY



*CMA No.1054 of 2023*

**R.SUBRAMANIAN, J.**  
**and**  
**V.LAKSHMINARAYANAN, J.**

jv

**CIVIL MISCELLANEOUS APPEAL No.1758 of 2023**  
**and CMP No.17237 of 2023**

**07.08.2023**