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C.M.A.Nos.2618 & 2619 of 2



THE HIGH COURT OF JUD ICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.M.A.Nos.2618 & 2619 of 2023
and
C.M.P.Nos.24139 & 24145 of 2023

Selvam

...Appellant in both appeals

Vs.

M.Parameshwari

...Respondent in both appeals

Prayer in CMA.No.2618 of 2023: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, against the fair and decreetal order passed in I.A.No.2 of 2023 in O.P.No.111 of 2022 on the file of the Family Court, Udthagamandalam, filed under Order Rule 10 of C.P.C., sought for to return the divorce petition filed in HMOP.No.111 of 2022 with direct to present the same before jurisdictional Court.

Prayer in CMA.No.2619 of 2023: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, against the fair and decreetal order passed in I.A.No.3 of 2023 in O.P.No.111 of 2022 on the file of the Family Court, Udthagamandalam, filed under Section 24 of the Hindu Marriage Act seeking for interim maintenance of Rs.30,000/-.



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For Appellant
in both appeals : Mr.B.Manimaran

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

These two appeals deserve to be dismissed.

2.The appeal in C.M.A.No.2618 of 2023 is against the dismissal of I.A.No.2 of 2023 filed by the husband seeking return of the petition filed by the wife in HMOP.No.111 of 2022 under Section 13(1)(ia) of the Hindu Marriage Act, 1955 seeking divorce on the ground of cruelty.

3.The husband would primarily contend that since the spouses lost to reside together at Sivagangai, the Court at Udhagamandalam does not have jurisdiction. The contention of the husband is opposed to the provisions of the Hindu Marriage Act as well as the Family Courts Act. Section 19 of the Hindu Marriage Act as amended by Act, 50 of 2003 enables the wife to present a petition in the Court at the place where she is



residing on the date of presentation of the petition. Admittedly, the wife is working as a Deputy Tahsildhar at Udhagamandalam and she is living there.

Therefore, the learned Family Judge has rightly dismissed the application.

Hence, we see no reason to interfere with the said order.

4.The appeal in CMA.No.2619 of 2023 is against the dismissal of an application filed by the husband in I.A.No.3 of 2023, seeking maintenance from the wife. The learned Family Judge has held that even though Section 24 of the Marriage Act enable either of the spouses to seek interim maintenance, the essential condition is that the spouse seeking maintenance must show that he or she has no independent income sufficient for his or her support.

5.The learned Family Judge has found that the husband owns land and he is getting regular income from there and he is able bodied person, who can heck his livelihood. Upon such finding, the Family Court had dismissed the application. No material has been placed before us in order to enable us to take a different view. Hence, we do not see any merit in this appeal also.



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6.In view of the same, both these Civil Miscellaneous Appeals fail and they are accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M.,J.) (N.S.,J.)
20.10.2023

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Internet:Yes

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Speaking

Nuetral Citation :No



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To:-

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The Family Court,
Uthagamandalam.



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R.SUBRAMANIAN, J.
and
N.SENTHILKUMAR, J.

KKN

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