



Rev. Apic(MD)No.46 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**Rev. Apic(MD)No.46 of 2023
in
C.M.A(MD)No.567 of 2022**

P.Saravanarajan : Review Petitioner/Appellant/Respondent

-VS-

C.Vijaya : Respondent/Respondent

PRAYER: Petition filed under Order XLVII Rule 1 and Section 114 of Cr.P.C., to allow the review application filed against the order passed in C.M.A(MD)No.567 of 2023 on 30.08.2022.

For Petitioner : Mr.A.Selvam

For Respondent : Mr.S.Ponsenthilkumaran

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This Review Application is filed as against the order passed by this Court in C.M.A(MD)No.567 of 2023 dated 30.08.2022.



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2. As against the interim order passed by the Family Court, Madurai, directing the petitioner to pay a sum of Rs.20,000/- per month towards monthly maintenance, the review petitioner filed an application before this Court in C.M.A.(MD)No.567 of 2022. However, it appears that the petitioner/appellant was advised to file a revision petition as if only a revision will lie as against the interim order in H.M.O.P.No.781 of 2014 on the file of the Family Court. Stating that the appeal may be permitted to withdrawn with liberty to file a Civil Revision Petition, the petitioner sought for withdrawal of the appeal with liberty to file a Civil Revision Petition as against the order impugned in the appeal originally filed in C.M.A(MD)No.567 of 2022. This Court recording the same, dismissed the Civil Miscellaneous Appeal as withdrawn with liberty to the petitioner to file a Civil Revision Petition.

3. The learned counsel appearing for the petitioner states that when a revision petition was filed, the office returned the same as a learned Single Judge of this Court has held that only Civil Miscellaneous Appeal would lie before this Court and not a Civil Revision Petition. Since the office refused to number the Civil Revision Petition on the strength of judicial precedent, the petitioner appears to have withdrew the Civil Revision Petition. Realising that



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an appeal alone is maintainable as against the order, the petitioner has filed the review application to review the order passed by this Court earlier on the representation of the petitioner.

4. Apart from the technical issue, this Court finds that the petitioner should be given a fair opportunity to prosecute his appeal. Therefore, instead of directing the petitioner to file a separate appeal once again this Court is of the view that the order passed by this Court in C.M.A(MD)No.567 of 2022 dated 30.08.2022 should be recalled.

5. The application for review is allowed and the order dated 30.08.2022 in C.M.A(MD)No.567 of 2022 is recalled. Registry is directed to list the C.M.A.(MD)No.567 of 2022 for admission in the usual course.

[S.S.S.R., J.]

[S.S.Y., J.]

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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