



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM
THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.P.No.1288 of 2024

in

C.M.A (SR) No.125777 of 2023

&

C.M.A (SR) No.125777 of 2023

S.Ragupathi

... Petitioner / Appellant

Vs.

Usha Rani

.. Respondent/Respondent

Prayer in C.M.P.No.1288 of 2024: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 184 days in filing the Civil Miscellaneous Appeal against the order in I.A.No.3 of 2022 in O.P.No.31 of 2022 dated 29.11.2022 on the file of Family Court, Udhagamandalam.

Prayer in C.M.A (SR) No.125777 of 2023: Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, 1984 to set aside the order dated 29.11.2022 in I.A.No.3 of 2022 in O.P.No.31 of 2022 on the file of Family Court, Udhagamandalam.

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For Appellant : Mr.K.P.Sathish Kumar

For Respondent : Mr.S.Kishore
for Mr.K.Prabakaran

J U D G M E N T

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

This common order will now govern the captioned 'Civil Miscellaneous Appeal' ['CMA' for the sake of brevity] and captioned 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity].

2. Captioned CMA has been filed assailing an order dated 29.11.2022 made in I.A.No.3 of 2022 in O.P.No.31 of 2022 on the file of Family Court Judge, Udhagamandalam. This '29.11.2022 order' shall be referred to as 'impugned order' and 'Family Court, Udhagamandalam' shall be referred to as 'said Family Court', both for the sake of convenience and clarity.

3. Mr.K.P.Satish Kumar, learned counsel for the petitioner/appellant-husband and Mr.S.Kishore, learned counsel representing Mr.K.Prabhakaran, counsel on record for respondent-wife are before us.

4. Aforementioned impugned order has been made in I.A.No.3 of 2022 in O.P.No.31 of 2022, as already alluded to supra, I.A.No.3 of 2022



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is an application under Section 24 of 'Hindu Marriage Act, 1955 (Act 25 of 1955)' {hereinafter 'HM Act' for the sake of brevity} filed by the wife claiming interim maintenance / *pendente lite* maintenance. Therefore, CMA is not maintainable in the light of order dated 21.03.2024 made in maintainability batch i.e., C.M.P.No.18729 of 2023 in C.M.A.No.1914 of 2021 etc., batch [***S.Menaka Vs. K.S.K.Nepolian Socraties***, Neutral Citation : **2024:MHC:1405**].

5. In this view of the matter, no useful purpose would be served by adjudicating the captioned CMP which has been filed with a 'Condonation of Delay' ['CoD' for the sake of brevity] prayer qua 184 days delay in filing captioned CMA which is now not maintainable.

6. Therefore, without expressing any opinion or view on the merits of the matter, captioned CMP and C.M.A (SR) No.125777 of 2023 are disposed of as closed/withdrawn preserving all the rights and contention of the petitioner/appellant-husband as well as respondent/respondent-wife for preferring a revision under Article 227 of the Constitution of India. To be noted, counsel on record for petitioner/appellant has made an endorsement in captioned CMP and CMA and scanned reproduction of the same are as



follows:

WEB COPY Endorsement in CMP

I have by written draw
the above Court as follows
in order to file a C.R.P.
under Article 227 of the
Constitution of India
and request to return the
certified copies of the lower
Court and the documents.

[Signature]
Counsel for Appellant
21/3/2023

Endorsement in C.M.A (SR) No.125777 of 2023

I have by written draw
the C.M.A. No. 125777/2023
in order to file C.R.P.
under Article 227
Constitution of India
and may be permit to
get back the certified
copies of the documents
of the lower Court and
the documents.

[Signature]
Counsel for Appellant
21/3/2023



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7. Mr.K.P.Satish Kumar, learned counsel for the petitioner/appellant-husband requests for return of certified copy/copies qua impugned order. Request acceded to. Registry is directed to return certified copy/copies qua impugned order forthwith to counsel on record for petitioner/appellant under due acknowledgment as learned counsel wants to file a revision under Article 227 of the Constitution of India.

Captioned CMP and C.M.A (SR) No.125777 of 2023 are disposed of as closed/withdrawn albeit with preservation of rights and contentions of both sides in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

21.03.2024

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

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P.S. I: *Upload forthwith*

P.S.II : *All concerned including the Registry, High Court, Madras, 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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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

gpa

To

1. The Family Court
Udhagamandalam
2. The Section Officer
V.R.Section
High Court, Madras.

C.M.P.No.1288 of 2024
in
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