



C.M.A.No.1940 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

**C.M.A.No.1940 of 2015
and
M.P.No.1 of 2015**

J.Shanmugapriya
W/o G.Thiviya Shankar

..Appellant

Vs.

G.Thiviya Shankar,
S/o M.Girija Shankar

2. M.Girija Shankar

3. Thangamani,
W/o M.Girija Shankar

..Respondents

Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act against the fair and decreetal order dated 19.05.2015 passed in I.A.No.2806 of 2013 in O.P.No.1423 of 2012 on the file of learned Principal Judge, Family Court, Chennai.

For Appellant

: Ms.V.Ananthi
for Mr.Mohanamurali



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WEB COPY For Respondent : Mr.G.Saravanakumar

JUDGMENT

(The Judgment of the Court was delivered by Mrs.J.Nisha Banu,J.)

This Civil Miscellaneous Appeal has been filed by the appellant/wife challenging the order passed in I.A.No.2806 of 2013 in O.P.No.1423 of 2012 by the learned Principal Judge, Family Court, Chennai. The Interlocutory application has been filed as against her husband/respondent herein seeking maintenance of Rs.30,000/- per month to her minor daughter T.Hamsika. The Family Court has allowed the application in part, directing the respondent/husband to pay a sum of Rs.5,000/- per month to the child T.Hamsika as interim maintenance from the date of the application till the date of disposal of the main O.P.

2. As per Section 19 of the Family Courts Act, an appeal against the interlocutory application will not lie and an appeal will lie only as against the judgment or order of the Family Court. Further, in the case of ***G.V.N.S.Siva Prasad vs. V.Jyostna Devi*** made in ***C.M.A.No.1018 of 2022 dated 27.03.2024***, the Division Bench of this Court, after referring to the judgment of ***S.Menaka v. K.S.K. Nepolian Socraties and other***



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cases (Batch) reported in **2024:MHC:1405** (Neutral Citation of Madras High Court) and **2024 Live Law (Mad) 126** held that as against the interlocutory applications/ interim maintenance, only Civil Revision Petition under 227 of the Constitution of India, would lie and not Civil Miscellaneous Appeal.

3. Learned counsel for the appellant seeks permission of this Court to withdraw this appeal. He has also made an endorsement to that effect in the case bundle.

4. In the light of the aforesaid judgment and in view of the endorsement made by the learned counsel for the appellant, this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition. On filing of the CRP, for the purpose of limitation, the period spent in prosecuting the CMA shall be excluded.

5. If the learned counsel for the appellant requests for return of certified copy of the impugned order, the same shall be returned to him forthwith under due acknowledgement. No costs.

Index : Yes / No
vsi

(J.N.B,J.) (R.S.V., J.)
20.11.2024
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J. NISHA BANU, J.
and
R.SAKTHIVEL, J.

vsi

To
The Principal Judge, Family Court,
Chennai.

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