



WEB COPY



C.M.A.No.3223 of 2013

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.A.No.3223 of 2013

and

M.P.Nos.1 of 2013 & 1 of 2015

in

C.M.A.No.3223 of 2013

L.Mathiazhagan
S/o.Lakshmanan

... Appellant

Vs.

Velanganni
W/o.L.Mathiazhagan

.. Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the decreetal order dated 01.06.2013 made in I.A.No.1678 of 2012 in O.P.No.1561 of 2011 on the file of the I Additional Family Court at Chennai.

For Appellant : Mr.M.Rajendran
For Respondent : No appearance

Page Nos.1/5



WEB COPY



C.M.A.No.3223 of 2013

J U D G M E N T

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

Captioned 'Civil Miscellaneous Appeal' ['CMA' for the sake of brevity] has been filed assailing an 'order dated 01.06.2013 made in I.A.No.1678 of 2012 in O.P.No.1561 of 2011' [hereinafter 'impugned order' for the sake of convenience and clarity] on the file of the 'I Additional Family Court at Chennai' [hereinafter 'said trial Court' for the sake of convenience and clarity] which is an order of *pendente lite* maintenance under Section 24 of 'Hindu Marriage Act, 1955 (25 of 1955)' [hereinafter 'HM Act' for the sake of convenience].

2. The maintainability of CMAs against orders under Section 24 of HM Act i.e., orders such as impugned order were decided by this Court vide 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**]. This Court has held that appeals against orders such as impugned order are not



C.M.A.No.3223 of 2013

maintainable. However, the rights of the appellant to file a revision under Article 227 of the Constitution of India stand preserved vide ***S.Menaka's*** case. This Court, without dilating further, deems it appropriate to say that the captioned CMA will now stand governed by ***S.Menaka's*** case.

3. Therefore, captioned CMA is disposed as not maintainable but with preservation of rights as set out in 21.03.2024 order in ***S.Menaka's*** case and we make it clear that we have not expressed any opinion or view on the merits of the matter.

4. Mr.M.Rajendran, learned counsel on record for the appellant in CMA and petitioner in captioned MPs requested for return of the certified copies of impugned order against which captioned appeal has been preferred and learned counsel submitted that this is for the purpose of filing a revision under Article 227 of the Constitution of India. Request of learned counsel is acceded to.



C.M.A.No.3223 of 2013

5. Registry is directed to return the certified copies qua impugned order (certified copies such as fair order, decretal order etc., qua impugned order) forthwith to the counsel on record for appellant under due acknowledgment. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(M.S.,J.)

(K.G.T.,J.)

21.03.2024

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

mk

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.*

To

1. The I Additional Principal Judge,
I Additional Principal Family Court
Chennai.
2. The Section Officer
V.R. Section
High Court, Madras.
3. The Section Officer
E.R. Section
High Court, Madras.

Page Nos.4/5



WEB COPY



C.M.A.No.3223 of 2013

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

mk

C.M.A.No.3223 of 2013

21.03.2024

Page Nos.5/5