



**C.M.A.No.295 of 2024**  
**in**  
**C.M.P.No.3297 of 2024**

**R.SUBRAMANIAN, J.**  
**and**  
**R.SAKTHIVEL, J.**

Challenge in the appeal is to the interim order passed by the Family Court made in I.A.No.3 of 2019 in O.P.No.4515 of 2015 directing payment of educational expenses and medical expenses to the minor child from date of the petition till date of disposal of the OP. Though the order is one made in exercise of the powers under Section 26 of the Hindu Marriage Act, it is an interim order pending disposal of the OP. Section 26 postulates two kinds of orders namely, one that are interim orders like the one passed by the Family Court in the case on hand and the second are where a provision is made in the final decree passed in the OP regarding maintenance or custody of the minor children.

2. Section 28 of the Hindu Marriage Act provides for appeals from decrees and orders. Sub-section 2 of Section 28 reads as follows:-

*"28.(2). Orders made by the Court in any proceeding under this Act under Section 25 of Section 26 shall, subject to the provisions of sub-section (3), be appealable **if they are not interim orders**, and every such appeal shall lie to the Court to which appeals ordinarily lie from the decisions of the Court given in exercise of its original civil jurisdiction."*



3. Section 28 provides for appeals against orders passed under Section 25 or 26, if they are not interim orders. Therefore, it is clear from a reading of the above provisions that the order passed under Section 25 or 26 is an interim order pending an original petition before the Family Court is not specifically appealable. This Court *in Menaga Vs. K.S.K. Nepolian Socratis* has also held that interim orders any passed by the Family Court are revisable and are not appealable.

4. In view of the above pronouncement of a Division Bench of this Court and the specific provisions of Section 28(2), we conclude that the appeal is not maintainable. Though a Division Bench has directed the appeals to be dismissed with liberty to the appellants to proceed with the challenge under 227 of the Constitution of India, since the appeal has already been numbered and also heard by the Division Bench along with *Menaga Vs. K.S.K. Nepolian Socratis* and it was subsequently detagged, we direct the Registry to convert the appeal into Civil Revision Petition under Article 227, subject to payment of the deficit Court fee, if any.

(R.S.M., J.) (R.S.V., J.)

26.04.2024

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