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C.M.A.Nos.1060 and 1062 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.Nos.1060 and 1062 of 2023
and C.M.P.No.9959 of 2023

Rajeswari

... Appellant
in both C.M.As.

Vs.

Balaji Ganesh

..Respondent
in both C.M.As.

Prayer: These Civil Miscellaneous Appeals are filed under Section 19(G) of Family Courts Act, 1984, against the impugned fair and decreetal order dated 26.10.2022 passed by the Principal Judge, Family Court at Chennai, in I.A.Nos. 2 and 3 of 2021 in O.P.No.1648 of 2019.

For Appellant : Ms.R.Revathi



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JUDGMENT

(Judgment of the Court was delivered by **J. Nisha Banu, J and R. Kalaimathi, J**)

These Civil Miscellaneous Appeals have been filed by the appellant/wife against the impugned fair and decreetal order dated 26.10.2022 passed by the Principal Judge, Family Court at Chennai, in I.A.Nos. 2 and 3 of 2021 in O.P.No.1648 of 2019.

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 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.



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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of the endorsement made by the learned counsel for the appellant, these Civil Miscellaneous Appeals are dismissed as withdrawn with liberty to file Civil Revision Petition. On filing of the Civil Revision Petition, for the purpose of limitation, the period spent in prosecuting the Civil Miscellaneous Appeal 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. Consequently, connected miscellaneous petition is closed.

(J.N.B, J.) (R.K.M., J.)
22.10.2024

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C.M.A.Nos.1060 and 1062 of 2023

J. NISHA BANU, J.
and
R.KALAIMATHI, J.

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To

The Principal Judge, Family Court at Chennai.

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and C.M.P.No.9959 of 2023

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