



C.M.A.No.613 of 2024
and
C.M.P.No.5944 of 2024

R.SUBRAMANIAN, J.
and
C.KUMARAPPAN, J.

Challenge in this appeal is to the order of interim maintenance granted by the Family Court in exercise of its original jurisdiction under the Indian Divorce Act.

2.Even though the order under challenge has been passed under Section 36 of the Divorce Act, 1869, Section 55 of the said Act which provides for enforcement of, and appeals from, orders and decree passed under the said Act makes it clear that appeals against orders passed under that Act will lie as if the orders are passed by the Court in exercise of its original jurisdiction under the laws, rules and order in time being in force. Section 45 of the said Act makes civil procedure applicable to proceedings under the Divorce Act. Therefore, if the order is not appealable either under Section 104 or Order 43 of the Code, necessarily it is a revisable order. An order granting interim maintenance made by a Court either under the Hindu Marriage Act or under the Divorce Act is not specifically made appealable by Section 104 or by Order 43 of the CPC.



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3.A Division Bench of this Court in *Menaga Vs.K.S.K.Nepolian Socratis* had held that an order granting interim maintenance made by the Family Court is not appealable and a revision alone would lie under the supervisory jurisdiction of the High Court. Hence, this instant appeal is not maintainable.

4.Registry is directed to convert this appeal into CRP and place it before the appropriate Court.

(R.S.M., J.) (C.K., J.)
04.04.2024

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