



C.M.A.No.690 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.690 of 2024

K.Balaji
S/o.Krishnan

... Appellant

Vs.

1. Minor S.Arunvidesh @ Lakshman Adithya
 2. Minor S.Srikamalesh
- Minors are rep. by their mother M.Deepa

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the fair and decreetal order dated 01.12.2023 passed in I.A.No.1 of 2022 in H.M.O.P.No.2952 of 2021 on the file of the learned III Additional Principal Family Court at Chennai.

For Appellant : Mr.R.Sathyamurthy

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J U D G M E N T

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

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 20.03.2024 which reads as follows:

'C.M.A.No.690 of 2024

M.SUNDAR, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

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

Captioned 'Civil Miscellaneous Appeal' [hereinafter 'CMA' for the sake of convenience and clarity] has been filed in this Court on 22.02.2024 assailing an order dated 01.12.2023 made in I.A.No.01 of 2022 in H.M.O.P.No.2952 of 2021 on the file of III Additional Principal Family Court at Chennai.

2. The 'order dated 01.12.2023' shall hereinafter be referred to as 'impugned order' and 'III Additional Principal Family Court at Chennai' shall hereinafter be referred to as 'said trial Court', both for the sake of convenience and clarity.

3. Maintainability of appeals made against orders of interim maintenance / pendente lite maintenance under Section 24 of 'the



Hindu Marriage Act, 1955 (25 of 1955)' [hereinafter 'HM Act' for the sake of convenience and clarity] are being tested and the captioned matter has to await the outcome of the same, as it would stand governed by orders in the maintainability batch.

4. Re-notified.

5. List in the Admission Board i.e., Motion List day-after-tomorrow. List on 22.03.2024.'

2. Aforementioned proceedings made in the previous listing are telltale qua subject matter and the trajectory the matter has taken thus far.

3. The maintainability issue qua CMAs against orders under Section 24 of 'the Hindu Marriage Act, 1955 (25 of 1955)' [hereinafter 'HM Act' for the sake of convenience and clarity] Act i.e., orders such as impugned order was 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 akin to impugned order are not maintainable. However, rights of the appellants to file a revision under Article 227 of the Constitution of India stand preserved vide ***S.Menaka*** case and other cases batch common order.



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This Court, without dilating further, deems it appropriate to say that the captioned CMA will now stand governed by ***S.Menaka's*** case and other cases batch common order reported in ***2024 : MHC : 1405 and 2024 Live Law (Mad) 126.***

4. Captioned CMA is disposed of as not maintainable / closed. We make it clear that we have not expressed any view or opinion on merits of the matter. All rights and contentions are left open for being canvassed in a revision under Article 227 of the Constitution of India, if preferred.

5. Mr.R.Sathyamurthy, learned counsel on record for appellant, who is before us submits that in tune with ***S.Menaka's*** principle, he now wants to prefer a revision under Article 227 of the Constitution of India and for this purpose, learned counsel requests for a direction to the Registry to return the certified copies qua impugned order. This request is acceded to.

6. Registry is directed to return the certified copy / copies qua impugned order (certified copies such as fair order, decreetal order etc., qua



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impugned order) forthwith to the counsel on record for appellant under due acknowledgment.

7. Captioned CMA is disposed of as not maintainable / closed albeit with preservation of rights in the aforesaid manner and directive to the Registry as mentioned above. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

22.03.2024

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 III Additional Principal Judge,
III Additional Principal Family Court
Chennai.
2. The Section Officer
V.R. Section

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High Court, Madras.
The Section Officer
E.R. Section
High Court, Madras.



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

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