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C.M.A.No.1248 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

and

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.1248 of 2023

Valarmathi

..Appellant

Vs.

Vivekanandhan

..Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of Family Courts, Act, 1984, r/w Section 28 of Hindu Marriage Act, 1955, to set aside the order and decretal order dated 15.11.2022 made in I.A.No.765 of 2021 in H.M.O.P.No.60 of 2021 on the file of the Family Court, Cuddalore, awarding an amount of Rs.4,000/- per month as interim maintenance from the date of petition and for enhancement of the same to Rs.20,000/- per month.

For Appellant : Mr.P.Suresh Babu

For Respondent : Mr.C.Prakasam



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JUDGMENT

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

This Civil Miscellaneous Appeal has been filed by the appellant/ wife to set aside the order and decretal order dated 15.11.2022 made in I.A.No.765 of 2021 in H.M.O.P.No.60 of 2021 on the file of the Family Court, Cuddalore, awarding an amount of Rs.4,000/- per month as interim maintenance from the date of petition and for enhancement of the same to Rs.20,000/- per month.

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



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Petition under 227 of the Constitution of India, would lie and not Civil Miscellaneous Appeal.

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view of the endorsement made by the learned counsel for the appellant, this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition.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.

(J.N.B, J.) (R.K.M., J.)
15.10.2024

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C.M.A.No.1248 of 2023

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

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To

The Family Court, Cuddalore.

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15.10.2024