



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.593 of 2024

&

C.M.P.No.5760 of 2024

in

C.M.A.No.593 of 2024

S.R.Adithhyan

... Appellant

Vs.

B.Ashwarya

.. Respondent

Civil Miscellaneous Appeal filed under Section 19 of Family Court Act, 1955 read with Section 28 of Hindu Marriage Act, 1955 to set aside the order dated 08.01.2024 passed in I.A.No.1 of 2023 in O.P.No.348 of 2023 pending on the file of the III Additional Principal Family Court, Chennai.

For Appellant : Mr.K.Elango



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J U D G M E N T

[Order 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 13.03.2024, which reads as follows:

'C.M.A No.593 of 2024
&
C.M.P.No.5760 of 2024
in C.M.A No.593 of 2024

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

(Order of the Court was made by M.SUNDAR, J.)

Captioned 'Civil Miscellaneous Appeal' ['CMA' for the sake of brevity] is directed against an order of 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]. Therefore, this has to await the outcome of 'Maintainability Issue' which this Bench is in seizin of.

2. List in the Admission Board i.e., Motion List on 21.03.2024.

3. In the interregnum, Registry to put up a note explaining how the appeal was numbered when the memorandum of grounds of



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appeal refers to the order in I.A.No.1 of 2023 in O.P.No.348 of 2023 on the file of III Additional Principal Family Court, Chennai as order dated 08.01.2023 whereas the certified copy shows the date as 08.01.2024.

List in the Admission Board i.e., Motion List on 21.03.2024.

(M.S.J.) (K.G.T.J.)
13.03.2024

gpa '

2. Today in the maintainability batch i.e., 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**] orders have been pronounced. Captioned CMA will also be governed by the same order dated 21.03.2024 in ***S.Menaka's*** case.

3. Therefore, captioned CMA is dismissed as not maintainable but with preservation of rights as set out in 21.03.2024 order in ***S.Menaka's*** case and we make it clear that we have not expressed any opinion or view on the merits of the matter.

4. Mr.K.Elango, learned counsel on record for the appellant in CMA and petitioner in captioned CMP requested for return of the certified copy of



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the impugned order against which captioned appeal has been preferred and learned counsel submitted that this is for the purpose of filing revision under Article 227 of the Constitution of India. Request of learned counsel is acceded to.

4. Registry is directed to return the certified copy / certified copies qua impugned order forthwith to the counsel on record for the appellant under due acknowledgment to enable the counsel to file CRP.

There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(M.S.,J.)

(K.G.T.,J.)

21.03.2024

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

gpa

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

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1. III Additional Principal Family Court,
Chennai
2. The Section Officer
V.R.Section
High Court, Madras.



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

gpa

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