



C.M.A.No.695 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.695 of 2024

and

C.M.P.No.6446 of 2024

in

C.M.A.No.695 of 2024

D.Rathish Kumar
S/o.Dhanabaskaran

... Appellant

Vs.

S.Muthumalini
W/o.D.Rathish Kumar

.. Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the fair and decreetal order dated 19.10.2023 passed by the I Additional Principal Judge, I Additional Family Court, Chennai in I.A.No.2 of 2023 in O.P.No.274 of 2019.

For Appellant : Ms.G.Devi

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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.695 of 2024

and

C.M.P.No.6446 of 2024

in

C.M.A.No.695 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 11.03.2024 assailing an order dated 19.10.2023 made in I.A.No.2 of 2023 in O.P.No.274 of 2019 on the file of I Additional Family Court at Chennai.

2. The 'order dated 19.10.2023' shall hereinafter be referred to as 'impugned order' and 'I Additional 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



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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 issue qua maintainability of 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 were 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 such as impugned order are not maintainable. However, the rights of the appellant to file a revision under Article 227 of



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the Constitution of India stand preserved vide ***S.Menaka's*** case. This Court, without dilating further, deems it appropriate to say that the captioned CMA and captioned CMP thereat will now stand governed by ***S.Menaka's*** case.

4. Captioned CMA and captioned CMP thereat are disposed of as not maintainable / closed. We make it clear that we have not expressed any view or opinion on the 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. Ms.G.Devi, learned counsel on record for appellant, who is before us submits that in tune with ***S.Menaka's*** principle, she 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.



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6. Registry is directed to return the certified copies qua impugned order (certified copies such as fair order, decretal order etc., qua impugned order) forthwith to the counsel on record for appellant under due acknowledgment.

7. Captioned CMA and captioned CMP are 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.*

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M.SUNDAR, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

mk

To

1. The I Additional Principal Judge,
I Additional Principal Family Court
Chennai.
2. The Section Officer
V.R. Section
High Court, Madras.
3. The Section Officer
E.R. Section
High Court, Madras.

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in

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