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C.M.A.No.1885 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS JUSTICE R.KALAIMATHI**

**C.M.A.No.1885 of 2022
and
C.M.P.No.13801 of 2022**

Anish Mathew,
S/o Sajeew Mathew

..Appellant

Vs.

Dr.P.Janani
D/o Poovalingam

..Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, against the fair and decreetal order made in I.A.No.1 of 2021 in O.P.No.2793 of 2020 dated 24.02.2022 passed by the V Additional Principal Judge, Family Court, Chennai.

For Appellant : Mr.V.Balu

For Respondent : Mr.V.Kannadasan



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JUDGMENT

(The Judgment of the Court was delivered by J.Nisha Banu,J.)

This Civil Miscellaneous Appeal has been filed against the order passed by the V Additional Principal Judge, Family Court, Chennai, in I.A.No.1 of 2021 in O.P.No.2793 of 2020 dated 24.02.2022. The said Interlocutory Application has been filed by the respondent herein under Section 36 of the Indian Divorce Act, 1869, seeking monthly maintenance.

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



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3. In view of the said judgments, the Civil Miscellaneous Appeal is dismissed as not maintainable. On filing of the CRP, for the purpose of limitation, the period spent in prosecuting the CMA shall be excluded. No costs. Consequently, connected miscellaneous petition is closed.

4. 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.

(J.N.B,J.) (R.K.M., J.)
04.10.2024

Index : Yes / No
Internet : Yes
vsi

To

V Additional Principal Judge,
Family Court,
Chennai.



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

vsi

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