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C.M.A.No.828 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM:

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

C.M.A.No.828 of 2023

Murali

..Appellant

Vs.

M.Shanthi

..Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, against the order dated 02.02.2023 passed by the learned VII Additional Family Court Judge, Chennai allowing I.A.No.1 of 2022 in O.P.No.1318 of 2020.

For Appellant : Mr.K.Santhakumari

For Respondent : Mr.A.Tamil Selvan

J U D G M E N T

(Judgment of the Court was delivered by **J.NISHA BANU, J.**)

This Civil Miscellaneous Appeal has been filed against the order dated 02.02.2023 passed by the learned VII Additional Family Court Judge, Chennai allowing I.A.No.1 of 2022 in O.P.No.1318 of 2020.



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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.

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



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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.)

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

28.08.2024

Index : Yes / No
Internet : Yes
sts

To

The VII Additional Family Court Judge,
Chennai.



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

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Judgment made in
C.M.A.No.828 of 2023

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