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C.M.A.No.163 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

C.M.A.No.163 of 2018

and

C.M.P.No.2026 of 2018

in

C.M.A.No.163 of 2018

B.Saathvik

Rep. by his mother / Guardian Karthika

... Appellant

Vs.

C.Balasundaram

S/o.Chellamuthu

.. Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, praying to set aside the Fair and Final order passed in I.A.No.435 of 2017 in H.M.O.P.No.241 of 2016 on the file of the Principal Family Court, Coimbatore dated 14.11.2017 and enhance the maintenance to Rs.2,50,000/-.

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For Appellant : Mr.S.Arjun

For Respondent : Mr.C.P.Palanichamy

J U D G M E N T

[Judgment of the Court was made by M.SUNDAR, J.,]

Captioned 'Civil Miscellaneous Appeal' [hereinafter 'CMA' for the sake of brevity] has been filed assailing an 'interim maintenance order' [hereinafter 'impugned order' for the sake of brevity, convenience and clarity] made under Section 26 of 'The Hindu Marriage Act, 1955 [25 of 1955]' {hereinafter 'HM Act' for the sake of brevity}.

2. Learned counsel for appellant fairly submits that though Section 26 of HM Act has been invoked, the application in I.A.No.435 of 2017 in H.M.O.P.No.241 of 2016 for all practical purposes is only a plea under Section 24 of HM Act as Section 24 of HM Act has the prayer pertains to interim maintenance.

3. This Court vide a detailed common judgment/order dated 21.03.2024 in ***S.Menaka v. K.S.K.Nepolian Socraties and other cases {Batch}*** reported in **2024:MHC:1405** {Neutral Citation of Madras High



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Court} and **2024 Live Law (Mad) 126** *inter alia* held that appeals against *pendente lite* maintenance/interim maintenance orders under Section 24 of HM Act are not maintainable but a revision under Article 227 of the Constitution of India would lie and preserved the rights of the appellants for preferring revision while giving closure to such CMAs.

4. In the aforementioned scenario, without dilating further on maintainability, suffice to say that captioned CMA will also be governed by ***S.Menaka v. K.S.K.Nepolian Socraties and other cases {Batch}*** reported in **2024:MHC:1405** and **2024 Live Law (Mad) 126** i.e., there would be closure and preservation of rights as in ***S.Menaka v. K.S.K.Nepolian Socraties and other cases {Batch}*** reported in **2024:MHC:1405** and **2024 Live Law (Mad) 126**.

5. Ergo, the sequitur is captioned CMA is disposed of as not maintainable/closed albeit with preservation of rights in the aforementioned manner i.e., as in ***Menaka*** Principle.

6. As a further sequitur/consequence, captioned CMP is also disposed of as closed.

7. Though obvious, it is made clear that in this order, this Court has



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not expressed any view or opinion on merits qua captioned CMA.

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8. If learned counsel on record for appellant in the captioned CMA requests for return of certified copy qua impugned order, the same shall be returned forthwith to learned counsel on record for the appellant under due acknowledgment.

9. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

27.03.2024

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

mk

P.S. I: Upload forthwith

P.S.II : All concerned including the Registry of Madras High Court 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

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

M.SUNDAR, J.,
and

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K.GOVINDARAJAN THILAKAVADI, J.,

mk

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