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CMA.Nos.953 and 980 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J. NISHA BANU
&
THE HONOURABLE MR.JUSTICE P.DHANABAL**

**C.M.A.Nos.953 and 980 of 2023
and
CMP.Nos.8707, 8708 and 9032 of 2023**

1. M. Palaniammal @ Revathi

2. M. Mirudhula (Minor)
represented by mother and natural guardian
M.Palaniammal @ Revathi
both residing at No.11/130,
5th Street, Periyar Nagar,
Senneerkuppam, Poonamallee 600 056

.... Appellants
(in both CMAs)

Vs.

R. Murugesan

... Respondent
(in both CMAs)

Prayer in CMA.No.953/2023: Civil Miscellaneous Appeal filed under Section 19 of Family Court Act, 1984 to set aside the interim order dated 19.12.2022 passed in I.A.No.1 of 2022 in O.P.No.3091 of 2020 on the file of the Principal Family Court at Chennai and enhance the interim maintenance from Rs.3,000/- to Rs.15,000/- for the 1st Appellant and from Rs.2,000/- to



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Rs.10,000/- for the 2nd petitioner/Appellant.

Prayer in CMA.No.980/2023: Civil Miscellaneous Appeal filed under section 19 of Family Court Act, 1984 to set aside the order passed in I.A.No.2 of 2022 in O.P.No.3091 of 2020, dated 19.12.2022 on the file of the Principal Family Court at Chennai and to direct the respondent herein to pay the balance of Rs.20,500/- out of Rs.40,500/- and further direct the respondent to pay the school fees for the academic year 2023-2024 payable in the month of May-June 2023.

For Appellants : Mrs.P.Kavitha
(in both CMAs)

For Respondent : Mr.S.Rubanprabu
(in both CMAs)

COMMON JUDGMENT

[Judgment of the Court was made by P.DHANABAL, J.]

These Civil Miscellaneous Appeals have been preferred as against the common order passed in I.A.No.1 of 2022 and I.A.No.2 of 2022 in O.P.No.3091 of 2020 on the file of the Principal Family Court at Chennai, dated 19.12.2022.

2. The appeal in C.M.A.No.953 of 2023 has been filed challenging the



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order passed in I.A.No.1 of 2022 in O.P.No.3091 of 2020 and the appeal in C.M.A.No.980 of 2023 has been filed challenging the order passed in I.A.No.2 of 2022 in O.P.No.3091 of 2020.

3. The appellants herein have filed both the interlocutory applications before the Trial Court and I.A.No.1 of 2022 has been filed by the 1st petitioner/wife to direct the respondent/husband to pay a sum of Rs.25,000/- per month to the 1st petitioner and Rs.15,000/- per month to the 2nd petitioner towards interim maintenance under section 24 of the Hindu Marriage Act, 1955 and I.A.No.2 of 2022 has been filed by the 1st petitioner/wife to direct the respondent/husband to pay a sum of Rs.60,000/- towards school admission fees to her daughter-Mirudhula/the 2nd petitioner.

4. The Trial Court partly allowed the petition in I.A.No.1 of 2022 by directing the respondent/husband to pay a sum of Rs.3000/- per month to the 1st appellant/wife and Rs.2,000/- per month to the 2nd appellant/daughter towards interim maintenance and awarded a sum of Rs.20,000/- towards school fee for 2nd appellant/daughter in I.A.No.2 of 2022, against which, the



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present civil miscellaneous appeals have been filed.

5. The learned counsel appearing for the respondent first of all raised objections in respect of maintainability of the appeals since those appeals are filed challenging the order passed in interlocutory applications filed in the main original petition.

6. 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. Napolian 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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7. In view of the said judgments, these Civil Miscellaneous Appeals are dismissed as not maintainable. On filing of the CRPs, for the purpose of limitation, the period spent in prosecuting the CMAs shall be excluded. No costs. Consequently, connected miscellaneous petitions are closed.

8. 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.] [P.D.B.,J.]
22.07.2024

Index: yes/no
Internet:yes/no
msr

To

The Principal Family Court at Chennai.

J. NISHA BANU, J.
&
P.DHANABAL, J.

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