



C.M.A.No.1274 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

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

**C.M.A.No.1274 of 2023
and
C.M.P.No.12554 of 2023**

N.Prakash
S/o.V.Narayanaswamy

..Appellant

Vs.

P.Deivanayagi
D/o.Shanmugam

..Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act to set aside the fair and decretal order of the II Additional Family Judge, Chennai, dated 02.12.2022 passed in I.A.No.3528 of 2018 in H.M.O.P.No.306 of 2018.

For Appellant : Mr.Nagesh Nakhul

For Respondent : Mr.C.Prabhakaran

J U D G M E N T



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(The judgment of the Court was made by J.Nisha Banu,J and R.Kalaimathi,J.)

This Civil Miscellaneous Appeal has been filed by the appellant/husband challenging the fair and decreetal order dated 02.12.2022 passed in I.A.No.3528 of 2018 in H.M.O.P.No.306 of 2018 by the II Additional Family Judge, Chennai.

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. Learned counsel for the appellant seeks permission of this Court to withdraw this appeal. He has also made an endorsement to that effect



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in the case bundle.

4. In the light of the aforesaid judgment and in view of the endorsement made by the learned counsel for the appellant, this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition. On filing of the CRP, for the purpose of limitation, the period spent in prosecuting the CMA shall be excluded.

5. 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. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (R.K.M., J.)
14.10.2024

Index : Yes / No
Internet : Yes
vsi

To
The II Additional Family Judge,
Chennai.

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



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vs

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