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C.M.A.No.2505 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.2505 of 2022
and
C.M.P.No.19491 of 2022**

Paulraj devadoss
S/o Late. A.M.Devadoss

..Appellant

Vs.

1.Mrs. Alok Abraham
W/o Paul devadoss

2. Kadambari catherine Paul (Minor)

3. Acarya Abraham Paul (Minor)

(Respondents 2 & 3 rep.
by their mother and Guardian
Aloka Abraham.

..Respondents

Civil Miscellaneous Appeal filed under Section 55 of Indian
Divorce Act read with section 19 of the Family Courts Act, 1984, against
the order dated 07.04.2022 passed in I.A.No.7 of 2021 in



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I.D.O.P.No.160 of 2016 by the learned III Additional Principal Family Court, Chennai.

For Appellant : Mr.A.Abdul Rahim

For Respondent : Mr.S.P.Arthi

J U D G M E N T

(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 III Additional Principal Family Court, Chennai, in I.A.No.7 of 2021 in I.D.O.P.No.160 of 2016 dated 07.04.2022. The said Interlocutory Application has been filed by the respondent 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



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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 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.

Index : Yes / No
Internet : Yes
vsi

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

To

III Additional Principal Judge,
Family Court,
Chennai.



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

vsi

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