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C.M.A.No.1457 of 2023

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.1457 of 2023

and

C.M.P.No.14961 of 2023

C. Hariharan

S/o.R.B.Chandrasekharan

..Appellant

Vs.

1. M.Sowmya

W/o.C.Hariharan

2. Minor. Adhira

D/o.C.Hariharan

Rep. by her mother and natural guardian,

M.Sowmya

..Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act to set aside the order passed on 01.03.2023 in I.A.No.2 of 2022 in O.P.No.3893 of 2021 on the file of the III Additional Family Court, Chennai.

For Appellant : Party in Person

For Respondents : Mr.T.Surendran



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J U D G M E N T

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

This Civil Miscellaneous Appeal has been filed by the appellant/ husband to set aside the order passed on 01.03.2023 in I.A.No.2 of 2022 in O.P.No.3893 of 2021 on the file of the III Additional Family Court, 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 appearing for the appellant is not present before this Court. The appellant appeared as party-in-person before this Court and seeks permission of this Court to withdraw this appeal with



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liberty to file CRP. He has also made an endorsement to that effect in the case bundle.

4. In the light of the aforesaid judgment and in view of the endorsement made by the appellant (Party in person), this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition.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 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.

6. Since the appellant requested for nomination of legal aid counsel to assist him to file CRP as his counsel is not present, The Secretary, High Court Legal Aid Services Authority, Chennai, is directed to nominate a legal aid counsel, in case, the appellant approaches the Legal Aid Authority, for assistance.

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

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Index : Yes / No

Internet : Yes

vsi



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

vsi

To

1. The III Additional Family Court,
Chennai.
2. The Secretary,
High Court Legal Aid Services Authority,
Chennai

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14.10.2024