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C.M.A.No.2097 of 2022

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.2097 of 2022
and
C.M.P.No.16265 of 2022**

G.Balaji
S/o.Gopal Chetty

..Appellant

Vs.

Jayatha Rani
W/o.G.Balaji

..Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act to set aside the fair and decretal order dated 01.06.2020 passed in I.A.No.97/2019 in H.M.O.P.No.1918/2017 on the file of the III Additional Family Court, Chennai.

For Appellant : Mr.M.Maharaja

For Respondent : Mr.J.Umaid Gothi



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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 challenging the fair and decreetal order dated 01.06.2020 passed in I.A.No.97/2019 in H.M.O.P.No.1918/2017 by 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 for the appellant seeks permission of this Court



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to withdraw this appeal. 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view of the endorsement made by the learned counsel for the appellant, this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition.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 III Additional Family Court,
Chennai.



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and
R.KALAIMATHI, J.

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