



WEB COPY



C.M.A.No.1881 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MRS. JUSTICE **K. GOVINDARAJAN THILAKAVADI**

C.M.A. No.1881 of 2020
and
C.M.P. No.13893 of 2020 in C.M.A. No.1881 of 2020

A.Selvan

.. Appellant

VS

1.D.Jothi Kanna
2.Bharani

.. Respondents

Appeal filed under Section 19 of The Family Courts Act, 1984
against the judgment and decree dated 31.12.2019 passed in I.A.
No.266 of 2018 in F.C.O.P. No.366 of 2016 on the file of the Family
Court, Salem.

For Appellant : Mr.J.Hudson Samuel
for M/s.Paul and Paul

For Respondents : Mr.K.Sathish Kumar for R1
No appearance for R2



C.M.A.No.1881 of 2020

WEB COPY

JUDGMENT

[Judgment of the Court was delivered by M.SUNDAR, J.]

Captioned 'Civil Miscellaneous Appeal' [hereinafter 'CMA' for the sake of brevity] has been filed assailing an 'order of *pendente lite* maintenance/interim maintenance order' [hereinafter 'impugned order' for the sake of brevity, convenience and clarity] made under Section 24 of 'The Hindu Marriage Act, 1955 [25 of 1955]' {hereinafter 'HM Act' for the sake of brevity}.

2. This Court vide a detailed common judgment/order dated 21.03.2024 in ***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** inter alia held that appeals against *pendente lite* maintenance/interim maintenance orders under Section 24 of HM Act are not maintainable but a revision under Article 227 of the Constitution of India would lie and preserved the rights of the appellants for preferring revision while giving closure to such CMAs.



C.M.A.No.1881 of 2020

3. In the aforementioned scenario, without dilating further on maintainability, suffice to say that captioned CMA will also be governed by *S.Menaka v. K.S.K.Nepolian Socraties and other cases* {Batch} reported in **2024:MHC:1405** and **2024 Live Law (Mad) 126** i.e., there would be closure and preservation of rights as in *S.Menaka v. K.S.K.Nepolian Socraties and other cases* {Batch} reported in **2024:MHC:1405** and **2024 Live Law (Mad) 126**.

4. Ergo, the sequitur is captioned CMA is disposed of as not maintainable/closed albeit with preservation of rights in the aforementioned manner i.e., as in *Menaka Principle*.

5. As a further sequitur/consequence, captioned CMP is also disposed of as closed.

6. Though obvious, it is made clear that in this order, this Court has not expressed any view or opinion on merits qua captioned CMA.

7. If learned counsel on record for appellant in the captioned CMA requests for return of certified copy qua impugned order, the

M.SUNDAR, J.,



WEB COPY



C.M.A.No.1881 of 2020

and
K. GOVINDARAJAN THILAKAVADI, J.,

mmi

same shall be returned forthwith to learned counsel on record for the appellant under due acknowledgment.

8. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
26.03.2024

Index : Yes / No

Neutral Citation : Yes / No

mmi

To

The Family Court,
Salem.

C.M.A. No.1881 of 2020