



WEB COPY



C.M.A.No.3079 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

and

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.3079 of 2021
and C.M.P.No.17461 of 2021

E.Adhikesavan

..Appellant

Vs.

1. A.Rajeswari @ Nandhini

2. Minor.Dinesh Krishna

Represented by his mother A.Rajeswari @ Nandhini

..Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act to set aside the order and decretal order dated 17.08.2021 in F.C.I.A.No.3 of 2020 in F.C.O.P.No.195 of 2019 passed by the Family Judge, Chengalpet.

For Appellant : Mr.Manoj Sreevalsan

For Respondents : Mr.J.Franklin



WEB COPY



C.M.A.No.3079 of 2021



C.M.A.No.3079 of 2021

WEB COPY

JUDGMENT

(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 and decretal order dated 17.08.2021 in F.C.I.A.No.3 of 2020 in F.C.O.P.No.195 of 2019 passed by the Family Judge, Chengalpet.

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.



C.M.A.No.3079 of 2021

WEB COPY

3. Learned counsel for the appellant seeks permission of this Court 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view of the endorsement made by the learned counsel for the appellant, this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition.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 Civil Revision Petition, for the purpose of limitation, the period spent in prosecuting the Civil Miscellaneous Appeal 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.)

asi

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

15.10.2024



WEB COPY



C.M.A.No.3079 of 2021

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

asi

To

The Family Judge, Chengalpet.

C.M.A.No.3079 of 2021
and C.M.P.No.17461 of 2021

15.10.2024