



C.M.A.No.1704 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE P.DHANABAL**

**C.M.A.No.1704 of 2024
and
C.M.P.No.13626 of 2024**

D.Deivasigamani
S/o Devaraj

..Appellant

Vs.

R.Rathi,
D/o Raguraman

..Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, against the order and decreetal order passed in FCIA.No.3 of 2022 in F.C.I.D.O.P.No.126 of 2022 dated 30.03.2023 on the file of Family Court at Chengalpattu, Chengalpattu District.

For Appellant : Mr.M.Thamizhselvan



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J U D G M E N T

(The Judgment of the Court was delivered by P.Dhanapal,J.)

This Civil Miscellaneous Appeal has been filed against the order passed by the Family Court at Chengalpattu in FCIA.No.3 of 2022 in F.C.I.D.O.P.No.126 of 2022 dated 30.03.2023. The said Interlocutory Application has been filed by the respondent herein under Section 36 of the Indian Divorce Act, 1869, seeking monthly alimony and litigation expenses.

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.



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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.

(J.N.B,J.) (P.D.B., J.)
23.07.2024

Index : Yes / No
Internet : Yes
vsi

To

The Family Court at Chengalpattu,
Chengalpattu District.



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