



C.M.A.No.3779 of 2019

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.3779 of 2019
and C.M.P.No.21731 of 2019

M. Balasubramani

..Appellant

Vs.

B.Sathya

..Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act against the fair and decreetal order dated 22.05.2019 made in I.A.No.667 of 2018 in F.C.O.P.No.251 of 2018 on the file of the District Family Court Judge, Namakkal.

For Appellant : M/s.A.M.Esakkiappan



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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 against the fair and decreetal order dated 22.05.2019 made in I.A.No.667 of 2018 in F.C.O.P.No.251 of 2018 on the file of the District Family Court Judge, Namakkal.

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. 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view of the endorsement made by the learned counsel for the appellant, this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition.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.)

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

15.10.2024



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C.M.A.No.3779 of 2019

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

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To

The District Family Court Judge, Namakkal.

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