



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.P.No.22008 of 2023

in

C.M.A (SR) No.115356 of 2023

&

C.M.A (SR) No.115356 of 2023

R.Karthik

... Petitioner / Appellant

Vs.

Srividhya Sivaramakrishnan

.. Respondent/Respondent

Prayer in C.M.P.No.22008 of 2024: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act to condone the delay of 1223 days in filing the Civil Miscellaneous Appeal.

Prayer in C.M.A (SR) No.115356 of 2023: Civil Miscellaneous Appeal filed under Section 69 of the Family Court Act, 1984 to set aside the order dated 27.12.2019 by the VI Additional Family Court, Chennai in I.A.No.2 of 2019 in O.P.No.3926 of 2017.

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For Appellant : Ms.S.Sujatha

For Respondent : Ms.S.P.Arthi

J U D G M E N T

[Order of the Court was made by M.SUNDAR, J.,]

This common order will now govern the captioned 'Civil Miscellaneous Appeal' ['CMA' for the sake of brevity] and captioned 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity].

2. Captioned CMA has been filed assailing an order dated 27.12.2019 made in I.A.No.2 of 2019 in O.P.No.3926 of 2017 on the file of VI Additional Family Court, Chennai. This '27.12.2019 order' shall be referred to as 'impugned order' and 'VI Additional Family Court, Chennai' shall be referred to as 'said Family Court', both for the sake of convenience and clarity.

3. Ms.S.Sujatha, learned counsel for the petitioner/appellant-husband and Ms.S.P.Arthi, learned counsel for respondent/respondent-wife are before us.

4. Aforementioned impugned order has been made in I.A.No.2 of 2019 in O.P.No.3926 of 2017. As already alluded to supra, I.A.No.2 of



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2019 is an application claiming interim maintenance / *pendente lite* maintenance. Therefore, CMA is not maintainable in the light of order dated 21.03.2024 made in maintainability batch i.e., C.M.P.No.18729 of 2023 in C.M.A.No.1914 of 2021 etc., batch [***S.Menaka Vs. K.S.K.Nepolian Socraties*** Neutral Citation : **2024:MHC:1405**].

5. In this view of the matter, no useful purpose would be served by adjudicating the captioned CMP which has been filed with a 'Condonation of Delay' ['CoD'] prayer qua 1222 days delay in filing captioned CMA which is now not maintainable.

6. Therefore, without expressing any opinion or view on the merits of the matter, captioned CMP and C.M.A (SR) No.115356 of 2023 are disposed of as closed/withdrawn preserving all the rights and contentions of the petitioner/appellant-husband as well as respondent/respondent-wife for preferring a revision under Article 227 of the Constitution of India. To be noted, counsel on record for petitioner/appellant has made an endorsement in captioned CMP and CMA and scanned reproduction of the same are as follows:



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Endorsement in CMP

Will draw pursuant to
the order, dt. 21-03-2024 in
S. Hanuman, leave case,

[Signature]
21/03/2024,
Court for Pts / Appals

Endorsement in C.M.A (SR) No.115356 of 2023

Will draw, pursuant to
the common order, dt.
21-03-2024 in Hanuman
leave case

[Signature]
21/03/2024,
Court for Pts / Appals



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7. Ms.S.Sujatha, learned counsel for petitioner/appellant-husband requests for return of certified copy/copies qua impugned order. Request acceded to. Registry is directed to return certified copy/copies qua impugned order forthwith to counsel on record for petitioner/appellant under due acknowledgment as learned counsel wants to file a revision under Article 227 of the Constitution of India.

Captioned CMP and C.M.A (SR) No.115356 of 2023 are disposed of as closed/withdrawn albeit with preservation of rights and contentions of both sides in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

21.03.2024

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

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P.S. I: *Upload forthwith*

P.S.II : *All concerned including the Registry, High Court, Madras, to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.*

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M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

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To

1. VI Additional Family Court
Chennai
2. The Section Officer
V.R.Section
High Court, Madras.

C.M.P.No.22008 of 2023
in
C.M.A (SR) No.115356 of 2023
&
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