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C.M.A.No.283 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 23.10.2024**

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU  
AND  
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI**

**C.M.A.No.283 of 20202**

Manuel Xavier Rajesh,  
Flat No.1-B, Vaishnavi Apartments,  
No.9, Prithvi Avenue, Off St.Mary's Road,  
Chennai - 600 018

..Appellant

Vs.

Ritu Goyal,  
B1, 9 Anugraha Apartment,  
Vidyodaya 1st Cross,  
T.Nagar,  
Chennai - 600 017.

..Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act against the order dated 15.10.2019 passed by the IV Additional Principal Family Judge at Chennai allowing I.A.No.04/2019 inO.p.No.5008 of 2018.

For Appellant : No appearance

For Respondent : Mr.Perumbulavil Radhakrishnan



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### **J U D G M E N T**

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(The order of the Court was made by Mrs.J.Nisha Banu,J.)

When the matter was taken up for hearing on 21.10.2024, learned counsel for the appellant is not present. Therefore, the matter was directed to be posted on 22.10.2024 under the caption 'for dismissal. When the matter was called on 22.10.2024, learned counsel for the appellant would state he is not able to contact his client and has not received any instruction from him and hence, he will not appear for the appellant any more. Therefore, Registry was directed to remove the name of the learned counsel for the appellant and to print the name of the appellant in the cause list.

2. Today, the name of the appellant is printed in the cause list. Learned counsel for the respondent is present. The appellant is not present.

3. Since the above appeal is filed as against the interim maintenance, as per the judgment in ***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***



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**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.

4. Therefore, the Civil Miscellaneous Appeal is dismissed with liberty to the appellant to file Civil Revision Petition. When the CRP is filed, the period spent in prosecuting the CMA shall be excluded, for the purpose of limitation. If 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.

Index : Yes / No  
Internet : Yes  
vsi

(J.N.B,J.) (R.K.M., J.)  
23.10.2024

To

IV Additional Principal Family Judge  
at Chennai

**J. NISHA BANU, J.**



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C.M.A.No.283 of 2022

**and**  
**R.KALAIMATHI,J.**

**vsi**

**C.M.A.No.283 of 2022**

**23.10.2024**