



WEB COPY



C.M.A.No.2981 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.2981 of 2023
and
C.M.P.No.28116 of 2023

M.Subramanian
S/o.Mari

..Appellant

Vs.

1. S.Vasanthapriya
W/o.M.Subramanian

2. S.Vasanth
S/o.M.Subramanian
Minor represented by
his mother natural guardian S.Vasanthapriya

..Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act to call for records of order dated 28.07.2023 passed in I.A.No.1 of 2023 in O.P.No.5166 of 2022 on the file of the III Additional Principal Family Court in-charge for V Additional Family Court (FAC), Chennai.

For Appellant : Mr.V.Ramanareddy

For Respondents : Mr.J.Ramesh



C.M.A.No.2981 of 2023

J U D G M E N T

(The 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 challenging the order dated 28.07.2023 passed in I.A.No.1 of 2023 in O.P.No.5166 of 2022 on the file of the III Additional Principal Family Court in-charge for V Additional Family Court (FAC), Chennai.

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.

3. In view of the said judgments, the Civil Miscellaneous Appeal



C.M.A.No.2981 of 2023

WEB COPY

is dismissed as not maintainable. The appellant is at liberty to file Civil Revision Petition. On filing of the CRP, for the purpose of limitation, the period spent in prosecuting the CMA shall be excluded.

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. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B., J.) (R.K.M., J.)
14.10.2024

vsi
To
The III Additional Principal Family Court in-charge for
V Additional Family Court (FAC), Chennai.

J. NISHA BANU, J.



WEB COPY



C.M.A.No.2981 of 2023

**and
R.KALAIMATHI, J.**

vsi

C.M.A.No.2981 of 2023

14.10.2024