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C.M.A.No.322 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE P.DHANABAL
C.M.A.No.322 of 2024
and CMP.No.3654 of 2024**

K.Simon

... Appellant

Vs.

Mrs.Jemima Catherine

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act against the judgment and decree passed by the learned VI Additional Family Court at Chennai in I.A.No.1 of 2022 in O.P.No.532 of 2022 dated 19.10.2023.

For Appellant : Mr.A.Natarajan, Senior Counsel
for Mr.A.Madhumathi

For Respondent : Mrs.A.Gnana esthuparthy

J U D G M E N T

(Judgment of the Court was made by J.NISHA BANU,J.)

This Civil Miscellaneous Appeal has been filed against the order passed by the Family Court at Chennai in I.A.No.1 of 2022 in O.P.No.532 of 2022 dated 19.10.2023. The said Interlocutory Application has been filed by the respondent herein under Section 36 of



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the Indian Divorce Act, 1869, seeking monthly interim maintenance.

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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 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. Registry is directed to return the certified copy of the impugned



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order to the counsel for the appellant after due acknowledgement.

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(J.N.B,J.) (P.D.B., J.)
22.07.2024

Note: Issue order copy on 16.08.2024.

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To

The Additional Family Court at Chennai

J. NISHA BANU, J.



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and
P.DHANABAL,J.

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