



WEB COPY



C.M.A.No.254 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

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

**C.M.A.No.254 of 2024
and C.M.P.No.2786 and 9444 of 2024**

Jaikumar
S/o.Late. Siva

..Appellant

Vs.

R. Deepa
D/o. Ramesh

..Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act against the order in I.A.No.1 of 2021 in O.P.No.2440 of 2020, dated 07.09.2023 passed by the learned I Additional Family Court, Chennai.

For Appellant : Ms.K.Ashwini

For Respondent : M/s.M.Udaya Bhanu

JUDGMENT

*(The order of the Court was made by **J.NISHA BANU, J.**)*

This Civil Miscellaneous Appeal has been filed by the appellant/husband challenging the fair and decretal order dated 07.09.2023 passed in I.A.No.1 of 2021 in O.P.No. 2440 of 2020 by the I Additional Family Court, Chennai.



C.M.A.No.254 of 2024

WEB COPY

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view of the endorsement made by the learned counsel for the appellant, this Civil Miscellaneous Appeal is dismissed as withdrawn with liberty to file Civil Revision Petition.



C.M.A.No.254 of 2024

On filing of the Civil Revision Petition within a period of two weeks. For the purpose of limitation, the period spent in prosecuting the Civil Miscellaneous Appeal shall be excluded. The interim stay already granted by this Court on 08.02.2024 shall continue for two weeks. As far as O.P.No.2440 of 2020 is concerned, the proceedings shall go on.

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.

(J.N.B., J.) (R.K.M., J.)
11.09.2024

asi

Note:Registry is directed to
issue order copy on 13.09.2024.

To

The I Additional Family Court, Chennai.

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

asi



WEB COPY



C.M.A.No.254 of 2024

**C.M.A.No.254 of 2024
and C.M.P.No.2786 and 9444 of 2024**

11.09.2024