



C.M.A.No.1899 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.1899 of 2019
and
C.M.P.Nos.19672 & 21358 of 2022

Micheal Arul,
S/o Late F.V.Arul

... Appellant

Vs.

Jennifer Arul
W/o Micheal Arul

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act against the Order dated 27.11.2018 made in I.D.O.P.No.1654 of 2009 on the file of the VII Additional Judge, VII Additional Family Court, Chennai.

For Appellant : Ms.N.Fidelia

For Respondent : Mr.George Cheriyan



C.M.A.No.1899 of 2019

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JUDGMENT

(Judgment of the Court was delivered by **J. Nisha Banu, J**)

This Appeal has been filed by the appellant/husband challenging the order passed by the learned Principal Judge, VII Additional Family Court, Chennai, in I.D.O.P.No.1654 of 2009 dated 27.11.2018, in which, the divorce petition filed by the appellant/husband was dismissed.

2. Today, when the matter is taken up, the learned counsel for the respondent/wife stated that the appellant/husband has not paid maintenance amount till date.

3. It is relevant to point out at this juncture, the decision of the Hon'ble Supreme Court reported in ***Kaushalya v. Mukesh Jain, (2020) 17 SCC 822*** wherein it has been held as follows:

"In the event that there is any failure on the part of the respondent to comply with the order for deposit of arrears and month to month installments, it will be open to the appellant to apply before the Family Court to get the defence of the respondent struck off."

4. Further, in the decision reported in ***AIR 2021 SC 569 (Rajnesh vs. Neha)***, the Hon'ble Supreme Court had passed a detailed judgment



C.M.A.No.1899 of 2019

giving certain Guidelines / Directions on Maintenance to be followed and in the said decision, the Hon'ble Supreme Court has been observed as follows:

The Court concluded that if there was non-payment of interim maintenance, the defence of the respondent is liable to be struck off, and the appeal filed by the appellant-wife can be allowed, without hearing the respondent.

5. It is also seen from the typed set of papers filed by the respondent that the Hon'ble Apex Court has passed an order in Contempt proceedings in Conmt.Pet.(C).No.627/2020 in R.P.(Crl.) No.409/2018 in SLP (Crl.)No.4253/2017 dated 22.03.2021, in which, the appellant herein was directed to make payment of the entire outstanding amount along with monthly maintenance regularly to his wife viz., Jennifer Arul. However, the appellant has not paid the arrears of maintenance and also the monthly maintenance till date.

6. In view of the above, we are not inclined to allow the appellant/husband to prosecute the appeal without paying the maintenance. Therefore, we have no other option except to dismiss this Appeal as the appellant cannot maintain the appeal without paying the



C.M.A.No.1899 of 2019

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maintenance. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition are closed.

(J.N.B, J.) (R.S.V., J.)
24.01.2025

vsi

To

1. VII Additional Judge, VII Additional Family Court, Chennai.
2. The Section Officer, Vernacular Section, High Court, Madras.



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C.M.A.No.1899 of 2019

J. NISHA BANU, J.
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C.M.A.No.1899 of 2019

24.01.2025