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CMA. No.1083 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

CORAM :

**THE HON'BLE MR. JUSTICE R. SURESH KUMAR
AND
THE HON'BLE MR. JUSTICE P.DHANABAL**

CMA.No.1083 of 2025
and CMP.No.9005 of 2025

Manisha

...Appellant

-VS-

D.Dwarakesh

...Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act R/w.55 of the Indian Divorce Act, to set aside the Fair and Decreetal order made in I.A.No.1 of 2025 in G.W.O.P.No.3371 of 2024 dated 14.03.2025 on the file of the Court of I Additional Principal Family Court, Chennai and allow the said I.A by allowing this Civil Miscellaneous Appeal.

For Appellant : M/S.P.Srividhya

For Respondent ; Mr.A.Saravanan

JUDGMENT



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(Judgement was delivered by P.DHANABAL, J.)

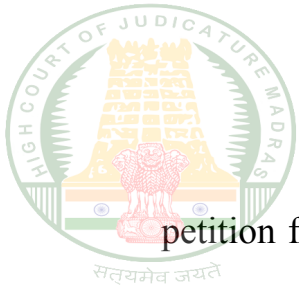
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This civil miscellaneous appeal has been preferred as against the fair and decreetal order passed by the I Additional Principal Family Court, Chennai made in I.A.No.1 of 2025 in G.W.O.P.No.3371 of 2024 dated 14.03.2025.

2. Before the Family Court, the respondent herein filed a petition under section 25 of the Guardians and Wards Act, 1890, seeking custody of the minor child against the petitioner herein. While the main petition was pending, the appellant filed a petition in I.A. No.1 of 2025 for interim custody of the minor child, Krish Dwarakesh, requesting custody every weekend (saturday and sunday) till the disposal of the original petition.

3. The petitioner and the respondent are husband and wife. During their wedlock, Krish Dwarakesh was born on 10.02.2021. Due to a matrimonial dispute, some misunderstanding arose between the appellant and the respondent and they are now living separately. In the mean time, the respondent filed a petition under section 25 of the Guardians and Wards Act, 1890 to have the custody of the minor child, who is now under the custody of the respondent.

4. While G.W.O.P.No.3371 of 2024 has been pending, the appellant filed



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petition for interim custody of the child every weekend (Saturday and Sunday)

and the same was partly allowed, granting custody of the child every Saturday from 9.00 am to 6.00 p.m., at her residence mentioned in her petition and also imposed conditions. Aggrieved by the said order, the present civil miscellaneous appeal has been preferred by the mother of the child.

5. Heard both sides and perused the records.

6. The appellant filed this appeal as against the Interlocutory order passed by the Family Court in I.A.No.1 of 2025 in G.W.O.P.No.3371 of 2024. The learned Judge, Family Court, after hearing both sides, partly allowed the petition. As per Section 19 of Family Courts Act, no appeal will lie as against the Interlocutory order. However, the appellant filed this appeal as against the order passed by the Family Court in the Interlocutory Application.

7. At this juncture, it is relevant to refer the judgement of this Court in the case of *S.Menaka Vs. K.S.K.Nepolian Socraties* passed in *C.M.P.No.18729 of 2023 in C.M.A.No.1914 of 2021 etc., batch, dated 21 March 2024*, wherein, it has been decided that as against the interlocutory order passed by the Family Court, appeal shall not lie. Subsequently, relying the said judgment, this Court



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in the case of *P.Sathyaseelan Vs.K.Ramya in C.M.A.No.3299 of 2021 dated*

24.04.2025 following S.Menaka's case, dismissed the CMA by giving liberty to the appellant to file a revision before the appropriate Forum in accordance with law. Therefore, the petitioner is at liberty to file a revision before the appropriate Forum in accordance with law. For the period of pendency of this petition, the petitioner is entitled to benefit of Section 14 of Limitation Act.

8. With the aforesaid direction, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

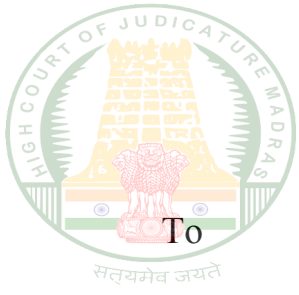
[R.S.K,J.]

[P.D.B, J.]
30.07.2025

Internet : Yes

Index : Yes / No

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The I Additional Principal Family Court, Chennai.

**R. SURESH KUMAR, J.
AND
P.DHANABAL, J.**



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