



WEB COPY



C.M.A.No.2200 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2025

CORAM

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

C.M.A.No.2200 of 2024 and
C.M.P.No.17056 of 2024

Mrs.A.Rajeswari

..Appellant/Respondent

-VS-

Mr.R.Rajendiran

...Respondent/Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act, 1984 to set aside the order dated 18.05.2024 in H.M.O.P.No.567 of 2019 on the file of IV Additional Family Court, Chennai.

For Appellant : Mr.A.D.Janarthanan

For Respondent : Mr.C.R.Malarvanan

J U D G M E N T

(By J.Nisha Banu,J.)

This Civil Miscellaneous Appeal has been filed, seeking to set aside the order dated 18.05.2024 in H.M.O.P.No.567 of 2019 on the file of IV Additional Family Court, Chennai, by which, the Family Court allowed the petition filed by the respondent / husband for divorce.



C.M.A.No.2200 of 2024

WEB COPY

2. Today, when the matter is taken up, the learned counsel for the appellant /wife stated that the respondent/husband has not paid any maintenance amount to the appellant/wife, as ordered in M.C.No.240/2013 by the Family Court from the year 2019.

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 giving certain Guidelines / Directions on Maintenance to be followed and in the said decision, the Hon'ble Supreme Court has 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. In the present case, the respondent has not paid the



C.M.A.No.2200 of 2024

maintenance amount to the appellant/wife, till date as directed by the Family Court.

6. In view of the above, we are not inclined to uphold the the order dated 18.05.2024 passed in H.M.O.P.No.567 of 2019. This Court has no other option except to set aside the order of the Family Court, as the respondent has not paid the maintenance.

7. Accordingly, this Civil Miscellaneous Appeal is allowed and the order dated 18.05.2024 passed in H.M.O.P.No.567 of 2019 by the IV Additional Family Court, Chennai is hereby set aside. No costs. Consequently, connected Miscellaneous Petitions is closed.

(J.N.B,J.) (R.S.V.,J.)
21.01.2025

ar

To:

IV Additional Family Court Judge,
Chennai.

J.NISHA BANU,J.



WEB COPY



C.M.A.No.2200 of 2024

and
R.SAKTHIVEL,J.
ar

C.M.A.No.2200 of 2024

21.01.2025