



C.M.A.No.1911 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A.No.1911 of 2023

and

C.M.P. No.18560 of 2023

Srikumar,
S/o. Ramachandran,
19/39, Elango Nagar,
1st Street, Virugambakkam,
Chennai – 600 092.

... Appellant

Vs.

Bindhu,
W/o. Srikumar,
149/2, Sivapuram,
Karamadai, Mettupalayam.

... Respondent

PRAYER : Civil Miscellaneous Appeal under Section 19 of the Family Courts Act to set aside the order dated 31.05.2023 made in I.A.No.02/2022 in H.M.O.P.No.745 of 2021 on the file of the Principal Family Court, Coimbatore.



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For Appellant : Mr.P.Valliappan, Senior Counsel
for M/s. PV LAW Associates

For Respondent : M/s. K.Thilageswaran

J U D G M E N T
(Delivered by Dr. A.D. Maria Clete, J)

The present appeal is directed against the interim order passed by the Family Court in I.A. No. 2 of 2022 in H.M.O.P. No.745 of 2021, whereby the appellant was directed to pay Rs.20,000/- per month to the respondent towards interim maintenance from the date of the petition until the final disposal of the H.M.O.P.

2.It is evident that the impugned order, passed in the exercise of powers under Section 24 of the Hindu Marriage Act, is only an interim order pending the final adjudication of the O.P. It is a well-settled legal position that an appeal does not lie against an order granting interim or pendente lite maintenance under Section 24 of the Hindu Marriage Act, either under Section 28 of the said Act or under Section 19 of the Family Courts Act. It is also significant to note that, as per



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Section 28(2) of the Hindu Marriage Act, appeals are maintainable only against orders passed under Sections 25 and 26, which relate to permanent alimony, maintenance, and custody of minor children. Section 28(2) reads as follows:

“28.(2).Orders made by the Court in any proceeding under this Act under Section 25 of Section 26 shall, subject to the provisions of sub-section (3), be appealable if they are not interim orders, and every such appeal shall lie to the Court to which appeals ordinarily lie from the decisions of the Court given in exercise of its original civil jurisdiction.”

Therefore, a plain reading of the above provision makes it evident that Section 28 contemplates an appeal only against orders passed under Sections 25 or 26 of the Hindu Marriage Act, provided such orders are final in nature and not merely interim. Consequently, interim orders passed during the pendency of an original petition before the Family Court are not specifically appealable. However, such interim orders granting maintenance pendente lite or interim maintenance, whether passed by a regular Civil Court or a Family Court, may be challenged by invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.



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3. Since this position has been made clear by a Division Bench of this Court in the judgment dated 21.03.2024 in the matter of **S.Menaka -vs- K.S.Napolean Socrates** in C.M.A.No.1914 of 2021 etc., batch, we give liberty to the appellant to convert this appeal as a Civil Revision Petition, for which necessary papers be filed with amendments.

4. Registry is directed to permit the appellant to convert this Civil Miscellaneous Appeal into a Civil Revision Petition and if the papers are otherwise in order, the same may be posted for hearing before the concerned Bench dealing with Civil Revision Petitions.

(R.S.K., J) (A.D.M.C., J)
24.04.2025

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

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To

1. The Principal Family Court,
Coimbatore.
2. The Section Officer,
VR Section,
High Court of Madras,
Chennai.



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**R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J**

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