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C.M.A.No.2460 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 10.01.2025

CORAM

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

C.M.A.No.2460 of 2023

M.Purushothaman

... Appellant

Vs.

J.Leeshow

... Respondent

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act, 1984, against the Order dated 26.07.2023 made in I.D.O.P.No.13/2019 on the file of the Family Court, Cuddalore.

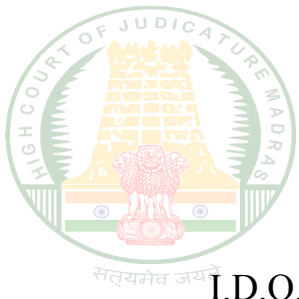
For Appellant : Ms.B.Sharmila

For Respondent : Mr.P.Vasanth

**JUDGMENT**

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

This Appeal has been filed by the appellant/husband challenging the dismissal order passed by the Family Court, Cuddalore, in



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I.D.O.P.No.13 of 2019 dated 26.07.2023, in which, the appellant has sought for grant of divorce.

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 as ordered by the Family Court, Cuddalore, since 2016.

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 been observed as follows:



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*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 appellant has not paid the maintenance amount ordered by the Family Court, Cuddalore in M.C.No.86/2018 from the year 2016 till date, which come to Rs.7,15,000/-. Learned counsel for the respondent has also filed a memo dated 09.01.2025 regarding the calculation of arrears of maintenance.

6. In view of the above, we are not inclined to allow the appellant/husband to prosecute the appeal without paying the maintenance. This Court has no other option except to dismiss this Appeal as the appellant cannot maintain the appeal without paying the maintenance. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs.

**(J.N.B, J.) (R.S.V., J.)**  
**10.01.2025**

vsi



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To

The Family Court,  
Cuddalore.



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**J. NISHA BANU, J.**  
and  
**R. SAKTHIVEL, J.**

vsi

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**10.01.2025**