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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30-10-2026

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

AND

THE HON'BLE MR.JUSTICE RAJNISH PATHIYIL

CMA(MD) No. 639 of 2023

CNR:{HCMD010628902023}

and CMP.(MD).No.8234 of 2023

K.Krishnamurthy
S/o.Late.Kuppusamy,
Working at No.51/1, Pillai Thaneerpanthal,
Tirumayam Road, TNSTC, Near TVS Stop,
Pudukkottai.

..Appellant(s)

Vs

K.Akila
W/o.Krishnamoorthy,
D/o.L.Radhakrishnan,
Now residing at 25A, West Street,
Rockfort,
Tiruchirappalli District.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Court Act, to set aside the final order of the Family Court, Tiruchirappalli made in I.A.No.3 of 2021 in HMOP.No.267 of 2020 dated 24-03-2023 on the file of the Family Court, Tiruchirappalli, by allowing this civil miscellaneous appeal ans thus render justice.

For Appellant(s) :Mr.K.K.Senthil

For Respondent(s) :Mr.R.Aravindraja

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JUDGMENT

(Judgment of the Court was delivered by ABDUL QUDDHOSE J.)

This Civil Miscellaneous Appeal has been filed challenging the impugned order passed by the Family Court, Tiruchirappalli, fixing the interim maintenance payable by the appellant to the respondent at Rs.8,000/- per month.

2. The respondent / wife before the Family Court had filed a petition seeking for dissolution of her marriage with the appellant / husband. The said HMOP is still pending on the file of the Family Court, Tiruchirappalli. During the pendency of the HMOP, the respondent also filed I.A.Nos.3 and 4 of 2021 before the Family Court seeking for interim maintenance under Section 24 of the Hindu Marriage Act. Under the impugned order, the Family Court has directed the appellant herein to pay interim maintenance to the respondent at the rate of Rs.8,000/- per month. Aggrieved by the same, this Civil Miscellaneous Appeal has been field by the appellant / husband.

3. The learned counsel appearing for the appellant drew the attention of this Court to the decision of the Division Bench of this Court in the case of ***S.Menaka Vs. K.S.K.Nepolian Socraties*** reported in ***2024***

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(2) CTC 742 and would submit that the Division Bench has held that an appeal is not maintainable as against an order passed by the Family court under Section 24 of the Hindu Marriage Act awarding interim maintenance.

4. We have also perused the aforesaid decision of the Division Bench and the said decision has been made clear that an appeal is not maintainable as against an order of interim maintenance passed by the Family Court under Section 24 of the Hindu Marriage Act. The Division Bench has held that only a revision petition is maintainable under Article 227 of the Constitution of India at the instance of a party aggrieved by an order of interim maintenance passed by the Family Court. The operative portion of the decision of the Division Bench with regard to the maintainability of an appeal is reproduced hereunder:

> *"10. In the light of the narrative, discussion and dispositive reasoning, we summarize our conclusions and crisply stated, the same are as follows:*
>
> *(a)Against an order of interim maintenance / pendente lite maintenance made under Section 24 of The Hindu Marriage Act, a appeal will not lie either under Section 28 of Hindu Marriage Act or under Section 19 of Family Courts Act;*
>
> *(b)However, a Revision under Article 227 of the Constitution of India will lie to this Court against an order*

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of interim maintenance / pendente lite maintenance made under Section 24 of the Hindu Marriage Act irrespective of whether it is made by a regular civil court or a Family Court;

(c)As an order of interim maintenance / pendente lite maintenance made under section 24 of the Hindu Marriage Act is only for a period of time, it can be reviewed / varied and it is an interlocutory order;

(d)As we are holding that appeal under Section 28 of the Hindu Marriage Act will not lie as against an order of interim maintenance / pendente lite maintenance under Section 24 of the Hindu Marriage Act but the same will be amenable for a revision to this Court under Article 227 of the Constitution of India, it will be open to appellants in pending appeals to seek withdrawal of such appeals for filing a revision and on such withdrawal plea being made, all rights for filing revision under Article 227 of the Constitution of India will stand preserved and the period spent in appeal under Section 28 of the Hindu Marriage Act or for that matter under Section 19 of the Family Courts Act will stand excluded if the question of delay is brought up in a revision under Article 227. We are conscious that there is no limitation for constitutional remedy under Article 227 and we are making this position clear as delay can be brought up either in the form of laches or in any other form;

(e)The aforementioned preservation of rights and liberty to file revision under Article 227 of the Constitution of India will apply to District Courts as well as this Court."

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5. In view of the decision of the Division Bench referred to supra, this Civil Miscellaneous Appeal is not maintainable and the only remedy available to the appellant, if aggrieved by the impugned order passed by the Family Court under Section 24 of the Hindu Marriage Act, is to file a revision petition under Article 227 of the Constitution of India.

6. For the foregoing reasons, since this appeal is not maintainable, we dispose of the same by granting liberty to challenge the impugned order for the appellant by filing a revision petition under Article 227 of the Constitution of India. With regard to the deposit already made by the appellant pursuant to the interim order passed by this Court in the present appeal, the appellant will have to work out his remedy only before the Revision Court, as and when such a revision petition is filed under Article 227 of the Constitution of India. No costs. Consequently, the connected miscellaneous petition is closed.

(A.Q.,J.) (R.P.L.,J.)
30-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To
1. Family Court, Tiruchirappalli

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Section Officer (VR Section)
Madurai Bench of Madras High Court

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ABDUL QUDDHOSE, J.
AND
RAJNISH PATHIYIL, J.
TSG

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