

**IN THE COURT OF THE III ADDITIONAL DISTRICT JUDGE,
TIRUCHIRAPPALLI**

**Present : Thiru. B.Saravanan, B.Sc., B.L.,
III Additional District Judge,
Tiruchirappalli**

Friday, the 24th day of July, 2026

**Civil Miscellaneous Appeal (HM) No.7/2024
(CNRNo.TNTP01-000653-2024)**

K.Mariselvan,
S/o.Kunju,
Ayyanar Kovil Street,
Vellanur,
Punjai Sangethi Village,
Lalgudi Taluk,
Tiruchirappalli.

... Appellant /Respondent/Husband
/ Vs /

K.Sudhalakshmi,
S/o.Kumar,
Agrakaram,
No.1/71, Othatheru,
Ariyur Village,
Lalgudi Taluk,
Tiruchirappalli.

... Respondent/Petitioner / wife

This Civil Miscellaneous Appeal is filed under order 28(1) of
Hindu Marriage Act against the fair order and decretal order
dated 12.10.2023 made in I.A No.5/2022 in HMOP No.113/2019
on the file of the Subordinate Court, Lalgudi.

Between

K.Sudhalakshmi,
S/o.Kumar,
Agrakaram,
No.1/71, Othatheru,
Ariyur Village,
Lalgudi Taluk,
Tiruchirappalli.

... Petitioner /Wife

/ Vs /

K.Mariselvan,
S/o.Kunju,
Ayyanar Kovil Street,
Vellanur,
Punjai Sangethi Village,
Lalgudi Taluk,
Tiruchirappalli.

... Respondent/Husband

This Civil Miscellaneous Appeal came up before me on 07.07.2026 for final hearing in the presence of Thiru.K.Pulendhiran, counsel for the Appellant/Respondent/Husband in the petition and Thiru.V.Hari Baskar, Counsel for the Respondent/ petitioner/wife, in the petition and upon perusing the petition, affidavit, counter etc. and connected records and upon hearing the arguments of both side and having stood over for consideration of this Court and this court delivers the following:

Judgment

1. The Petitioner / Respondent/Husband has filed this Civil Miscellaneous Appeal under order 28(1) of Hindu Marriage Act against the fair order and decretal order dated 12.10.2023 made in I.A No.5/2022 in HMOP No.113/2019 on the file of the Subordinate Court, Lalgudi u/s.24 of Hindu Marriage Act allowing the prayer therein.

2. The Appellant/husband had initially filed a petition under Section.9 of Hindu Marriage Act on the file of Learned Subordinate Court, Lalgudi in HMOP.No. 113/2019 for the relief of restitution of conjugal rights. The respondent/wife contest the case of her husband. The respondent/wife had filed a

petition under Section.24 of Hindu Marriage Act in I.A.No.5/2022 for the relief of interim maintenance at Rs. 10,000/- per month and the learned Subordinate Court, Lalgudi allowed the I.A.No.5/2022 on 12.10.2023 and directing appellant / husband to pay a sum of Rs.7,500/- per month as interim maintenance till the disposal of main petition to the Respondent/Wife.

3. Being aggrieved by the Conditional Order passed by Learned Subordinate Judge, Lalgudi the dated 12.10.2023, the Appellant / Husband has filed this CMA under Section 28(1) of Hindu Marriage Act.

4. In the mean while, the respondent/ petitioner/ wife side has filed a memo by stating that since the husband failed to comply the conditional order passed by the Learned Subordinate Court, Lalgudi in IA.No.5/2022 dated 12.10.2023, hence, the Learned Subordinate Court, Lalgudi dismissed the Main OP namely HMOP.No.113/2023 on 04.01.2024.

5. Further, the respondent/petitioner/ wife side has submitted that the appeal filed by husband against the order dated 12.10.23 under section.28 (1) of Hindu Marriage Act is not maintainable and she has questioned the maintainability of this petition. She has also filed a petition under sec 151 of CPC to decide the maintainability of this CMA, at the first instance. After hearing both side regarding maintainability of this CMA, this court proceeds to decide the maintainability.

6) Heard both side and perused the records.

7) The point for consideration is whether Civil Miscellaneous Appeal is maintainable or not? as against the order passed by the Learned Subordinate Court in a petition filed under Section.24 of Hindu Marriage Act in I.A.No.5/2022 for the relief of interim maintenance ?

8) It is useful to refer the Section.24 of Hindu Marriage Act which reads as follows:-

24. Maintenance pendente lite and expenses of proceedings.-

Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable: Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.

9) The learned counsel appearing for the Respondent/ Petitioner/ Wife has relied on the following decision, In S.Menaka Vs K.S.K.Nepolian Socraties dated 21.03.2024 reported in 2024- 2 _ CTC 742 which read as follows:-

(a) Against an order of interim maintenance / pendente lite maintenance made under Section 24 of The Hindu Marriage Act, an 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 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;

10) In view of the above decision, it is clear that any interlocutory order passed in a HMOP for the relief of an order of interim maintenance or litigation expenses, a Civil Miscellaneous Appeal will not lie and only a civil revision petition under Article 227 of the Constitution of India alone will lie, before the Hon'ble High Court, against the said interlocutory order. In this case, the trial court has disposed the said I.A.No.5/2022 filed by the Respondent / wife u/s.24 of Hindu Marriage Act, for the relief of litigation expenses during the pendency of main HMOP, it can be treated only as interlocutory order and this CMA is not maintainable.

11) Further, it was held in S.Paramaguru Vs Subbulakshmi in CRP (PD) (MD) No.1199 of 2022 dated 01.07.2025 reported in 2025 Supreme (online) (Mad) 41577 wherein it was held as follows:

A civil Revision petition becomes in fructuous. if the main suit is disposed during the pendency.

12) The respondent/ petitioner/ wife side has filed a memo by stating that since the husband failed to comply the conditional order passed by the Learned Subordinate Court, Lalgudi in IA.No.5/2022 dated 12.10.23, hence, the Learned Subordinate Court, Lalgudi dismissed the Main OP namely HMOP.No.113/2023 on 04.01.2024. The appellant/ husband side filed a memo by stating that I.A.No.6/2025 to restore the above HMOP alone is pending before the trial court. Since, the main HMOP itself was dismissed for default, by the trial court on 04.01.2024 and the same was not yet restored as on today, this CMA as against the interlocutory order passed in the main petition is not maintainable.

13) Hence, this court did not have power to entertain Civil Miscellaneous Appeal against the impugned interlocutory order passed in Section 24 of Hindu Marriage Act in I.A.No.5/2022 dated 12.10.2023. Hence, the Civil Miscellaneous Appeal itself is not maintainable.

14) **In fine,**

1) This Civil Miscellaneous Appeal is not maintainable, allowing the application filed under Section 24 of Hindu Marriage Act, by the Learned

Subordinate Court, Lalgudi, in I.A.No.5/2022 in HMOP No.113/2019 dated 12.10.2023, which was interlocutory order and the same is liable to be dismissed.

2) Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, connected interlocutory petitions are closed.

3) However, if necessary the Appellant/respondent/ husband can approach appropriate court for necessary relief. He is also entitled to claim benefit u/s 14 of Limitation Act. No cost.

Dictated to the stenographer and she directly typed in my computer, corrected and pronounced by me in the open court on this the 24th day of July 2026.

**III Additional District Judge
Tiruchirappalli.**

Copy to :

The Subordinate Court, Lalgudi.