

**\* THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**\* THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

**+ CIVIL MISCELLANEOUS APPEAL (SR) NO: 53594 of 2025**

%24.02.2026

# The Visakhapatnam Port Authority

.....Appellants

And:

\$ M/s.Vishwanadh Avenues India Private  
Limited

....Respondent

!Counsel for the Appellant

: Sri Ravi Teja Padiri

^Counsel for the respondents

: Sri Damalapati Srinivas  
Sri Umar Abdullah

<Gist:

>Head Note:

? Cases referred:

1. 2021 SCC OnLine Megh 134
2. 2004 SCC OnLine AP 369
3. (2018) 14 SCC 715

**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

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**CIVIL MISCELLANEOUS APPEAL (SR) NO: 53594 of 2025**

DATE OF JUDGMENT PRONOUNCED: **24.02.2026**

**SUBMITTED FOR APPROVAL:**

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

**THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals     | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment?          | Yes/No |

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**RAVI NATH TILHARI,J**

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**BALAJI MEDAMALLI,J**

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**  
**THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**  
**CIVIL MISCELLANEOUS APPEAL (SR) NO: 53594 of 2025**

**ORAL ORDER:** *(per Ravi Nath Tilhari, J)*

This Civil Miscellaneous Appeal has been filed by the wife under Section 28 of Hindu Marriage Act. She filed an application under Section 25 of the Act for permanent alimony and maintenance that was partly allowed and being aggrieved from the part rejection, the appeal has been filed.

2. The Registry has raised an objection that since the order was passed in the application under Section 25 of Hindu Marriage Act, the CRP lies under Article 227 of Constitution of India.

3. Learned counsel for the appellant resubmitted the same with the objection that CMA is maintainable in as much as the final order has been passed under Section 25, in view of Section 28(2) of the Hindu Marriage Act, 1955 (in short 'the Act').

4. The matter has been listed before this Bench for order on the office objection.

5. Learned counsel for the appellant submits that the husband initially filed petition for divorce and the wife also filed petition for restitution of conjugal rights. The petition for divorce was allowed and restitution of conjugal rights was dismissed. He submits that thereafter the wife filed application under Section 25 of the Act for permanent alimony and maintenance. He submits

that the said application has been finally decided. Consequently, it is not a case of the interim order within the meaning of Section 28(2) of the Act and the appeal lies in view of the specific provision that orders made by the Court in any proceeding under Section 25 or Section 26 of the Act, though subject to the provisions of sub-Section (3) of Section 28 where under it is provided that there shall be no appeal under Section 28 on the subject of costs only. He submits that challenge is not on the point of costs only.

6. We have considered the aforesaid submissions and perused the material on record in the light of the legal provisions.

7. Section 25 of the Act reads as under:

**“25. Permanent alimony and maintenance.—**

(1) Any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall 3 \* \* \* pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent’s own income and other property, if any, the income and other property of the applicant 4 [the conduct of the parties and other circumstances of the case], it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

(2) If the court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (1), it may, at the instance of either party, vary, modify or rescind any such order in such manner as the court may deem just.

(3) If the court is satisfied that the party in whose favour an order has been made under this section has re-married or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he has had sexual

intercourse with any woman outside wedlock, 5 [it may at the instance of the other party vary, modify or rescind any such order in such manner as the court may deem just].”

8. A perusal of Section 25, makes it evident that in exercising the jurisdiction under the Hindu Marriage Act, the Court, at the time of passing the decree or at any time subsequent thereto, on an application made to it for the purpose of grant of permanent alimony & maintenance, by either of the parties husband or wife as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support as the case may be such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant. Section 25 thus clearly provides for grant of maintenance and permanent alimony to the applicant at the time of passing the decree or at any time subsequent thereto, on an application. In the present case, the application has been filed by the wife after the decree has been passed i.e., subsequent to the decree. The application has been finally allowed, though partly. So, it is not a case for grant of interim order but a case of final order under Section 25 of the Act.

9. Section 28 of the Act reads as under:

**“28. Appeals from decrees and orders.—**

(1) All decrees made by the court in any proceeding under this Act shall, subject to the provisions of sub-section (3), be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

(2) **Orders made by the court in any proceeding under this Act under section 25 or 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.

(3) There shall be no appeal under this section on the subject of costs only.

(4) Every appeal under this section shall be preferred within a period of ninety days from the date of the decree or order.”

10. Section 28(2) of the Act provides that orders made by the Court in any proceedings under the Hindu Marriage Act under Section 25 or 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. Sub-Section (2) of Section 28 of the Act thus clearly makes an order passed under Section 25 appealable, if it is not an interim order and subject to the provisions of sub-Section (3).

11. In the present appeal, challenge is not on the interim order and Sub-Section (3) of Section 28 is also not applicable, as the challenge is not to the costs only.

12. In ***M.P.Gopi v. Prameela***<sup>1</sup>, it was held that the appeal is maintainable both under Section 19 of the Family Courts Act, 1984 as well as under Section 28 of Hindu Marriage Act, 1955.

13. Para Nos.5 to 8 in the *M.P.Gopi* (supra) reads as under:

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<sup>1</sup> 1995 AIHC 3431

“5. Section 25 of the Hindu Marriage Act, 1955 enacts a substantive provision empowering the Court to grant permanent alimony and maintenance to the parties to the marriages, either at the time of passing the decree or at any time thereafter on an application made to it.

6. The section provides that certain factors are to be taken into consideration by the Court to reach a conclusion that the award of alimony and maintenance would be just in the circumstances. For the purpose of this appeal the two factors which are introduced by Act No: 68 of 76 are "the conduct of the parties" and "other circumstances of the case". This being a substantive provision empowering the Court it is obvious that the order passed thereon cannot have any of the adjectives of an interlocutory order. Be that as it may. Such an order would clearly be an appealable order under Section 28 of the Hindu Marriage Act, 1955. Apart there from, such proceedings, after the enactment of the Family Courts Act, 1984, being required to be presented before the Family Courts constituted under the said Act would also be appealable on a perusal of the Section 19 thereof.

7. Section 19(1) of the Family Courts Act, 1984 enacts as follows:

Appeal: (1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973 or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law".

8. For the purpose of considering the question of maintainability of the appeal provisions of Section 19(1) quoted above would be more than sufficient. It provides that an appeal shall lie from every judgment or order of the Family Court to the High Court on facts and on law. The only exception is that the order should not be an interlocutory order. The character of the order impugned before us as spelt out above clearly shows that it is an order under a substantive provision creating independent rights under Hindu law of Marriage after the dispute is finally terminated. By no stretch of imagination the order can be said to be an interlocutory order. The conclusion is that this appeal is not only maintainable but is competent both under Section 19 of the Family Courts Act, 1984 as well as under Section 28 of the Hindu Marriage Act.”

12. We find force in the submission advanced by learned counsel for the appellant.

13. We hold that the Civil Miscellaneous Appeal is maintainable under Section 28(2) of the Act.

14. Office objection is overruled.

15. Let the appeal be numbered.

16. Post next week.

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**RAVI NATH TILHARI,J**

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**BALAJI MEDAMALLI,J**

Dated: 24.02.2026

Note: L.R. copy be marked

B/o.

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