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C.R.P.No.4761 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4761 of 2023

Vinitha

... Petitioner

-Vs-

Jagannathan @ Jeeva

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 11.11.2022 passed in I.A.No.46 of 2022 in H.M.O.P.No. 78 of 2021 on the file of Subordinate Court, Gingee.

For Petitioner : Mr.G.Tamilselvan

ORDER

Challenging the impugned order passed in I.A.No.46 of 2022 in H.M.O.P.No. 78 of 2021 passed by the learned Sub-Judge, Gingee, the Revision Petitioner wife preferred this Civil Revision Petition.



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2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondent is dispensed with.

3. Before the trial court, the Revision Petitioner wife filed a petition in H.M.O.P.No. 78 of 2021 for divorce against her husband on the ground of desertion stating that she was forcibly sent out from the matrimonial home along with child. That application was taken on file and summons was ordered to be issued to the respondent. But, all the summons were returned and the revision petitioner has also paid batta to send the summons to the address, which was given in the invitation and birth certificate. But, all the summons were returned as no such person. So, she filed an application under Order 5 Rule 20 of C.P.C. praying to issue paper publication. The said application same was dismissed by the trial judge stating that earlier summons were returned as no such person, but inspite of giving correct address, praying to issue paper publication as such is not acceptable one. Challenging the said findings, the Revision Petitioner wife preferred this Civil Revision Petition.



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4. The learned counsel for Revision Petitioner would submit that as a wife she knew address found in the invitation as well as birth certificate, but all those summons sent to the address in the said documents were returned as no such person. Therefore, she filed application praying to issue paper publication in order to serve summons. But, without considering her submissions, the trial judge erroneously dismissed the application. Hence, she prayed to set aside the findings of trial judge.

5. Admittedly, the Revision Petitioner wife was deserted by her husband and now she is living with child. At her best knowledge, she attempted to serve summons to the address as mentioned in the invitation as well as birth certificate, but the same was not served and the same was returned as no such person, for that, the Revision Petitioner is not responsible as she already taken summons to the address best to her knowledge. Therefore, the prayer made by the Revision Petitioner wife in the said application seeking for paper publication as such is permissible under law. Hence, the order passed by the trial judge is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is



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allowed and the findings rendered by the trial judge in I.A.No.46 of 2022 in H.M.O.P. No.78 of 2021 is set aside and the said application is ordered to be allowed. The trial judge is directed to give suitable direction to issue paper publication in the local Tamil daily within one week from the date of receipt of copy of this order and proceed with O.P. as per manner known to law. No costs.

20.12.2023

Index : Yes/No
Speaking Order : Yes/No
rpp

To

The Sub-Court, Gingee.



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T.V.THAMILSELVI, J.

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