



C.R.P.(MD)No.2126 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2126 of 2024

M.Asha

... Revision Petitioner / Petitioner / Petitioner

Vs.

S.Aneesh Kumar

... Respondent / Respondent / Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned Family Court, Nagerocil, Kanyakumari District to taken on file the I.A.No.Unnumbered of 2024 in H.M.O.P.No.825 of 2023 pending on the file of the learned Family Court, Nagercoil, Kanniyakumari District.

For Petitioner : Mr.S.Saravanan

ORDER

Heard the learned counsel appearing for the revision petitioner. Issuance of notice to the respondent is dispensed with.



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2. The marriage between the petitioner and the respondent was solemnized on 24.03.2021. The marital relationship has come under strain. The petitioner herein filed H.M.O.P.No.825 of 2023 on the file of the Family Court, Nagercoil for dissolving her marriage with the respondent. The petitioner's counsel states that notice issued to the respondent's last known address was served on the respondent's mother. The respondent is presently said to be in Dubai. The petitioner is unable to effect service on the foreign address of the respondent. In these circumstances, the petitioner wants to effect substituted service. She filed an IA in this regard. The grievance of the petitioner is that the IA is not being numbered and is being adjourned from time to time. Order 5 Rule 20 of C.P.C is as follows:-

“20. Substituted service.—(1) Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court thinks fit.

3[(1-A) Where the Court acting under sub-rule (1) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain.]



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(2) **Effect of substituted service.**—Service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

(3) **Where service substituted, time for appearance to be fixed.**—

Where service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.”

3. I am satisfied that the defendant is keeping out of the way for the purpose of avoiding service. The court below is directed to number IA filed by the petitioner for effecting substituted service. The petitioner is permitted to file fresh IA under the aforesaid provision. It shall be numbered and allowed immediately.

4. The Civil Revision Petition is allowed. No costs.

06.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The Family Court, Nagercoil, Kanniyakumari District.



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G.R.SWAMINATHAN, J.

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