



CRP(MD). No.3729 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.12.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

CRP(MD). No.3729 of 2025

R.Aiswarya

... Petitioner

Vs

C.Suthan

... Respondent

PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order of retain dated 15-03-2025 passed in I.A.No.(un numbered) of 2024 in Diary No.6195 of 2024 in H.M.O.P.No.105 of 2023 on the file of the Family Court, at Nagercoil, Kanyakumari District with a direction to take the petition on file, by allowing this civil revision petition.

For Petitioner : Mr.G.Aravinthan for
M/S.Aran Legal Consultancy

ORDER

This Civil Revision Petition has been filed challenging the order of return dated 15.03.2025 made in I.A.No.un-numbered of 2024 in Diary



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No.6195 of 2024 in HMOP No.105 of 2023 on the file of the Family Court at Nagercoil, Kanniyakumari District.

2.The petitioner is the wife and the respondent is the husband. Due to matrimonial dispute arose between them, they are living separately and the petitioner filed a case in HMOP.No.105 of 2023 for divorce.

3.Pending such petition, the petitioner filed an application in I.A.No.un-numbered of 2024 under Order V Rule 15 CPC for permitting her to take steps to serve summon upon one Mr.Chinnapazham/the father of the respondent, on behalf of the respondent, as the respondent's father is one of the responsible adult members in the family of the respondent and that the respondent failed to make his appearance before the Court below, even though notice was issued by the Court below for his appearance. However, the said application was returned for the reason that the address shown in the process memo and the name of the respondent mentioned in the petition are different. Challenging the same, the present Civil Revision Petition is filed.



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4.The learned counsel for the petitioner reiterated all the contentions set out in the memorandum of grounds of Revision and called upon this Court to set aside the order impugned herein. In support of his contention, the learned counsel for the petitioner relied upon Order V Rule 15 of CPC, which reads as under:-

“15.Where service may be on an adult member of defendant’s family:- Where in any suit the defendant is absent from his residence at the time when the service of summons is sought to be effected on him at his residence and there is no likelihood of his being found at the residence within a reasonable time and he has no agent empowered to accept service of the summons on his behalf, service may be made on any adult member of the family, whether male or female, who is residing with him.”

5.Heard the learned counsel for the petitioner. Since no adverse orders are going to be passed against the respondent/husband, notice to the respondent is dispensed with.

6.It is not in dispute that the petitioner is the wife and the respondent is the husband and their marriage was solemnized on



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10.03.2021, according to Hindu rites and customs. Due to matrimonial dispute arose between them, the petitioner/wife filed HMOP.No.105 of 2023 for divorce. Pending such petition, the petitioner/wife filed I.A.No.un-numbered of 2024 permitting her to take steps to serve summon upon one Mr.Chinnapazham/the father of the respondent, on behalf of the respondent and the same was also returned by the Court below, vide order dated 15.03.2025 stating that the address shown in the process memo and the name of the respondent mentioned in the petition are different.

7.It is the main contention of the learned counsel for the petitioner that when the respondent evades service of summons and notices from the Family Court and when the petitioner filed an application to serve the notice on the adult family member of the respondent, the Court below cannot return the petition. From a reading of Order V Rule 15 of CPC, it is clear that there should be ample evidence to show that the respondent is not available in the address and that despite the steps taken by the petitioner, there is no likelihood of identifying the respondent. If such evidence is available as conclusive proof, only then, the second provision



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of serving the summons on the elder person, who resides in the address, would be applicable. Here, no such evidence is available. The return made by the trial Court and the plea taken before this Court are contrary.

8.In view of the above, this Court does not find any irregularity or perversity in the return made by the Court below. Accordingly, this Civil Revision Petition is dismissed as being devoid of merits. No costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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11.12.2025

To

The Judge, Family Court,
at Nagercoil,
Kanyakumari District.



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N.SENTHILKUMAR, J.

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