

SUPREME COURT OF SEYCHELLES

Reportable
[2022] SCSC
MA 44/2022

In the matter between:

NOELLA TAMBE NEE FLORE
(Represented by Ms Pool)

Petitioner

and

AUGUSTINE TATAW TAMBE
(Unrepresented)

Respondent

Neutral Citation: *Tambe v Tambe* (MA 44/2022) [2022] SCSC (1st December 2022)
Before: Esparon J
Summary: Application to dispense with the service of the Petition on the Respondent
Heard: 13th October 2022
Delivered: 1st December 2022

ORDER

Application seeking an order from this Court to dispense with service of the Petition on the Respondent pursuant to rule 7(4) of the Matrimonial causes Rules-Order granted- the Court granted the Order to dispense with the Service of the Petition on the Respondent altogether.

RULING

ESPARON J

Introduction

[1] This is an Application under rule 7(4) of the Matrimonial causes Rules seeking for an Order to dispense with service of the Petition on the Respondent.

Pleadings

- [2] The Application is supported by the Affidavit of Noella Tambe being the Applicant in the matter whereby she averred in her Affidavit that she was married to the Respondent a Cameroonian national who was deported from Seychelles and that she has no contact with him.
- [3] She further avers in her Affidavit that despite her best efforts through Foreign Affairs and Immigration, she has not been able to obtain his address.
- [4] The deponent avers at paragraph 4 of her Affidavit that she has obtained credible information that the Respondent had contracted a second marriage in Cameroon while still married to her.
- [5] The Respondent had filed a second Affidavit with leave of the Court dated 16th September 2022 to show to the Court that she has done her utmost best to locate the Respondent and despite her best efforts, this was in vain of which the Court admitted and marked the said Affidavit as exhibit A5.
- [6] The deponent has averred in the said second Affidavit that she has learnt through third parties that her husband had re-married without informing her and that she has contacted the Ministry of foreign Affairs to try and assist her in locating him in Cameroon but they could not without having specific information of which the copies of the communication with the Ministry is attached.

Evidence

- [7] In the Applicant's evidence on Oath before this Court, the deponent has produced a copy of the deportation order of which the Court admitted the said document as exhibit and marked it as exhibit A1.
- [8] She also gave evidence before the Court that since the departure of her husband she have had no contact with her husband and she produced a letter to the Court addressed to the Principal Secretary of Ministry of foreign Affairs asking the foreign affairs to assist in

locating Augustine Tataw Tambe of which the Court admitted it as exhibit and marked it as exhibit A2.

[9] The Applicant further produced an email from the Ministry of Foreign Affairs dated the 1st August 2022 asking for more details with regards to her husband's whereabouts of which the Court admitted the said document as exhibit and marked it as exhibit A3. The Respondent had been able to obtain a copy of his passport and his watts App number of which she transmitted it to the Ministry of Foreign Affairs.

[10] She further testified that she obtained information from some friends who attended the ceremony that her husband had re-married by sending her some pictures through watts app of which the Applicant produced the said pictures to the Court and the Court admitted them as exhibit and marked them as exhibits A6 to exhibit A9.

[11] She further gave evidence to the Court that the Ministry of Foreign Affairs cannot assist her since the information is lacking and that to date she has had no contact with the Respondent.

The Law

[12] Rule 7(1) (a) of the Matrimonial Causes Rules provides that 'unless otherwise directed an office copy shall be served personally or by registered post upon every respondent.'

[13] Rule 7(4) of the matrimonial causes rules provides that 'service may be dispensed with altogether in any case it may appear necessary or expedient to do so. An application for leave to dispense with service on a respondent spouse or in any other case shall be made to a Judge and shall be supported by an Affidavit setting out the ground of the Application.

Determination

[14] It is evident from the Affidavit of the Applicant that the grounds of which the Applicant is relying upon is that the Respondent has been deported from Seychelles by the Immigration authorities and she has no contact with him. She has also given evidence to the fact that every effort has been made by the Applicant to locate the Respondent

through the Ministry of Foreign Affairs but with lack of information supplied to the Ministry of foreign Affairs which she does not possess, the Ministry could not assist further. Furthermore according to her, he has re-married.

[15] As a result of the above paragraph 14 of this ruling, this Court finds that the Applicant has made every effort to locate the Respondent and since this has not been possible even with the assistance of the Ministry of foreign Affairs, this Court shall hence dispense with service altogether on the Respondent since this court finds that for the afore-mentioned reasons that it is necessary or expedient to do so.

[16] As a result of the above, this court shall make the following order;

- i) This Court shall dispense with the service of the Petition on the Respondent altogether.
- ii) As a result of paragraph (i) above, this Court shall grant leave to the Petitioner to proceed with the matter Ex-parte.

Signed, dated and delivered at Ile du Port on 1st December 2022

Esparon J