

**COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Family Division
2022/FAM/div/FP/00176
BETWEEN**

**MARTHA JEAN (nee BURROWS)
Petitioner**

AND

**EDDY JEAN
Respondent**



BEFORE: The Honourable Justice Petra M. Hanna-Adderley

Appearances: Mr. K. Brian Hanna for the Petitioner

HEARING DATE: January 20, 2023

**RULING
(On the Papers)**

1. This is an application pursuant to Rule 9 (5) of the Matrimonial Causes Rules ("**the Rules**") for leave to dispense with service of the Petition filed herein on December 21, 2022, and the supporting documents on the Respondent.
2. The parties were married on October 9, 1998 in the City of Freeport, Grand Bahama, The Bahamas. By way of the Summons filed by the Petitioner on January 5, 2023 the Petitioner seeks an Order for leave to dispense with service of the Petition and Supporting Documents on the Respondent. The parties separated in 2005.
3. The Petitioner in her Affidavit in support filed on January 5, 2023 states that the Petitioner and the Respondent separated some years ago. That she continues to live in Eight Mile rock but that she has not been in contact with the Respondent and does not know his whereabouts. That she has searched the internet for any sign of him to no avail. That she cannot say if he is living or dead and that she has no contact person for him. That advertising in the newspaper will be fruitless and costly. That she has exhausted all avenues to find him.
4. Rules 9 (3)-(5) of the Rules provides as follows:

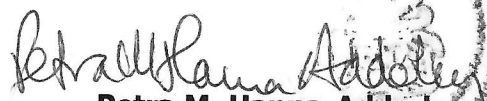
“(3) An application for leave to substitute for the modes of service prescribed by the foregoing paragraphs of this rule some other mode of service, or to substitute for service notice of the proceedings by advertisement or otherwise, shall be made ex parte by lodging with the judge an affidavit setting out the grounds on which the application is made.

(4) Where leave is given to substitute for service notice of the proceedings by advertisement, the form of the advertisement shall be settled by the Registrar and copies of the newspapers containing the advertisement shall be filed together with any notice of petition or notice of proceedings.

(5) Service may be dispensed with altogether in any case in which it may appear necessary or expedient to do so. An application for leave to dispense with service on a respondent spouse shall be made to the judge and an application for leave to dispense with service in any other case shall be made to the Registrar.”

5. The Respondent is last known to have resided in Grand Bahamas. In fact, the Petition states that he is employed as a mechanic and resides in Eight Mile Rock, Grand Bahama. She states that he is of Haitian decent but there is no evidence that he may have left The Bahamas. There is no evidence that he may be dead. Should notice of the divorce proceedings be advertised there is a possibility that he or an acquaintance of his may see it and that he would in that regard have notice of the proceedings. That is the test to be applied. The fact that advertising is costly is unfortunate, but that reality is not a part of the test to be applied by the Court. The Court is not minded in the circumstances to dispense with service of the divorce documents on the Respondent.
6. The Court having read the Summons filed herein, having read the Affidavit filed herein, having heard Counsel for the Petitioner, having considered Rules 9 (3)-(5) of the Rules, makes the following Order that, leave is hereby granted to the Petitioner to substitute for service notice of the proceedings by advertisement on 2 consecutive occasions no less than 10 days apart in the Nassau Guardian OR the Tribune Newspapers.

Dated this 20th day of January, A. D. 2023


Petra M. Hanna-Adderley
Judge

