# Family Courts (Procedure) Rules, 1996

*[R.O.C. No. 550-A/97/F.1]*

**No. SRO C-4/97.**—In exercise of the powers conferred by section 21 of the Family Courts Act, 1984, the High Court of Madras hereby makes the following rules in supersession of the Family Courts (Tamil Nadu) Rules, 1987. These rules shall come into force with effect from the date of publication in the Tamil Nadu Government Gazette.

**1. Short title and commencement.**— (i) These rules may be called the **Tamil Nadu Family Courts (Procedure) Rules, 1996**.

(ii) These rules shall come into force with effect from such date as may be specified by the notification issued under section 21 of the Act.

**2. Definitions.**— (i) In these rules unless the context otherwise requires,—

(a) "*Act*" means the Family Courts Act, 1984 (Central Act 66 of 1984) ;

(b) "*Code*" means the Code of Civil Procedure, 1908 (Central Act V of 1908) ;

(c) "*High Court*" means the High Court of Madras ;

(d) "*Court*" means the Family Court established under section 3 of the Act ;

(e) "*Judge*" means the Judge or, as the case may be, the Principal Judge, Additional Principal Judge or other Judge of a Family Court appointed under section 4 of the Act.

(ii) All other words and expressions used but not defined in these rules shall have the same meaning as given in the Act and in the Code of Civil Procedure, 1908 (Central Act V of 1908) assigned to them, as the case may be.

**3. Working hours of the Family Courts.**— (i) Working hours of the Family Court shall be the same as prescribed by the High Court for the Subordinate Courts.

(ii) A Family Court may hold sittings on holidays and outside normal working hours if the Judge concerned considers it necessary to do so in the circumstances of a case with prior notice to the parties or those representing the parties and to such person or persons as the Judge may consider necessary.

**4. Place of sitting of the Family Courts.**— (i) The Family Court shall ordinarily hold its sittings at the place where it is located or at such places as the High Court may specify, from time to time, by an order in that regard.

(ii) Notwithstanding anything contained in clause (i) if in any particular case the Judge is of the opinion that it will tend to the general convenience of the parties or of the witnesses or for any other purpose to hold sitting at a place other than its ordinary place of sitting but within its limits of territorial jurisdiction,

the Judge may do so for reasons to be recorded in writing and with notice to the parties and to such other persons as the Judge may consider necessary. The Judge shall intimate the High Court about such sitting soon after a decision is taken in that behalf and such sitting shall abide by any orders of the High Court made in this regard.

**5. Institution of proceedings.**— (i) Every case shall be instituted in the Court of the Principal Judge if there are more than one case at a place or the Court of such other Judge as may be designated by the Principal Judge and in other respects before the Court having jurisdiction over the subject matter of the case.

(ii) All proceedings instituted before the Family Court shall be by way of a petition or plaint, as the case may be, however in respect of applications under Chapter IX of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the provisions of that Code will apply.

**6. Filing of petitions.**— (i) Every petition or application shall be accompanied by as many clear authenticated copies thereof as there are respondents to be served.

(ii) The Court to which a case has been allocated will be indicated in the list to be displayed in the notice board of the Court where it was instituted. The list will indicate when and before whom the parties instituting the case will be required to appeal before the Court to which the case is allocated to take further orders.

**7. Summons to respondents.**— In all matters other than those under Chapter IX of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) the summons to appear and answer shall be in Form No. 1 in the Appendix with such variations as the circumstances of the case may require.

**8. Name and address of the party to be stated in every process.**— The name and address of the party shall be stated in every summons, witness summon, interim application notice, warrant and every process of the Court issued at the instance of such party.

**9. Summons, etc., how attested and signed.**— All summons, rules, orders, warrants and other mandatory processes shall be sealed with the seal of the Court and shall be signed by the Chief Ministerial Officer adding thereto the date of signing.

**10. Returnable date of summon.**— Unless otherwise ordered, the summons shall be returnable within three weeks from the date of the issue, if the respondent resides within the local limits of the Court and within four weeks from the date of issue, if the respondent resides outside the local limits.

**11. Returnable date of summons in petition to be on the date fixed for giving direction.**— The summons shall be returnable on or before the day on which the petition is to be placed on board for directions as herein provided.

**12. Mode of service of summons.**— Summons together with a copy of the petition of applications and annexures, if any, shall be served in the manner prescribed in the Code of Civil Procedure, 1908 (Central Act V of 1908) save in proceeding under Chapter IX of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), where the provisions of that Code will apply.

**13. Proof of service of summons.**— Unless the Court shall otherwise order the service of the summons to appear and answer shall be proved by evidence showing that the summons was served in the manner provided by the Code of Civil Procedure, 1908 (Central Act V of 1908). Summons shall normally be sent by registered post with acknowledgement due as well as through the Courts.

**14. Substituted service.**— Application for substituted service of the summons shall be governed by the corresponding provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908).

**15. Dismissal of petition or suit plaint if summons not served within six months.**— If, on account of the default of the petitioner, the summons is not served within six months from the date of filing of the petition or application, the Court shall, unless good cause is shown, dismiss the petition or suit plaint or application. Such dismissal shall be notified on the notice board by the Chief Ministerial Officers.

**16. Transfer or withdrawal of suit or proceeding.**— The Principal Judge may withdraw any suit or proceeding from the file of any Judge and may either try the same himself or sent it to any other Judge for trial.

**17. Adoption of High Court rules framed earlier.**— Every suit or petition filed before the Family Court seeking relief under the provisions of the Hindu Marriage Act, Indian Divorce Act, Special Marriage Act shall be in accordance with the rules already framed by the High Court under the respective marriage laws so long they are not in any way inconsistent with the Act.

**18. Directions on the returnable date.**— On the returnable date of summons, the petition or plaint shall be placed for directions before the Judge of the Family Court.

**19. Counselling centre.**— There shall be attached to each Family Court of counselling centre to be known as "The Counselling Centre of the Family Court of . . . . . ".

**20. Composition of counselling centre.**— Each counselling centre of the Family Court shall have two counsellors or such number of counsellors as the High Court may determine.

**21. Different units of counselling centre.**— The counselling centre shall be divided into different units and may be located in the Court premises and/or in such other place or places as the High Court may direct.

**22. List of persons and persons and agencies engaged in the field of social welfare.**— (i) The Family Court shall prepare in the month of January every year, a list of not less than ten persons (including institutions or organisation ) from among those engaged in the field of social welfare or representatives thereof professionally engaged in promoting the welfare of the family working in the field of social welfare and whose association with the Family Court may enable it to exercise the jurisdiction more effectively in accordance with the purpose of the Act and submit it to the High Court for approval :

Provided that if the Family Court is established in the middle of any year, such list shall be submitted within one month from the date of establishment of such Court.

(ii) The list shall be valid till the approval of the next list by the High Court.

**23. Nomination of persons as counsellors.**— (i) The Family Court shall nominate two persons and may include representatives of institutions or organizations out of the list prepared under sub-rule (i) of rule 22 as counsellors to assist each of the said Court in discharge of its functions.

(ii) The term of the office of the counsellors so nominated shall be three months.

**24. Presence of counsellor in Court.**— On the date fixed for giving directions, the counsellors authorised by the Court shall attend the Court of the Judge giving directions.

**25. Directions to consult the counsellor.**— When giving such directions, the Judge shall direct the parties to consult the specified counsellor for purpose of counselling.

**26. Court to fix time and date for counselling.**— The parties shall be bound to consult the counsellor on the date and at the time so fixed by the Court.

**27. Failure to attend counselling.**— If one of the parties fails to attend the counselling on the date and at the time so fixed, the counsellor may fix another date and time. If the said party does not attend the counselling centre on the adjourned date, the counsellor may make a report to the Court stating that one or both the parties have failed to attend the counselling centre. Such report being made, the Court may proceed with the matter without prejudice to the other powers of the Court to take action against a defaulting party.

**28. Duties and functions of counsellors.**— Counsellor entrusted with any petition or suit shall assist and advise the parties regarding the settlement of the subject matter of dispute between the parties or any part thereof. The counsellors shall also help the parties in arriving at reconciliation. Upon obtaining prior permission of the Judge of the Court concerned, the counsellors shall also be entitled to do the following act or acts, namely :—

(i) The counsellor in the discharge of his duties shall be entitled to pay home visits to the homes of any of the parties ;

(ii) The counsellor in the discharge of his duties shall be entitled to interview relatives, friends and acquaintances of parties or any of them ;

(iii) The counsellor in the discharge of his duties may seek such information as he may deem fit from the employer of any of the parties ;

(iv) The counsellor in the discharge of his duties refer the parties to an expert in any other area such as medicine or psychiatry.

**29. Confidentiality of information.**— Any information gathered by the counsellor, any statement made before the counsellor or any notes or reports prepared by the counsellor shall be treated as confidential. The counsellor shall not be called upon to disclose this information, statements, notes or report to any Court except with the consent of both the parties.

**30. Counsellor not to give evidence.**— The counsellors shall not be permitted to give evidence in any Court in respect of the information, statements, notes or report acquired or prepared by them. However, if required by the Court, a report relating to the home environment of the parties concerned, their personalities and their relationship with their child/children shall be submitted in order to assist the Court in deciding the question of custody or guardianship of any child/children of the marriage :

Provided further that the counsellor shall also submit to the Court, a report relating to home environment, income or standard of living of the party or parties concerned in order to assist the Court in determining the amount of maintenance and/or alimony to be granted to one of the parties.

**31. Report from the counsellor.**— The Court may also request the counsellor to submit to it a report on any subject in order to assist the Court in adjudicating upon the matter before it or any part thereof may be supplied to the parties on request.

**32. Parties right to make submissions.**— The parties shall be entitled to make their submission on the report.

**33. Counsellor not to be cross-examined.**— The counsellor shall not be asked to give evidence and shall not be cross-examined in any Court in respect of the report so made.

**34. Submission of memorandum.**— Save as aforesaid, the counsellor shall submit a brief memorandum to the Court informing the Court of the outcome of the proceedings before him.

**35. Settlement before counsellor.**— When the parties arrive at a settlement before the counsellor relating to the dispute and any part thereof, such settlement shall be reduced to writing and shall be signed, by the parties and counter-

signed by the counsellor. The Court shall pronounce a decree or order in terms thereof unless the Court considers the terms of the settlement unconscionable or unlawful.

**36. Filing of memorandum in Court.**— On the proceedings before the counsellor coming to an end and upon the counsellor filing a memorandum in the petition setting out the outcome of the proceedings before him as irreconcilable, the Judge shall list the case for trial.

**37. Placing the petition on the Board of the Court.**— On the date so fixed by the Judge, the petition shall be placed before the Court for hearing and final disposal.

**38. Adjournments.**— (i) The petition so fixed shall not be adjourned by the Court unless there are exceptional circumstance justifying such adjournments and unless they are such as could not have been foreseen when the date of hearing was fixed. The Court shall record its reasons for adjourning a matter.

(ii) Every endeavour shall be made by the Judge to secure a settlement of the disputes by conciliation throughout the trial. Adjournments are to be avoided as far as possible.

**39. Independent legal representation of a minor.**— It shall be open to the Court to appoint any person capable of protecting the interests of a minor as his/her representative to represent independently the minor affected by litigation before the Court. The Court shall endeavour that such representative should not derive any undue pecuniary advantage out of the appointment. The Court may appoint a representative to represent independently to represent the minor affected by litigation before the Court. The Court shall endeavour that such representative should not derive any undue pecuniary advantage out of the appointment. The Court may appoint a representative as amicus curiae to assist the Court in the discharge of its duties.

**40. Evidence.**— The Court shall prepare a memorandum of the substance what the witness deposes as prescribed under section 15 of the Family Courts Act, 1984 (Central Act 66 of 1984).

**41. Permission for representation by a lawyer.**— (i) The Court may permit the parties to be represented by a lawyer in Court. Such permission may be granted if the case involves complicated questions of law or fact and if the Court is of the view that the party in person will not be in a position to conduct his or her case adequately. The reason for granting permission shall be recorded in the order. Such permission for the assistance of the lawyer by either of the parties cannot be claimed or entertained as a matter of right. Permission so granted may be revoked by the Court at any stage of the proceedings if the Court considers it just and necessary.

(ii) *Time for making application.*—An application by a party for being represented by a lawyer in Court shall be made by such party to the Court only after service of notice on either side upon appearance. Such an application shall be made at least two weeks prior to the date fixed for hearing.

(iii) *Application not to be entertained at the hearing.*—An application shall not be entertained after the petition is placed for hearing on the daily board of the Court unless there are exceptional circumstances justifying such late application.

**42.** Copy of Judgment/Order to be given free of cost.

**43. Interim application.—** All interim applications to a copy of every Judgment/Order against which an appeal lies under section 19 of the Act shall be given free of cost to the parties.

The Court shall be separately numbered as Interim Application No. . . . . in Petition No. . . . . .

**44. Interim applications while matter is pending before the counsellor.—** An interim application may be made even while the matter is pending before the counsellor.

**45. Report from the counsellor.—** The Court may ask the counsellor to submit an interim report for the purpose of such application before deciding an interim application.

## GUARDIANSHIP

**46. Application for guardianship.—** All applications for guardianship other than the applications over which the High Court has jurisdiction shall be filed before the Family Court.

**47. Form of application.—** Every application shall be in the form of petition. The rules framed under the Guardian and Wards Act, 1890 (Central Act . . . of 1890) by the High Court of Madras shall apply to all the proceedings in relation to the Guardian and Wards Act.

**48. Deposit of money into Court.—** All deposits of money made by the parties to the proceedings before the Family Court shall be in Form No. 2 as given in Appendix I.

**49. Withdrawal of amount from the Court.—** All payments to be withdrawn out of Court by the party or parties entitled to such withdrawal shall be in Form No. 3 as given in Appendix I.

**50. Provision of Code of Civil Procedure and Code of Criminal Procedure to apply.—** Save as aforesaid, the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), or the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), as the case may be, shall apply to the proceedings of the Family Court.

**51. Rules under section 122 of the Code.**— (i) Rules framed by the High Court under section 122 of the Code for regulating the procedure of Civil Courts subordinate to it shall apply to the Family Courts in so far as they are not inconsistent with the provision of the Act and these rules.

(ii) The Court shall give priority for execution proceedings and every endeavour shall be made to terminate the execution proceedings within the shortest possible time.

**52. Copy of judgment or order to be filed with appeal.**— Every appeal under section 19(1) of the Act shall be accompanied by a copy certified to be true copy by the Court which passed the judgment.

**53. Judgment and its contents.**— Every judgment of the Court shall contain an Appendix of the evidence oral and documentary adduced on behalf of the parties to the proceedings and every witness for the applicant shall be described as petitioners/plaintiffs witness and the evidence shall be marked as "P" series and every witness for the respondent/defendant shall be described as respondents witness and the evidence shall be marked as "R" series in the Appendix and a serial number given. The Court witness, if any, shall be described as Court witness and the evidence, if any, shall be marked as "C" series.

**54. Proceeding not to be invalid.**— A proceeding before the Family Court shall not become invalid by reason only for non-compliance with any of the procedural requirements prescribed herein unless such non-compliance has occasioned a failure of justice.

## APPENDIX

### FORM NO. 1

(*See* rule 7)

In the Family Court of .....

O.S/Petition No. .....

..... Petitioner /Plaintiff

*versus*

..... Respondent/Defendant

Whereas the above mentioned petitioner/plaintiff has instituted a petition/ suit against you as set out in the petition/plaint (annex the petition/plaint).

And whereas the suit/petition will be placed for directions of the Judge on the.....day of.....20.....

You are hereby summoned to appear before the Judge to answer the petitioner's claim on the said.....day of.....20.....at 10 o' clock in the forenoon.

Take notice on the day before mentioned after hearing parties who appear directions will be given by the Judge as to the date of hearing before a counsellor of the Family Court and other matters concerning.

Take further notice that if you fail to file your appearance in persons or if you appear before the Judge on the day before mentioned the petition may be ordered to be set down on board on the same day or any subsequent day as 'undefended' and you will be liable to have a decree or orders passed against you.

Witness .....Principal Judge at.....
.....aforesaid this day of ..... 20....

*Chief Ministerial Officer.*

**SEAL**

The.....day of 20....
Petitioner .....
Address .....
.....
.....
.....

IndiaCode

**FORM NO. 2**

(*See* rule 48)

IN THE COURT OF THE PRINCIPAL
JUDGE/ADDITIONAL PRINCIPAL JUDGE

MP. No./LA No./20 .....
M.C. No./O.S. No./O.P. No./20 .....

..... Petitioner/Plaintiff

*versus*

..... Respondent/Defendant

*Petition for deposit of money into Court*

The above mentioned petitioner begs to state as follows :

The Honourable Court while passing an Order/Judgment in the above matter has directed the petitioner/plaintiff, defendant/respondent to remit a sum of Rs.....Accordingly, the said sum is being remitted into the Court in obedience to the orders passed. It is, therefore, prayed that this Honourable Court may be pleased to permit the deposit of the said amount into the Court.

*Signature.*

**VERIFICATION**

Verified that the facts stated above are true and correct to the best of my information and knowledge and I sign this verification at Chennai on. . . . . .

Date : *Signature.*

**FORM NO. 3**

(*See* rule 49)

IN THE COURT OF THE PRINCIPAL
JUDGE/ADDITIONAL PRINCIPAL JUDGE

M.P. No./LA No./20 . . . . .

M.C. No./O.S. No./OP. No./20 . . . . .

. . . . . Petitioner/Plaintiff

*versus*

. . . . . Respondent /Defendant

*Petition for withdrawal of amount from the Court*

Whereas a sum of Rs. . . . . has been deposited into the Court by the . . . . . as per the orders passed by this Honourable Court in the above matter.

The petitioner herein entitled to withdraw the said amount from this Honourable Court. There are no impediments for releasing the payment in my favour and there are no rival claims.

I, therefore, pray that this Honourable Court may be pleased to pass an order directing the payment of the said amount of Rs. . . . . .

*Signature.*

**VERIFICATION**

Verified that the facts stated above are true and correct to the best of my information and knowledge and I sign this verification at Chennai on. . . . . .

Date : *Signature.*

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