

30 CC No. 4816/2023 Blue Jay Finlease Pvt Ltd Vs. Sunil Gupta
27.09.2024

Proceedings are conducted through VC using CISCO Webex Meeting App.

Present : Ld. Counsel Sh. Vineet Kalra for complainant.

Hon'ble Supreme Court in **M/s. Ajit Seeds Ltd. Vs. K. Gopala Krishnaiah Crl. Appeal No.1523/2014** has observed that complainant is not even required to make any averment in the complaint regarding the service of legal demand notice and that it can be presumed u/s. 27 of General Clauses Act that the notice was served when it is sent on the correct address of the accused by registered post.

It has been observed in Ajit Seeds (Supra), "*Section 27 of the GC Act gives rise to a presumption that service of the notice has been effected when it is sent to the correct address by registered post. It is not necessary to aver in the complaint that in spite of return of the notice unserved, it is deemed to have been served or that the addressee is deemed to have knowledge of the notice. Unless and until the contrary is proved by the addressee, service of notice is deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of business*". In the present case, the legal demand notice was sent through speed post on the correct address of the accused, as stated in the affidavit. Hence, it can be presumed that the legal demand notice was served on the accused in the ordinary course of business.

Heard on the point of summoning. This is complaint filed for offence punishable under Section 138 NI Act. Complaint, affidavit of evidence and other annexed documents perused. The original complaint and documents are placed in the safe custody of the Reader-cum-ahlmad of this court. I take cognizance of the said offence. Following the law laid down in A.C.Narayanan Vs. State of Maharashtra & Anr. (2014) 11 SCC 790, complaint, affidavit of evidence and documents considered.

In view of the complaint, documents produced and verification in the form of affidavit of evidence, there are sufficient grounds for proceeding further against the accused for offence punishable under Section 138 NI Act.

The complainant side is directed to file metadata form before filing of PF. Thereafter, Reader-cum-Ahlmad to issue summons against the accused person on PF/RC/Approved courier **through all modes. Dasti copy of summons be also provided to complainant.** Service be also effected on the email, whatsapp message(s) and text message of accused person(s). Proof of service/tracking report be filed and updated in the digital file on or before the next date of hearing. The process server is directed to serve the summons by way of affixation, if premises found closed or same could not be served personally or on any adult male member. An endorsement be also made that if application for compounding at first or second hearing is made the court may pass appropriate orders at the earliest and if settlement is made at subsequent stage the consequences as envisaged in Damodar S. Prabhu Vs. Sayed Babulal H.; (2010) 5 SCC 663 shall be enforced.

The Ahlmad is directed to mention the official email ID and video conferencing link of this court on the summons. Complainant is directed to file PF and take steps within 10 days including providing copy(ies) of complaint otherwise the complaint may be dismissed Under Section 204 (4) Cr.P.C.

Matter be fixed for appearance of accused/furnishing of bail/consideration on notice for **11.02.2025**.

Digitally signed by
AJAY SINGH
PARIHAR
Date: 2024.09.27
13:48:03 +05'30'

(Ajay Singh Parihar)
JMFC (NI ACT) Digital Court-03 (N/W),
Rohini Courts, Delhi, 27.09.2024