

## **ORDER ON I.A.NO.I**

The I.A.No.I is U/O V Rule 20(1A) r/w section 151 of CPC., filed by the Decree-holder seeking relief to issue notice to Jdr's through Daily News Paper.

In the affidavit, it is stated that when the notice was issued by this Court to the Jdrs then, the JDRs intentionally avoided to receive the notice by giving different reasons. Hence, issuance of notice to JDR No.4 to 7, 9 to 11, 1(f), 2(f), 1(c), 2(c), 1(d), 2(d), 1(i), 1(L) and 2(i) to 2(L) through Daily News paper is absolute necessary.

On the other hand, the JDR No.3 has filed objection to the I.A. and contended that the Decree-holder has filed the present petition without asserting the correct and actual residential address of the above stated JDRs and the present application is filed without making any efforts proper service of notice to the JDRs. Further, it is contended that the Process server of the Court have already submitted report that some of the JDRs have residential at Abroad. So, it is duty of the Decree-holder to give the proper address of the JDRs, which is mandatory U/O VII Rule 14(a) of CPC. Hence, without complying the other service of summons, the decree-holder is not entitled to take directly substitute service U/O 20(a) of CPC.

Heard both sides and perused material records.

Admittedly, the present petition is for enforcement of judgment and decree in OS 23/2003. In the meantime, the learned Counsel for JDR No.3 has filed Memo with certified copy of Hon'ble High Court of Karnataka in its RFA No. 1325/2006 (SP) decided on 3-11-2022 and it is noticed that the JDRs of this petition have preferred an Appeal before the Hon'ble High Court and it is noticed that Hon'ble High Court has dismissed the Appeal and confirmed the judgment and

decree of this Court. The OS No. 23/2003 was for the relief of Specific Contract of Performance decreed by this Court directing the JDRs to execute Registered Sale deed in respect of 'A' suit schedule property.

A perusal of order sheet, it is noticed that after issuance of notice, it is noticed that the process servers have reported that the JDR No. 1(3), 2(3), 1(4), 2(4), 1(5), 2(5), 1(9), 2(9), 7 & 11 for not found in the given address and it is reported that JDR No. 1(12), 2(12), 4, 5, 6, 9 and 10 were at Abroad. Further, it is noticed that the summons was issued to the above said JDRs through RPAD. On this occasion, some of the notices were served upon the JDRs and some of were refused and unclaimed. The Decree-holder has sought substitute service against the JDR No.4 to 7, 9 to 11, 1(f), 2(f), 1(c), 2(c), 1(d), 2(d), 1(i),1(L) and 2(i) to 2(L). But, on perusal of order sheet, it is noticed that notice to JDR No.4 duly served and notice to JDR No. 7 and 9 have unclaimed. Further, it is noticed that the notice issued to JDR No.1(f) returned as unclaimed and it is noticed that the notice to JDR No. 1(d) is duly served and notice to JDR No.1(j) returned as unclaimed. Hence, considering the process report, the above said JDR No.4, 9, 7, 1(f), 1(d), 1(j) are placed ex-parte. The JDR No. 3 has filed objection and strongly opposed to issue the notice through Daily News Paper but, Under order V rule 20(1A) of CPC is discretionary power of the Court. In the instant case, the Decree-holder is made a sufficient efforts to secure the presence of JDR. But, inspite of that till the the presence of JDRs has not been secured. Hence, considering the above facts and circumstances, and reasons stated in the affidavit, I am of considered view that I.A. is to be allowed. Hence, I proceed to pass the following:

### **O R D E R**

The I.A.No.I U/O. V Rule 20(1A) R/w section 151 of CPC is hereby allowed.

Hence, issue notice to JDR No. 5, 6, 10, 11, 2(f), 2(c), 2(d), 1(i), 1(k),

1(L) and 2(i) to (L) through Daily News Paper called as Janamadhama Daily News Paper, if P.F. and draft filed.

Call on: 21-04-2025.

Senior Civil Judge, Bhatkal.