

ORDERS

Plaintiffs have filed this suit against the defendants to declare that themselves and the defendants are alone entitled for the compensation amount paid to the defendant Nos.1 and 2 by the Konkan Railway regarding acquisition of the plaint schedule property. Defendant No.3 in this case is also the defendant No.3 in O.S.No.8/2021 on the file of this Court. That the said O.S.No.8/2021 is also posted today for orders. The learned counsel, who is appearing for plaintiffs in this case is also appearing on behalf of the plaintiff in the aforesaid O.S.No.8/2021.

In the plaint the plaintiffs have stated that the defendant No.3 is residing in Mumbai. Suit summons issued to the defendant No.3 through R.P.A.D. returned unserved as the addressee left India. On 11-10-2022 the plaintiffs have filed

I.A.No.4 under Order 5 Rule 20 read with Section 151 of CPC to issue suit summons to the defendant No.3 through affixture by affixing the suit summons to the plaint 'B' schedule house described in the plaint of O.S.No.8/2021.

Learned advocate for defendant Nos.1 and 2 has submitted that about 50 years back the defendant No.3 left to Canada, in the cause title of the plaint it is stated that the defendant No.3 is the resident of Mumbai and the house on which the suit summons issued to the defendant No.3 was affixed was sold to the defendant No.4 of O.S.No.8/2021 and hence, service of suit summons to the defendant No.3 is not sufficient.

Plaintiff of O.S.No.8/2021 in her plaint has clearly pleaded that defendant Nos.4 to 6 of the said suit are in unauthorized possession of the plaint 'B' schedule house of the said suit. It is not the case of the plaintiffs that defendant No.3 is residing in the said house. According to the plaintiffs as on the date of suit the defendant No.3 was residing in Mumbai. It is also not the case of the plaintiffs that the aforesaid plaint 'B' schedule house is the last known address of the defendant No.3. Hence, I am of the opinion that service of suit summons issued to the

O.S.No.2/2021

defendant No.3 by affixture is not sufficient. For steps against the defendant No.3 as a last chance and finally by 07-12-2022.

Senior Civil Judge
& Prl. J.M.F.C., Kumta.