

ORDER ON I.A. No. XXIV

The applicant/plaintiff has filed I.A. No.XXIV, under Order V, Rule 20(1-A) and Section 151 of CPC, for service of suit summons to defendants No. 2 and 5 in this suit by an advertisement in “Vijaya Karnataka” Kannada daily newspaper.

2. The applicant has sworn to an affidavit and submitted that, defendants No. 2 and 5 are residing in address given in the plaint. But they are evading service of summons by colluding with other defendants. The other defendants are in good terms with defendants No. 2 and 5. But they are not ready to furnish the alleged other address of the said defendants. Therefore it is just and necessary to issue summons to defendants No. 2 and 5 by substituted service by an advertisement in Vijaya Karnataka daily newspaper. Defendants No. 2 and 5 are ordinary residence of Bangalore and the said newspaper has wide circulation in the said locality. The said defendants are actually and voluntarily residing in the said address which is their last known address where they resided personally. Hence the applicant has prayed to allow the application.

3. On the other hand, the opponents/defendants who have appeared before the Court have filed statement of objection, and

submitted that, there are no grounds to order for service of notice by substituted service and further denied all the other averments made in the affidavit by the applicant.

4. Heard.

5. In this suit, the plaintiff has got issued summons through defendants No. 2 and 5 through ordinary process of the Court. Thereafter summons to defendants No. 2 and 5 was issued through RPAD. The summons through RPAD did not serve on the said defendants as they had left the address. Again summons was issued to the defendants No. 2 and 5 through RPAD. Again the said summons was unserved on the defendants No. 2 and 5. Finally the plaintiff has taken steps against D 2 and D 5 through substituted service by way of paper publication

6. Under Order V, Rule 20(1) of CPC, if the Court satisfies that there is reason to believe that, the defendant is keeping out of the way for the purpose of avoiding service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons by substituted service. Under Order XX Rule 1-A CPC where the Court acting under sub rule 1 orders serviced by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain.

7. In this case, the addresses of D 2 and D 5 furnished by the plaintiff are said to be their last known address. But the other defendants have contented that, the said addresses are not the correct addresses. However, what are the correct addresses is not disclosed by the other defendants. Hence it is necessary to issue summons to defendants No. 2 and 5 by substituted service as the law itself provides for the substituted service. Hence the following:

ORDER

I.A. No. XXIV filed by the applicant/plaintiff under Order V, Rule 20(1-A) and Section 151 of CPC is hereby allowed.

The plaintiff is directed to furnish the draft paper publication.

Principal Civil Judge & J.M.F.C.
Kundapura