

ORDER BELOW EXH. 23 IN R. C. S. NO. 316/2015.

01] Plaintiff has filed an application to give direction to the defendant No. 2 to provide address of defendant No. 1. Say of defendant No. 2 was called. She has filed her say and objected the application.

02] It is argued on behalf of plaintiff that he has filed suit for declaration, execution of sale deed and perpetual injunction against defendants. It is further argued that defendant No. 2 has appeared in the matter however, summons is not served on defendant No. 1. It is further argued that Bailiff has submitted report that defendant No. 1 is not residing on given address and therefore, it is returned unserved. It is further argued that they have mentioned address of defendant No. 1 as resident of Ghodegaon, Tal. Shrigonda, Dist. Ahmednagar on the basis of sale deed dated 17/06/2015. It is further argued that defendant No. 1 is daughter of defendant No. 2. It is further argued that as summons could not be served on defendant No. 1, defendant No. 2 being mother of defendant No. 1, she may be directed to provide address of defendant No. 1. It is further argued that defendant No. 2 is having knowledge where defendant No. 1 is residing. Hence, application may be allowed.

03] On the other hand, it is argued on behalf of the defendant No. 2 that she is not aware about address of defendant No. 1. It is further argued that she has tried to obtain address of defendant No. 2 however, she could not found address of defendant No. 2. It is further argued that necessary order may be passed.

04] Perused application, say and record of the case. It appears that plaintiff has filed suit for declaration, execution of sale deed and perpetual injunction against defendants. It is the contention of plaintiff that summons issued to the defendant No. 1 is returned unserved. On

perusing summons report dated 29/10/2015 and 14/07/2016 at Exh. 10/13 issued to the defendant No. 1, it appears that it is reported defendant No. 1 is not residing on given address. Further, it appears from record that even prior to filing suit plaintiff had issued notice dated 31/07/2015 to the defendants. Plaintiff has filed copy of said notice and acknowledgement of the same vide list Exh. 3 at Sr. Nos. 5 to 7. However, on perusing notice issued to the defendant No. 1 by R.P.A.D., it appears that it is returned unserved with remark 'owner is not residing at Ghodegaon, hence returned.' It is pertinent to note that plaintiff has filed said sealed envelop on record vide list Exh. 3 at Sr. No. 7. Further, defendant No. 2 has not denied that defendant No. 1 is her daughter, however, she has denied that she is having knowledge about the address of defendant No. 1. Considering relation between defendant Nos. 1 & 2, the contention of defendant No. 2 is not believable. However, plaintiff has not shown the provision under which directions can be given to the defendant No. 2 to provide address of defendant No. 1. On the contrary, the plaintiff is not remediless to take steps to serve summons on the defendant No. 1 by other modes, as provided in the provisions of C.P.C. Plaintiff needs to take efforts to get service of summons on the defendant No. 1. Therefore, I am of the view that application of the plaintiff is liable to be rejected. Hence, I proceed to pass following order.

O R D E R

The application (Exh. 23) is hereby rejected.

(Dictated and pronounced in open Court.)

Shrigonda.

Date : 10/08/2020.

(Sangram S. Shinde)
Civil Judge, Senior Division,
Shrigonda.