

MHRG140009932019



ORDER BELOW EXH-56

1. This is an application filed by the Plaintiff, praying for directions to serve the summons upon Defendant No. 2 by way of publication in the daily newspaper "Lokmat" (Marathi edition), at the cost of the Plaintiff.

2. The facts leading to the filing of the present application are that the Plaintiff has instituted the present suit for partition, declaration, and permanent injunction in respect of the suit properties. During the pendency of this suit, Defendant No. 1 allegedly executed a registered Sale Deed dated 29/07/2021 in respect of suit property item No. 3 in favor of Defendant Nos. 2 and 3. Consequently, Defendant Nos. 2 and 3 were impleaded as necessary parties to the present suit.

3. The Plaintiff states that the address of Defendant No. 2 as set out in the cause title is the identical address mentioned in the registered Sale Deed dated 29/07/2021. Despite the correct address being supplied, regular service of summons could not be effected on Defendant No. 2. The Plaintiff asserts that Defendant No. 2 has active knowledge of the institution of the suit and is deliberately avoiding and evading the service of summons to frustrate the

progress of the proceedings.

4. It is further submitted by the Plaintiff that previously, an application at Exhibit-52 was moved on 03/12/2021 under Order V Rule 20 of the Code of Civil Procedure, 1908, seeking service of summons by affixture at the conspicuous part of the residence of Defendant No. 2. Although this Court allowed the said application and forwarded the summons to the competent Court in Mumbai for service via affixture, no service report or acknowledgment has been received from the Mumbai Court till date. The lack of service upon Defendant No. 2 has stalled the suit, which was instituted in the year 2019.

5. Under these circumstances, to prevent further delay, the Plaintiff has filed the present application (Exh. 56) accompanied by an affidavit dated 10/06/2026, requesting substituted service through publication in "Lokmat," a widely circulated Marathi newspaper in the Mumbai and Raigad regions.

6. I have carefully scrutinized the record. The core question for determination is whether there is sufficient reason to believe that Defendant No. 2 is keeping out of the way for the purpose of avoiding service, and whether substituted service is warranted.

7. Order V Rule 20(1) of the Code of Civil Procedure, 1908, provides that where the Court is satisfied 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 to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house in which the defendant is known to have last resided or carried on business. Furthermore, Rule 20(1A) explicitly empowers the Court to order service by an advertisement in a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided.

8. In the case of ***Yallawwa v. Shantavva, (1997) 11 SCC 159***, the Hon'ble Supreme Court held that substituted service is an exception to the general rule of personal service and should be ordered when the Court is satisfied that the defendant is evading service or cannot be served in the ordinary course. Similarly, the Hon'ble Bombay High Court has consistently observed that where the plaintiff has made bona fide and diligent attempts to serve the defendant through regular channels, and such attempts have failed due to the evasive conduct of the defendant, the Court must resort to substituted service to prevent the abuse of the judicial process and ensure that suits are not kept pending indefinitely.

9. In the present case, the record reveals that the suit is of the year 2019 and is urgently awaiting the appearance of the newly added parties. The address of Defendant No. 2 is derived from a registered public instrument, i.e., the Sale Deed dated 29/07/2021,

and is prima facie correct. The previous attempt to serve the defendant by way of affixture under Exhibit-52 has not yielded any result due to administrative delays and lack of response from the outer-station court. It is evident that the Plaintiff has made diligent efforts to effect service. To allow the matter to linger further would cause grave prejudice to the Plaintiff. Thus, I find that there is sufficient reason to believe that Defendant No. 2 is evading service, and it is a fit case to order substituted service by way of newspaper publication.

10. The Plaintiff has proposed the Marathi daily newspaper "Lokmat" for publication. "Lokmat" is a leading daily newspaper with extensive circulation in the Mumbai and Raigad districts, where Defendant No. 2 is stated to reside. Publication in the said newspaper would satisfy the statutory requirement of Order V Rule 20(1A) of the C.P.C. In view of the above, the application deserves to be allowed. Hence, the following order is passed:

ORDER

- I. This Application at Exhibit-56 is hereby allowed.
- II. Let the summons be served upon Defendant No. 2 by way of publication in the Marathi daily newspaper "Lokmat" (Mumbai/Raigad edition) in accordance with Order V Rule 20(1A) of the Code of Civil Procedure, 1908.

- III. The Plaintiff shall obtain the approved draft of the summons from the office of this Court and ensure its publication within fifteen (15) days from the date of this order.
- IV. The entire cost of the publication shall be borne solely by the Plaintiff.
- V. The Plaintiff is directed to file the complete physical copy of the newspaper containing the published summons on the record of this Court on or before the next date of hearing as proof of service.
- VI. Costs of this application shall be costs in the cause.

Uran,
Date : 10.06.2026

(S. P. Wankhade)
Civil Judge, J.D., Uran