

R.C.S. No. 147/2014

Prashant Vs. Hanmant & oths.

Order Below Exh.24

(Passed on 04th July, 2022)

This is an application filed by plaintiffs for service of suit summons to the defendant No. 1 by way of substitute service. It has been contended by the plaintiff that defendant No. 1 was issued suit summons through RPAD on the address which has been mentioned as per the notice issued by him to the plaintiffs. However, said summons could not be served and therefore it appears that defendant No. 1 is deliberately avoiding service of summons. Hence, the plaintiff prayed for substitute service of summons by issuing news paper proclamation in daily Pudhari Satara edition.

2. Perused the record. It appears that the defendant No. 1 has been issued suit summons through regular mode as well as RPAD. Its report shows that he was out of station due to some personal work. Said report is at Exh.35. As per provision under Order 5 Rule 20 of the Code of Civil Procedure, where the Court is satisfied that there is reason to believe that the defendant is keeping out of 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 (if any) in which the defendant is known to have last resided or carried on business or personally worked for gain or such other manner as the Court thinks fit. Further, as per sub Rule 1A, 'where the Court acting under sub-rule

(1) orders service by an advertisement in a news paper, the news paper shall be a daily news paper 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.

3. The perusal of record shows that the plaintiffs have filed notice dated 21/05/2014. It was issued by the defendants through their learned advocate Mr. Chavan and the address of defendant No.1 has been mentioned as Dhom, Tal.Wai, Dist. Satara. In such circumstances, it appears that defendant No. 1 is deliberately avoiding service of suit summons. This is a matter of 2014 and pending since last more than seven years without any concrete progress. The present application has been filed by plaintiffs on affidavit. Therefore, having regard to the peculiar facts of the matter, the present application deserves to be allowed by passing following order.

ORDER

1. The application (Exh.24) is hereby allowed.
2. Issue suit summons to defendant No.1 by publishing it in daily local news paper, as prayed by the plaintiffs.
3. The plaintiffs to comply accordingly.
4. Cost in main cause.

(Dictated and Pronounced in open court.)

Date : 04.07.2022

(R.M. Bhende)
Jt. Civil Judge Jr. Dn. Wai.

CERTIFICATE

“ I certify that this Order uploaded is a true and correct copy of original signed Order”.

Order directly
dictated on : 04.07.2022.

Order checked
and signed on : 04.07.2022.

Uploaded by : S. S. Kumbhar.
Stenographer (Grade-III)

Uploaded on : 06.07.2022.