

Title Appeal No. 93 of 2024
CNR No. WBHW0100 3265 2024
Present: Abhijit Som,
District Judge, Howrah.
J.O. Code - WB01127

Order No. 06 dated 11.04.2025.

The application dated 18.07.2024 under Order 41 Rule 14(4) of the C.P.C. is taken up for hearing.

Heard learned Advocate on behalf of the appellant.

It is submitted that the suit is decreed ex parte and the respondents did not appear in the suit before the Court at first instance. Since the relief for mesne profit is not granted, the instant appeal is filed by the plaintiff of the original suit.

In view of Rule 14(4) of Order 41 of C.P.C. notice of any proceeding incidental to an appeal need not be served upon the respondent unless he has filed an address for appeal in the Court of first instance or has appeared in the appeal.

This Court is of the opinion that Order 41 Rule 14(1) of C.P.C., the service of notice of hearing of appeal to the respondent is mandatory. The exception to this mandatory requirement provided under Order 41 Rule 14 (4) is only in respect of the proceeding incidental to an appeal and not the main appeal. Hence, the prayer for dispensing of service upon respondents in the main appeal is rejected.

Put in requisites immediately.

Issue notice.

Fix 10.07.2025 for S/R and A/D.

Dictated & corrected by me.

D. J.

District Judge, Howrah.