

Ejectment Suit 02 of 2024.
[CNR No. WBPS01 000002-2024]
Before – Ashutosh Kumar Singh- Ld. Chief Judge.

06.

12-08-2024.

Today is fixed for taking steps by the plaintiff in terms of order dt 26-02-2024 with observation that the petition u/o-V Rule 20(1A) read with Section 151 of C.P Code dt 23-04-2024 shall be taken into consideration.

Plaintiff files hazira.

Today plaintiff files a petition praying for service of summons upon the defendant through paper publication after allowing the petition dt 23-04-2024 filed petition u/o-V Rule 20(1A) read with Section 151 of C.P Code on the ground stated therein.

The petition is taken up for hearing.

Heard Ld. Advocate for the plaintiff. Perused the petition as well as materials on record.

Considered.

In the instant application , the contentions made out by the plaintiff in simplicitor is that Hrisikesh Giri against the whom the instant suit has been instituted by the plaintiff impleading him as defendant is now residing with his family members at the house of her daughter namely “Ranita Giri “ at new Flat no 5, 2nd Floor, at premises no 559/1, Nagendra Nath Road , P.S- Dum Dum, Kolkata 700028.

Therefore, the plaintiff cannot bring the said address in the Cause Title of the plaint as said “Ranita Giri “ is neither a tenant nor a party to the suit by way of amendment and for this reason, the plaintiff/petitioner is unable to take steps for service of summons upon the defendant in terms of Order dt 26-02-2024 . Therefore, by filing the instant application, plaintiff is praying for allowing his petition dt 23-04-2024 filed petition u/o-V Rule 20(1A) read with Section 151 of C.P Code and permit the plaintiff to serve summons of the suit through paper publication.

To substantiate his contentions, plaintiff has annexed one photocopy of notarized deed of conveyance dt 3rd Day of August, 2022 .

Perused the same .

Also perused the order dt 26-02-2024 passed by this Court wherein this Court has observed :-

“ Therefore, it is crystal clear that the exact residential place and address of the defendant is within the knowledge of the plaintiff. Despite such fact, from the postal envelope and process returned by the plaintiff, it appears that the plaintiff took steps for service of summons upon the defendant only at the address of the suit premises and not otherwise. The Cause Title of the plaint is also silent about the residential address of the defendant which the plaintiff has stated on affidavit with his petition dt 26-02-2024.”

p.t.o.....

So, from the above, it is clear that this Court no way suggested or advised the plaintiff to implead the daughter of the defendant as a party to the proceedings.

The only concern of the Court is proper service of summons upon the defendant in accordance with law

When admittedly the exact residential place of the defendant and his address is known to the plaintiff, this Court finds no reason for the plaintiff to take steps in accordance with law for sending summons at such address.

The Court is not unmindful that the plaintiff has filed a petition u/o-V Rule 20(1A) read with Section 151 of C.P Code on 23-04-2024 praying for publication of the notice of the suit in daily newspaper and shall consider the same when service in all other modes is got exhausted and when it will appear to the Court beyond reasonable doubt that there is reason to believe that defendant is keeping out of the way for the purpose of avoiding service and summons in this suit cannot be served upon the defendant in the ordinarily way.

This Court finds that there is no need or occasion for any interference in the Order dt 26-02-2024 .

The instant petition filed by the plaintiff is devoid of any merit and stands rejected.

To (**06/09/2024**) for taking steps by the plaintiff in terms of Order dt 26-02-2024 and the petition u/o-V Rule 20(1A) read with Section 151 of C.P Code dt 23-04-2024 shall be taken into consideration thereafter.

Dictated & corrected
by me :-

Chief Judge.
J.O .Code:- WB 01244.