Ejectment Suit 167 of 2022.

[CNR No WBPS 01 000284 2022]

Before – Ashutosh Kumar Singh- Ld. Chief Judge.

Order No:-17.

07/02/2025.

Today is fixed for hearing of petition u/s- 7(2) of W.B.P T Act filed by defendant no-1 dated 30-08-2022 which has been adopted by defendant no-3 and taking steps by the plaintiff for service of summons upon defendant no 2 & 4 to 7.

Today plaintiff files hazira along with five postal registration receipts affixed on a plain paper along-with downloaded copy of postal track report.

Plaintiff also files a petition praying for accepting service of summons upon defendant no 2 & 4 to 7 on the ground stated therein.

Defendant no 1 & 3 files a petition praying for adjournment on the grounds stated therein.

Contesting parties are found present on call.

At the outset, the petition filed by the plaintiff praying for accepting service is taken up for hearing. Heard Ld. Advocate for the plaintiff. Perused the petition, postal track report as well as materials on record.

Considered.

From the postal track report filed by the plaintiff as well as from the returned envelope received during the usual postal course of business to this Court, it appears the postal articles were returned with postal remark- addressee cannot be located, hence returned to the sender.

From the bailiff report available with the case record , it appears that the bailiff found the door of the suit premises closed under lock and key and thereafter affixed copy of summons on the front door of the suit premises since no one could give any proper information about the defendant no 2 & 4 to 7.

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(contd.....)

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Section 27 of General Clauses Act provides:-

" *Where any Central Act or Regulation made after the commencement of this Act authorises or requires any document to be served by post, whether the expression "service" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing prepaying and posting by registered post, a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post."*

In the present case, the postal articles are properly addressed , prepaid and sent by registered post and there is no reason to interpret any different intentions.

Further in a decision reported in 2022(SAR (Civ) 125, Hon'ble Apex Court has been pleased to observe :-

" Notice sent by registered post at correct address- if returned with a postal endorsement "refused" or "not-available in the house" or "house locked" or "'shop closed" or "addressee not in station", due service has to be presumed.

Therefore, in the light of the aforesaid observation of the Hon'ble Court coupled with the facts of the present case , it is presumed that summons have been duly served upon the **17-03-2025** defendants no 2 & 4 to 7 and since in spite of due service of summons, these defendants did not bother to appear and contest the suit, the suit shall proceed ex-parte against defendant no 2 & 4 to 7.

Hearing of petition u/s 7(2) of W.B.P T Act is adjourned for this day on the prayer of the defendant no 1 & 3.

Record further reveals that W/S filed by defendant no-1 , which was subsequently adopted by defendant no-3 have already been accepted .

p.t.o.....

Accordingly, let the case be **transferred** to the Court of **Ld. Judge, 5 th Bench,** Presidency Small Cause Court, Calcutta for disposal.

To (**17-03-2025**) for appearance of the contesting parties before the transferee Court.

Chief Judge.

J.O .Code:- WB 01244.