

Ejectment Suit 168 of 2022.  
[ CNR No WBPS 01 000285 2022 ]  
Before - Ashutosh Kumar Singh- Ld. Chief Judge.

Order No:-17.

22/01/2025.

Today is fixed for hearing of petition u/s 7(2) of W.B.P T Act dt 30-08-2022 filed by defendant no 1 & 3 and awaiting service reports regarding defendant no 2, & 4 to 7.

Plaintiff files hazira.

Defendant no 1 & 3 also files hazira.

Plaintiff files five original postal registration receipts affixed in a plain sheet of paper.

Plaintiff also files a petition praying for accepting the service upon defendant no 2,4,5 6 & 7 on the ground stated therein annexing the postal track report. Ld. Advocate for the plaintiff moved the petition and submitted that service upon defendant no 2 & 4 to 7 may be accepted after considering the postal track report.

Heard Ld. Advocate for the plaintiff.

Perused the petition, postal track report and materials on record.

Considered.

Record reveals that after institution of the suit, summons have been sent to the defendant no 2 & 4 to 7 on two occasions.

From the postal track report as filed by the plaintiff it appears that the postal items sent to the respective defendants have been returned with postal endorsement - " Addressee cannot be located and hence returned to the sender."

In this regard, 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. Therefore, this Court finds that service upon defendant no 2 & 4 to 7 may be accepted.

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(contd.....)

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So, it appears that plaintiff has duly discharged his duty for intimating the defendants no 2 & 4 to 7 about the institution of the suit but in spite of the same , those defendants did not bother to appear and contest the suit.

Accordingly,

it is

Ordered

The petition filed by the plaintiff today praying for accepting service upon the defendant no 2 & 4 to 7 is considered and allowed.

Service of summons upon the defendant no 2 & 4 to 7 are accepted.

It further appears that in spite of the receipt of summons and knowledge of institution of the suit, the concerned defendants did not turn up to contest the same.

However, for ends of substantial justice, defendant no 2 & 4 to 7 are given last chance to appear and contest the suit , id , the suit shall proceed ex-parte against them.

Accordingly, fix ( **25/02/ 2025** ) for appearance of the defendant no 2 & 4 to 7 as last chance, id the suit shall proceed ex-parte.

It appears from Order dated 08/01/2024 that W/S has already been filed by defendant no 1 & 3 and the same has also been accepted.

Therefore, let the suit be **transferred to the Court of Ld. Judge, 5 th Bench, Presidency Small Cause Court**, Calcutta for disposal. All other interlocutory petitions , if any , shall be disposed by the Trial Court.

Parties are directed to appear before the transferee Court on the date fixed.

Dictated & corrected

by me :-

Chief Judge.

J.O .Code:- WB 01244.