

Misc. Case 65 of 2018

WBPS01-000304-2018

[under Order 21 Rule 97 of the C.P.C. r/w 208 of C.R.O.]

Before: Smt. Sudipa Banerjee, Ld. Judge, 3rd Bench

Order No: 50

Date: 27-03-2024

Today is fixed for S/R, A/D and appearance of the added opposite party and consideration of the petition under Order 5 Rule 20 r/w Section 151 of the C.P.C. filed by the petitioners.

Petitioners file hazira.

Opposite party files hazira.

None appears on behalf of added opposite party.

Now, the record is taken up for hearing of the petition under Order 5 Rule 20 r/w Section 151 of the C.P.C. filed by the petitioners.

Heard learned advocate for the petitioners. Perused the petition and materials on record.

Considered.

In the instant application, petitioners have contended that, on 03.01.2023 the petitioners have filed an application for amendment to incorporate the name of the resistor Mr. Tapas as opposite party no 2 in the Cause Title of the Misc. Case Application. The said petition was allowed by this Court vide order no 38 dt. 18.04.2023 and the notices of the Misc. Case have been sent to the added opposite party, through Court as well as registered post. It appears from the bailiff report that, notice was unserved as the said added opposite party was not found. Postal envelopes returned unserved with endorsement 'addressee can not be located'. As notices were not be served upon the added opposite party in ordinary manner, therefore

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Order No: 50 contd.....

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the petitioners have prayed that notice of the Misc. Case be served upon the added opposite party in substituted manner.

Perused the bailiff report where from it appears that added opposite party was not found at the time of service and postal envelopes returned unserved with endorsement 'addressee can not be located'. Accordingly, service was not found to be satisfactory and the petitioners were directed to take steps.

In this background, petitioners have filed the instant application. The petition is also supported by affidavit. So, considering the above facts and circumstances, it appears that notice of the Misc. Case cannot be served upon the added opposite party in the ordinarily way.

As such, the petitioner's prayer is allowed.

Hence, it is

Ordered

that the petition under Order 5 Rule 20 r/w Section 151 of the C.P.C. filed by the petitioners dt. 12.02.2024 is hereby allowed.

Let notice be served by an advertisement in a **Bengali** newspaper, circulating in the locality in which the added opposite party is last known to have actually or voluntarily resided or carried on business or personally worked for as per the provisions of Order 5 Rule 20 C.P.C.

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Petitioner is directed to file draft copy of notice for paper publication.

Fix **15-05-2024** for filing draft copy of notice for paper publication.

Sudipa Banerjee

[J.O. Code: WB01148]

Judge, 3rd Bench

Presidency Small Cause Court,
Calcutta