

Ejectment Suit 185 of 2025.
(CNR No. WBPS01-000390 -2025)
Before Smt Chandrani Mukherjee Banerjee Ld. Chief Judge.

08.
11/05/2026.

Today is fixed for hearing of petition filed by the plaintiff dated 07/02/2026.

Plaintiff files hazira.

On call, Ld. Advocate for the plaintiff is found present.

The petition dated 07/02/2026 filed by the plaintiff is taken up for hearing.

Heard Ld. Advocate for the plaintiff.

Perused the petition and materials on record.

Considered.

By filing the instant petition, plaintiff has prayed for recall of the order dated 08/09/2025 and acceptance of service upon the defendant on the ground that summons sent to the defendant under registered post with A/D returned with postal endorsement- 'unclaimed'. That postal endorsement 'unclaimed' tantamount to refusal and good service. Therefore it is prayed that service of summon upon the defendant may be accepted and the suit may be fixed for ex-parte hearing.

Heard submissions from the plaintiff.

Record reveals that vide Order dated 08/09/2025 passed by my Ld. predecessor in office that as per bailiff report dated 25/07/2025, summons were returned unserved as the defendant's room was found under lock and key and one postal envelope with A/D returned with endorsement "D/L, unclaimed" and accordingly, plaintiff was directed to take steps for service of summons upon the defendant through substituted mode.

Now, it is the observation of the Hon'ble Supreme Court as reported in 2021(4) Indian Civil Cases 368 (S.C) and 2022(3) I.C.C page 371 wherefrom it reveals that from paragraph 13 [2022(3) I.C.C page 371] that :-

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“ when a notice is sent by registered post and is 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 under the relevant provision of the General Clauses Act,1897.”

In the present case, summons sent through postal service returned with postal endorsement- Door locked.

Therefore, in the light of the above facts and circumstances , this Court finds that the petition of the plaintiff may be allowed.

Accordingly,

it is

Ordered

that the petition dated 07/02/2026 filed by the plaintiff is hereby considered and allowed.

The order dated 08/09/2025 is hereby modified to the extent that service of summons upon the defendant is accepted.

However, for ends of justice, defendant is given another opportunity to contest the suit as last chance, id the suit shall proceed ex-parte against him.

Fix (17/06/2026) for appearance of the defendant as last chance, id the suit shall proceed ex-parte against him.

Chief Judge.

J.O. Code WB 01130.