

**Misc. Case No. 167 of 2023**

**WBPS01-000643-2023**

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

**Before: Smt. Sudipa Banerjee, Ld. Judge, 3<sup>rd</sup> Bench**

**Date: 03-04-2024**

Today is fixed for awaiting M/C report and postal report and further order.

Petitioner files hazira and a petition under Order 5 Rule 20 of the C.P.C. praying for substituted service upon the opposite party.

Neither M/C nor A/D has yet been returned.

Instant petition is taken up for consideration.

Heard Ld. Advocate for the petitioner. Perused the petition and materials on record.

Considered.

In the instant application, petitioner has contended that he has filed the instant Misc. Case under Order 21 Rule 97 of C.P.C. seeking police help to execute the decree. Notices of the Misc. Case have been sent through Court as well through registered post to the opposite party. It appears from bailiff report that notice was unserved as the opposite party was not found in person. No postal report has yet been returned till today.

As notices could not be served upon the opposite party in ordinary manner and as the said opposite party is keeping out of the way for the purpose of avoiding service, therefore the petitioner has prayed that notices of the Misc. Case be served upon the opposite party in substituted manner under Order 5 Rule 20 C.P.C. The petition is also supported by an affidavit.

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**Date: 03-04-2024 contd....**

So, considering the above facts and circumstances, this Court is of the view that, notices of the Misc. Case cannot be served upon the opposite party in the ordinary way.

As such, the petitioner's prayer is allowed.

Hence, it is

Ordered

that, the petition under Order 5 Rule 20 of C.P.C filed by the petitioner dt. 03.04.2024 is hereby allowed.

Let notice be served by an advertisement in a **Bengali** newspaper circulating in the locality in which the 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.

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

Fix **06-06-2024** for filing draft copy of notice for paper publication by the petitioner.

**Sudipa Banerjee**

[J.O. Code: WB01148]

Judge, 3<sup>rd</sup> Bench

Presidency Small Cause Court,  
Calcutta