

Order no 13
23-08-2023

Today is fixed for steps by the petitioner/D Hr.

Ld advocate for the D Hr/petitioner files hazira, and also files one petition u/o 5 rule 20 sub-rule 1 CPC.

None appear for J Dr/O.P.s.

On prayer of the adv for the D Hr/petitioner the petition u/o 5 rule 20 sub-rule 1 CPC is taken up for hearing.

Heard.

Perused the case record.

It transpires from the record that notices were tried to be served by the D Hr/petitioner upon the J Dr/O.P.s both through court and through registered post with A/D, but failed to do so as it appears from the bailiff report as well as the postal track report, where from it appears that bailiff found the doors locked, and the A/D and envelope returned marked "Not known".

By filing the instant petition, the D Hr/petitioner has prayed for substituted service upon the J Dr/O.P.s.

D Hr/petitioner also states that resistor/O.P. 2 has filed one Misc Case being No 43 of 2023 against your petitioner and O.P. 1 has made themselves party in the case, and alleges that opposite parties are keeping out of the way to avoid service of notices.

On careful scrutiny of the case record, I am of the view that notice could not be served upon the J Dr/O.P.s in ordinary way though the D Hr/petitioner has attempted to serve the same.

Moreover, it also seems to me that the J Dr/O.P.s are avoiding the service of summons upon them.

Under such state of affairs, I find justification to allow the prayer of the D Hr/petitioner for substituted service of summons upon the J Dr/O.P.s.

The petition u/o 5 rule 20 sub rule 1 CPC is hereby allowed.

Let the notice be served upon the J Dr/O.P.s by affixation in conspicuous place of the suit property and also in conspicuous place of the court premises as per provisions of order 5 rule 20 sub rule 1 CPC.

Requisites to be put in at once.

To 25-09-2023 for awaiting S/R.

Sd/-

Judge-in-charge
4th Bench, WB 01229