

Ejectment suit 337 of 2025
(CNR No. WBPS01-000650-2025)

Before Smt. Chandrani Mukherjee (Banerjee), Ld. Chief Judge

04.

06-03-2026

Today is fixed for S/R, A/D and Appearance.

On call Ld. Advocate for the plaintiff is found present by filing hazira along with postal registration receipt.

On perusal of record it appears that both the summons sent through register post and court could not be handed over to the defendant as door of the suit room was found under lock and key.

Ld. Advocate for the plaintiff has prayed for accepting the service and fix the matter for ex-parte hearing.

In support of such contention, plaintiff has relied upon decision of The Hon'ble Apex Court reported in 2007(2)CLJ(SC) 153.

Heard Ld. Advocate for the plaintiff.

Perused the service reports and materials on record. Also perused the citation relied by the plaintiff. Considered.

Record reveals that after filing the suit, summons have been sent to the defendant both through Court as well as through postal mode.

Record further goes to show that as per bailiff report dt 18-11-2025, the bailiff found "room of the defendant was closed under lock and key". So far postal service is concerned, one envelope returned with postal endorsement "D/L, Intimation delivered".

Section 27 of General Clauses Act read as follows:

'Where any Central Act or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" 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.'

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06-03-2026

The Hon'ble Apex Court in *C.C. Alavi Hazi Vs. Palapetty Muhammed reported in 2007 (2) CLJ (SC) 153* has observed that "once notice has been sent with proper address and stamping by registered post which was returned back with postal endorsement 'refused' or 'not available in the house' or 'house locked' or 'shop closed' or 'Addressee not in the station' shall be treated sufficient."

Here in the present case, the envelope sent to the defendant through post containing summons came back with postal endorsement "D/L, Intimation delivered".

The postal articles are properly addressed, prepaid and sent by registered post and there is no reason to interpret any differently.

Bailiff report shows that the bailiff found room of the defendant was closed under lock & key.

Thus, in view of the discussion made above and in the light of decision of The Hon'ble Apex Court and the provisions of Section 27 of General Clauses Act, this Court holds that plaintiff has duly discharged his duty by intimating the defendant about the institution of the suit but the defendant did not appear and contest the suit. Accordingly, defendant has given another chance to appear and contest the suit i.d. the suit shall proceed exparte against the defendant.

Fix 02-04-2026 appearance of the defendant.

Chief Judge
J.O. Code WB 01130