

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 13076 OF 2024
IN
APPEAL FROM ORDER NO. 23410 OF 2024**

Maria John Britto & Others ... Applicants/Appellants

Vs.

Bonny John Britto ... Respondent

Ms. Divya Tyagi i/b Zeeshan Syed for the Applicants/Appellants.

CORAM : GAURI GODSE, J.

DATE : 12th FEBRUARY 2025

ORDER :

1. As directed by order dated 15th January 2025 learned Advocate for the appellant has tendered affidavit of service. She submits that the notice was sent through email, WhatsApp, post as well as by courier. She submits that notice sent through email is responded with remark "Inbox is full". She submits that the WhatsApp notice has been responded and courier service and postal service is returned with remark "door is locked". Affidavit of service is taken on record.

2. Court notice is returned with remark "Door was found locked" "has gone out and no fixed time to his return". In view of the bailiff's remarks office is directed to issue fresh notice through post.

3. Learned Advocate for the appellants shall supply postal stamps for court service through posts. Postal stamps to be supplied within a week.
4. Learned counsel for the appellant submits that by the order impugned in the appeal the interim relief is granted in favour of the plaintiff where he claims to be in possession. She further submits that the property is jointly owned by the parties, hence interim relief would amount to granting interim relief against the co-owners which is not permissible. So far as commercial premises is concerned, parties are claiming to be tenants through original holder i.e. husband of appellant no. 1 and after death of her husband the appellant claims to be tenant .
5. Considering the aforesaid, it appears that the respondent is deliberately avoiding service.
6. In view of the facts and circumstances of the case, during the pendency of the present application the order impugned in the appeal shall remain stayed.
7. Court notice through post is made returnable on 8th April 2025.

[GAURI GODSE, J.]