

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.68 OF 2016

NARAINDAS PARMANAND SANATORIUM)
TRUST)...PLAINTIFF

V/s.
AAKAR ENTERPRISES AND ORS)...DEFENDANTS

WITH
NOTICE OF MOTION NO.1536 OF 2017
IN
SUIT NO.68 OF 2016
WITH
INTERIM APPLICATION (L) NO.19642 OF 2023
IN
SUIT NO.68 OF 2016
WITH
INTERIM APPLICATION (L) NO.19644 OF 2023
IN
SUIT NO.68 OF 2016
WITH
INTERIM APPLICATION NO.2620 OF 2024
IN
SUIT NO.68 OF 2016
WITH
INTERIM APPLICATION NO.3432 OF 2024
IN
SUIT NO.68 OF 2016
WITH
INTERIM APPLICATION NO.1298 OF 2022
IN
SUIT NO.68 OF 2016

Mr. Mohammed Ashraf i/b Lexicon Law Partners, Advocate for the Plaintiff.

Mr.Priyal Gupta a/w Mr.Vijay Kurlle, Advocates for the Defendant No.6.

Mr.Sanjay Maji i/b DM Legal Associates, Advocates for the Defendants No.1 to 5.

CORAM : ABHAY AHUJA, J.

DATE : 6 MARCH, 2025

P.C. :

INTERIM APPLICATION NO.1298 OF 2022

1. When the matter is called out, at the outset, this Court is informed that Interim Application No.1298 of 2022 is wrongly on board as the same has already been withdrawn.

INTERIM APPLICATION NO.3432 OF 2024

2. As regards Interim Application No.3432 of 2024 is concerned, this Court is informed that the said Interim Application is for transposing the Defendant No.6 as Plaintiff and the said Interim Application is listed on 19th March, 2025. Accordingly, list this Interim Application on **19th March, 2025**.

INTERIM APPLICATION (L) NO.19642 OF 2023

3. This Interim Application seeks substituted service of the writ of summons with respect to Defendants No.7 to 9.

4. Mr. Mohammed Ashraf, learned Counsel appears for the Plaintiff Trust and submits that since service to the Defendants No.7 to 9 by the

ordinary mode could not be effected and the writ of summons was returned with the remark no such person in the address, it appears that the Defendants No.7 to 9 are deliberately avoiding the service of writ of summons in order to frustrate the proceeding.

5. Mr.Ashraf, learned Counsel submits that, therefore, this Court may permit service by the substituted mode in terms of prayer clause (a).

6. Having heard the learned Counsel and considering the submissions for reasons as submitted by the learned Counsel and as contained in the Interim Application, the Interim Application is allowed in terms of prayer clause (a) which reads thus :

“(a) that this Hon’ble Court be pleased to permit the Applicant to carry out substituted service of the writ of summons in the manner provided under Order 5 Rule 20 of the Code, on Defendant Nos.7 to 9, by publication of an advertisement in a daily newspaper having circulation in the locality of the last known address of the Defendants No.7 to 9 or in such other manner as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”

7. Let the service be effected as above within a period of four weeks and an appropriate affidavit of service be filed in this regard.

8. Interim Application accordingly stands allowed and disposed as above.

INTERIM APPLICATION (L) NO.19644 OF 2023

9. This Interim Application seeks amendment of the Plaint in Suit No.68 of 2016 in terms of the Schedule to incorporate the address of the Defendant No.10 with the new address in the schedule as contained in the Company master data on the website of the Ministry of Corporate Affairs.

10. Having heard the learned Counsel and having perused the Application, for the reasons stated therein, this Court is of the view that the Application be allowed in terms of prayer clause (a) which reads thus :

“(a) that this Hon’ble Court be pleased to permit the Applicant to amend the Plaint in Suit No.68 of 2016 in terms of the Schedule of Amendment annexed hereto.”

11. Let the amendment to the Plaint and the connected proceedings be carried out within a period of four weeks and the amended proceedings be served, after which an appropriate affidavit of service be filed in the Court.

12. Interim Application accordingly stands allowed and disposed as above.

SUIT NO.68 OF 2016

13. List on **26th June, 2025** under the caption for directions.

(ABHAY AHUJA, J.)