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

SUIT NO. 97 OF 2017

Neeta Lalit Sanghavi & Anr. ...Plaintiffs

Versus

Dharamdas Vanmalidas Sanghavi & Ors. ...Defendants

Nehha Rukhana with Shlesha Sheth i/b. FZB and Associates for the
Plaintiffs.

H.R. Patel, Master (Admn.) of Court Receiver is present.

CORAM : R.I. CHAGLA J

DATE : 2 February 2023

ORDER :

1. By the order dated 19th August, 2019, this Court had observed that the Defendants have been served with Writ of Summons as is evident from the Affidavit of Service dated 26th March, 2018. The Written Statement was filed only by Defendant No.2. Defendant Nos.3 to 5 had not filed Written Statement nor they had entered appearance. This Court had considered that in these circumstances, the Suit will have to be proceeded exparte against

Defendant Nos.3, 4 and 5 in view of the fact that the time for filing Written Statement granted by order dated 26th November, 2018 had expired. However, as a last opportunity, this Court directed that Written Statement of Defendant Nos.3, 4 and 5 shall be filed not later than 9th September, 2019. Thereafter, the Suit, though appearing on board from time to time, had not reached due to paucity of time.

2. The learned Advocate for the Plaintiffs states that despite last opportunity granted by this Court on 19th August, 2019 to the Defendant Nos.3, 4 and 5 to file Written Statement no later than 9th September, 2019, these Defendants have failed to file the Written Statement. The learned Advocate for the Plaintiffs has further stated that the original Defendant No.2 has expired and the legal heirs of the Defendant No.2 have already been brought on record by amendment of the Plaint. The heirs of Defendant No.2 have not accepted service of the amended Plaint and be treated as deemed service.

3. However, the service of the amended Plaint has not been effected on the Defendant No.5. There is service on Defendant Nos.3 and 4. She has sought time to file Affidavit of Service.

4. Considering that Written Statement has not been filed by Defendant Nos.3, 4 and 5, no further time can be granted and the Suit will have to be proceeded ex-parte against Defendant Nos.3, 4 and 5.

5. The learned Advocates for the Plaintiff shall serve notice of this Order on the Defendants and file Affidavit of Service on or before next date.

6. The Suit shall be placed for directions on 23rd February, 2023.

[R.I. CHAGLA J.]