

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 97 OF 2017

Neeta Lalit Sanghavi And Anr.

...Plaintiffs

Versus

Dharamdas Vanmalidas Sanghavi
Deleted (Since Deceased) And Ors.

...Defendants

Ms. Nehha Rukhana i/by FZB and Associates for the Plaintiffs.
Mrs. Rekha Rane, IInd Assistant to Court Receiver is present.

CORAM : R.I. CHAGLA J

DATE : 23rd February 2023.

P. C. :

1. The above suit has been placed under the caption "For Direction". This is pursuant to the Order dated 2nd February, 2023. By the said Order, it was noted that the Defendant Nos. 3, 4 and 5 had failed to file Written Statement despite time given by this Court on 19th August, 2019. Accordingly, this Court had directed that no further time can be granted to these Defendants and the suit be proceeded ex-parte against Defendant Nos. 3, 4 and 5. Advocate for the Plaintiff was directed to serve notice of this Order and file Affidavit of service before the next date of listing.

2. The learned Advocate appearing for the Plaintiffs has referred to the Affidavit of service dated 22nd February, 2023, which has been filed. The Affidavit of service shows that the Defendant Nos. 3, 4 and 5 were served by Courier, however, the envelopes were returned with the remark 'Office Shifted/Office Closed/Person Shifted' respectively. There is another

Affidavit of service dated 21st February, 2023, which has been filed which shows that Defendant Nos.3, 4 and 5 have been served by e-mail at the corporate e-mail of the Defendant No.3 Company. The Defendant Nos.4 and 5 are the Directors of the Defendant No.3 Company.

3. In the Affidavit of service dated 22nd February, 2023, it is mentioned that the Defendant No.6 has been served by hand delivery of the letter dated 4th February, 2023 and which bears the original acknowledgment of the Office of the Defendant No.6 Court Receiver. Defendant Nos.2(a), 2(b) and 2(c) were served by Courier and the envelopes were returned with the remarks "Not Accepted". Thus it is stated in the Affidavit of service that service is completed on Defendant Nos.2(a), 2(b) and 2(c).

4. The learned Advocate appearing for the Plaintiffs states that the Defendant Nos.2(a), 2(b) and 2(c) by not accepting the service, had failed to remain present in the Court. Accordingly, the Office is directed to issue notice to Defendant Nos.2(a), 2(b) and 2(c), returnable on 21st March, 2023.

5. The 2nd Assistant to the Court Receiver states that the Defendant Nos. 2(a), 2(b) and 2(c) are in possession of the subject property and which was originally occupied by Defendant No.1 who expired and Defendant No.2 was Legal Heir of Defendant No.1 who has also expired. Accordingly, Royalty is to be paid by Defendant Nos.2(a), 2(b) and 2(c) who have been occupying the subject property of which Court Receiver had taken

possession from the occupant of the subject premises which was at that time, Defendant No.1. The Defendant No.1 was appointed as the agent of the Court Receiver on usual terms and conditions and on payment of Royalty but without furnishing security. This was by Order dated 12th August, 2015 passed in Arbitration Petition No. 752 of 2014 which was between the same parties and concerned with the same property which is a subject matter of this suit.

6. Accordingly, Defendant Nos.2(a), 2(b) and 2(c) shall remain present in the Court on the next date alongwith their Advocate.
7. Stand over to 21st March, 2023, high on board.

(R.I. CHAGLA J.)