

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL SUIT NO. 769 OF 2017**

Kapila Infrastructure Limited ... Plaintiff

Versus

S. S. Developers and others ... Defendants

WITH

INTERIM APPLICATION NO. 1130 OF 2025

INTERIM APPLICATION NO. 1181 OF 2025

INTERIM APPLICATION NO. 1263 OF 2020

NOTICE OF MOTION NO. 679 OF 2017

IN

COMMERCIAL SUIT NO. 769 OF 2017

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Ms. Vidya Nair alongwith Mr. Sumeet Tirthani instructed by Mr. Dhiren Shah, Advocate for the Plaintiff.

Mr. Ashish Saxena instructed by Law Global, Advocate for the Defendants No.1 to 3.

Ms. Neha Shah, Advocate for Defendant No.4.

Mr. Mayur Sosa alongwith Mr. Vayukumar Tiwari instructed by Mr. Divakar Rai, Advocate for Defendant No.6/Applicant in IA-1181-2025.

Ms. Gayatri Sathe instructed by Mulla & Mulla, Advocate for the Defendants No.15 and 16.

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CORAM : ABHAY AHUJA, J.

DATE : 26 MARCH 2025

PC. :

Interim Application No. 1130 of 2025 :

1. Ms. Nair, learned Counsel, appears for the Plaintiff and submits that no reply has been filed by Defendant No.6.

2. Mr. Sosa, learned Counsel, appears for Defendant No.6 and seeks some more time to file reply.

3. Ms. Nair submits that reply(ies) have been filed by Defendants No.15 and 16, to which the rejoinders have also been filed.

4. Ms. Sathe, learned Counsel, appears for the Defendants No.15 & 16 and submits that this Court direct the Registry to accept the reply(ies). Registry to accept the reply(ies) on behalf of Defendants No.15 and 16.

5. Only and only by way of last chance to Defendant No.6 to file reply, list on **7th May 2025**.

6. Let reply positively be filed within a period of two weeks, with a copy to the other side. Rejoinder, if any, in a week thereafter, with a copy to the other side.

7. It is made clear that if no reply is filed by Defendant No.6 by the next date, this Court will proceed to hear the Interim Application.

Interim Application No. 1181 of 2025 :

8. Mr. Sosa, learned Counsel, appears for the Applicant and seeks some more time to file rejoinder.

9. Let rejoinder positively be filed within a period of two weeks, with a copy to the other side.

Commercial Suit No.769 of 2017 :

10. Ms. Nair, learned Counsel, appears for the Plaintiff and submits that the unserved Defendants have been served and tenders across the bar Affidavit of Service dated 25th March 2025.

11. Ms. Nair submits that as far as Defendants No.9 to 14 are concerned, packets sent to them have returned unclaimed and in view of decision of the Hon'ble Supreme Court in the case of *Priyanka Kumari vs. Shailendra Kumar*¹, wherein the Hon'ble Supreme Court has held that 'returned as unclaimed' is deemed to be served and is proper service, this Court may accept that the service to Defendants No. 9 to 14 is duly completed.

12. The Affidavit dated 25th March 2025 is taken on record.

13. Accordingly, service is complete.

14. List on **7th May 2025**.

(ABHAY AHUJA, J.)

¹ Transfer Petition(s)(Civil) No.2090 of 2019 dated 13th October 2023.