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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL SUIT NO. 46 OF 2014**

National Bank for ... Plaintiff
Agriculture and Rural Development
Vs.
Saral Enterprises and Others ... Defendants

Mr. S. P. Bharti for the Plaintiff.

Mr. Rohan H. Ghojaria i/b. Diamondwala & Co. for Defendant
No. 3.

Mr. Gobinda C. Mohanty i/b. Ms/ Mohanty & Associates for
Defendant Nos. 2a and 2b.

Ms. Pooja Yadav for Defendant No. 5- BMC.

CORAM : GAURI GODSE, J.

DATE : 20th JANUARY 2026

ORDER :

1. Service affidavit dated 14th January 2026 affirmed by the bailiff clerk Shivanand G. Pujari is tendered on record by the learned counsel for the plaintiff. I have perused the service affidavit. Except for stating that as per the delivery receipt downloaded by the office of Sheriff writ of summons alongwith copy of the plaint is served upon defendant no.4, nothing is stated in the service affidavit about the

acknowledgment of receipt of postal envelope received by defendant no. 4. The tracking report annexed as Exhibit-C to the service affidavit nowhere states that the postal packet is delivered to the addressee.

2. Learned counsel for the plaintiff submits that if this court co-relates the postal receipt with the tracking report it will be clear that the postal packet containing writ of summons is served upon defendant no. 4. The mode of service of summons is provided under Rule 76 of Chapter VI of the Bombay High Court (Original Side) Rules. The said Rules states that an acknowledgment purporting to be signed by the defendant shall be deemed to be prima facie proof of service. The Rule further provides that in all other cases, the court shall hold such inquiry as it thinks fit and either declare the summons to have been duly served as may in its opinion be necessary.

3. In a commercial suit the right of defendant stands forfeited on expiry of 120 days from the date of service of writ of summons. Hence, it is the duty of the Sheriff's office to verify whether the postal packet containing the writ of summons alongwith copy of the plaint and its annexures is

seen to have been served on the defendants as per the postal tracking report.

4. In the present case, from the perusal of the service affidavit it is not reflected whether the postal packet dispatched to defendant no. 4 contained the copy of the plaint alongwith annexures with the writ of summons .There is also no clarity as to whether the same postal packet has been received by defendant no. 4.

5. Copy of this order shall be forwarded to the learned Deputy Sheriff for verifying and filing proper service report as required under the rules. Learned Deputy Sheriff shall verify whether before affirming service affidavit by the concerned bailiff all these aspects are verified and whether the service affidavits are prepared by the concerned bailiffs.

6. The learned Deputy Sheriff shall verify whether the writ of summons is served upon defendant no. 4 and file a proper report on or before 2nd February 2026.

7. Stand over to 2nd February 2026.

[GAURI GODSE, J.]