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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 Agriculture and Rural ... Plaintiff
Development

vs.

Saral Enterprises and Others ... Defendants

Mr. S.P. Bharti for Plaintiff

Mr. Sunil C. Khandagale i/b. Komal Punjabi for Defendant No. 5-
BMC.

Mr. Rehan H. Ghojaria i/b. Diamondwala and Co., for Defendant
No.3.

Mr. Vikrant Parshurami, AGP for Defendant No.6-State.

Mr. Gobinda C. Mohanty i/b. M/s. Mohanty and Associates for
Defendant Nos. 1, 2a and 2b.

CORAM : GAURI GODSE, J.

DATED : 2nd FEBRUARY 2026

ORDER:

1. Pursuant to the order dated 20th January 2026, the learned Deputy Sheriff has submitted a report dated 30th January 2026. I have perused the report. The report states that as per the printout of the tracking report taken from the website of the postal department, the postal packet containing writ of summons along with a copy of plaint has been delivered on 13th December 2025 to defendant no.4.

2. I have perused the tracking report, which is annexed to the report submitted by the learned Deputy Sheriff and also to the service affidavit dated 14th January 2026, filed by the Bailiff Clerk, Mr. Shivanand Pujari. The service affidavit and the Deputy Sheriff's report says that as per the tracking report of the postal packet, the writ of summons and the plaint is delivered to defendant no.4 on 13th December 2025. However, the entry dated 13th December 2025, in the tracking report, only records that it is delivered at 'Bandra WeCOM Nodal Delivery Centre'. It is unfortunate that though the tracking report does not record that the postal packet is delivered on the addressee, the service affidavit states that the item is delivered on defendant no.4. Even, the learned Deputy Sheriff has not found necessary to verify whether the tracking report records that the item is delivered upon defendant no.4. In the absence of any proof of service of delivery of writ of summons along with the plaint and its annexures on defendant no.4, the writ of summons cannot be accepted as duly served upon defendant no.4.

3. A copy of this order shall be forwarded to the learned Deputy Sheriff for information and necessary action. The learned Deputy Sheriff shall take corrective measures for filing service affidavits. Without verification the postal packets cannot be shown as served upon the addressee. The service affidavit cannot be filed in such a

casual manner. It is important to note that in a commercial dispute, the right of defendant is forfeited after 120 days of service of writ of summons on the defendant. Hence, proof of service of writ of summons on the defendant assumes significance and the affidavit of service cannot be filed without proper verification that the postal packet is served upon the addressee.

4. Learned counsel for the plaintiff therefore prays that a fresh writ of summons be issued to defendant no.4 and the plaintiff be permitted to serve defendant no.4 through the sheriff's office by personal service.

5. Office is directed to issue a fresh writ of summons to defendant no.4 to be served through the sheriff's office personally. The writ of summons is made returnable on 16th March 2026.

(GAURI GODSE, J.)