

Before : Shri D.V. Sawant
Prothonotary & Senior Master
Date : 06th December, 2016

FOR DISMISSAL :

9	COMS/60/2015	)	Mr. Rajshekhar Shukla i/b. Singh
	S/990/2015	)	Diwakar Ramashray, Advocate for
	with	)	Plaintiffs.
	NMCD/16/2015	)	
	S/990/2015	)	Mr. Jayesh Rathod, Advocate for
		)	Defendant No. 5.
		)	
		)	P.C. : Advocate appearing for Defendant No. 5
		)	undertakes to file Vakalatnama on
		)	behalf of Defendant No. 5 within two
		)	weeks from today after waiving service
		)	of writ of summons. Undertaking is
		)	accepted. Defendant No. 5 to file
		)	written statement on or before
		)	06.01.2017, failing Suit against
		)	Defendant No. 5 will be transferred to
		)	the list of Undefended Suits.
		)	
		)	As far as rest of the Defendant Nos. 1 to
		)	4 are concerned when matter appeared
		)	on my board on 10.10.2016 Suit was
		)	converted in CMIS and Plaintiffs were
		)	directed to take steps to serve unserved
		)	Defendants till 15.11.2016, failing Suit
		)	against unserved Defendants will be
		)	dismissed for non-compliance of
		)	O.S.Rule 87. On 15.11.2016 again
		)	matter stands adjourned since steps
		)	were not taken by Plaintiffs to serve
		)	unserved Defendants and Plaintiffs were
		)	directed to serve unserved Defendants
		)	under the provision of O.S.Rule 445
		)	and file Affidavit of Service till
		)	22.11.2016, failing Suit against
		)	unserved Defendants will be dismissed
		)	for non-compliance of O.S.Rule 87. On
		)	22.11.2016 matter was listed under
		)	caption 'Dismissal'. However, on
		)	22.11.2016 again time was sought on

contd...	)	behalf of Plaintiffs to serve unserved
COMS/60/2015	)	Defendants, which was granted by
S/990/2015	)	Conditional Order, directing Plaintiffs to
with	)	take steps to serve unserved Defendants
NMCD/16/2015	)	by sending representative of the
S/990/2015	)	Plaintiffs alongwith Sheriff under the
	)	provision of O.S.Rule 84 and file
	)	Affidavit of Service. So also, Plaintiffs
	)	were also directed to take steps to serve
	)	unserved Defendants by way of
	)	electronic mode i.e. fax and e-mail.
	)	
	)	Today, Advocate for Plaintiffs filed
	)	Affidavit of Service of one Mr. Shukla,
	)	clerk of Advocate concerned alongwith
	)	exhibits annexed thereto. However, it
	)	appears that despite specific directions,
	)	attempt was made to serve unserved
	)	Defendants by way of private service,
	)	which cannot be accepted since same is
	)	not good service.
	)	
	)	However, in the interest of justice, by
	)	way of last chance, again time is granted
	)	to Plaintiffs to serve unserved
	)	Defendants as per Order dtd.
	)	22.11.2016, till 16.12.2016, failing Suit
	)	against unserved Defendants will be
	)	dismissed for non-compliance of
	)	O.S.Rule 87.

Date : 06.12.2016

Prothonotary & Senior Master.