

FOR DIRECTION :

11 S/56/2023) Mr. Dhruv Dandekar i/b. M/s. Desai and
with) Diwanji, Advocate for the plaintiff.
connected matter)
) PC. : Ld. Advocate for the plaintiff made a
) statement that defendant nos. 2, 5, 8, 9 and 10
) have duly been served with Writ of Summons
) on 28/29.02.2024 and Affidavit of Service to
) that effect is already filed on record.
) Statement is accepted.
)
) Ld. Advocate for the plaintiff further made a
) statement that defendant nos. 1, 3 and 4 have
) appeared through their respective Advocates,
) who filed Vakalatnamas, on record. Statement
) is accepted.
)
) This Hon'ble Court vide paragraph no. 4 of
) Order dated 21.02.2018 passed in Notice of
) Motion No. 920/2014 in Suit No. 60/1998 in
) case of M/s. Prime Builders Vs. Suman
) Bagwe and ors. has observed as under :
)
)
) *“Para 4 :*
) *..... proof of service of writ of*
) *summons may be dispensed with if the*
) *circumstances of the case show that the*
) *defendant not only had notice of the suit but*
) *in fact appeared in the suit, even if such*
) *appearance be in a miscellaneous proceeding*
) *arising in the course of the suit.”*
)
) So also, the Hon'ble Division Bench of this
) Court in case of Meena Ramesh Lulla & Ors.
) Vs. Omprakash Alreja & Ors. (Appeal No. 616
) of 2011 with Notice of Motion No. 2813 of
) 2011 in Notice of Motion 1819 of 2011 in Suit
) No. 4577 of 2000 decided on 21st September
) 2011) observed that when Vakalatnama on
) behalf of defendants is filed on record, service
) of Writ of Summons is not required to be
) effected.

[illegible]

The plaintiff to take steps to serve defendant no. 6 with Writ of Summons and file affidavit of service till next date, failing suit against this defendant will be dismissed for non-compliance of O.S.Rule 87. Office to issue fresh Writ of Summons, if required. The plaintiff to comply the directions issued, vide Practice Note 60A.

RAJEEV
VIJAY
ACHARYA

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signed by
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