

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

BEFORE THE REGISTRAR B. SUDHEENDRA KUMAR

Petition(s) for Special Leave to Appeal (Civil) No(s).5949/2006

ROSANE JEROME D'SOUZA

Petitioner(s)

VERSUS

BHAGVANDAS GANGARAM KAMBLE (D) BY LRS.

Respondent(s)

(With appln(s) for c/delay in filing SLP)

Date: 15/02/2007 This Petition was called on for hearing today.

For Petitioner(s)

Mr. P.P. Singh,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

The petitioner has filed an affidavit stating that respondent Nos. 2 to 4 and 6 to 12 refused to sign acknowledgment even though they had accepted the notice. The learned counsel has, in the said circumstances, argued for

treating the service as complete.

No provision of law or authority has been brought to my notice for

treating the service as complete, if an affidavit is so filed by the petitioner.

On the other hand, it is clear from sub-rule (4) of Rule 9A of Order

V, C.P.C. that if the person served, refuses to sign the acknowledgment of

service, the Court shall on the application of the party, re-issue such summons.

It is further clear from Rule 9A of Order V C.P.C. that Rule 17 with

regard to the affixation, if the defendant refuses to

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accept service, is also not made applicable to in Rule 9 A, even though the

provision of Rules 16 and 18 are made applicable as per sub-rule (3) of Rule

9A of Order V, C.P.C. So also, there is no provision corresponding to sub-rule

(5) of Rule 9 of Order V C.P.C. in Rule 9A of Order V C.P.C. to pass any such

declaration. In the said circumstances, I am unable to accept the argument

advanced by the learned counsel for the petitioner.

The petitioner shall take fresh steps within four weeks to complete

the service of notice on the unserved respondents by registered post A.D.

List again on 29.3.2007.

(B. Sudheendra Kumar)

Registrar

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