

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 S.G. SHAH

Petition(s) for Special Leave to Appeal (Civil)No(s).4138/2005  
(From the judgement and order dated 10/01/2005 in CMWP No.  
191/2005 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

YOGENDRA SINGH &amp; ORS. Petitioner(s)

VERSUS

STATE OF UP &amp; ORS. Respondent(s)

(With prayer for interim relief and office report )

Date: 27/09/2006 This Petition was called on for hearing today.

For Petitioner(s)  
Mr. Uma Datta,Adv.For Respondent(s)  
Mr. A. Bhattacharjee,Adv.  
Mr. R.D. Upadhyay,Adv.UPON hearing counsel the Court made the following  
O R D E R

Learned counsel Mr. Uma Datta has categorically  
prayed for considering the notice as deemed served,  
upon those respondents whose notice are stated to be  
unserved by the Office Report, on the ground that  
neither unserved cover nor acknowledgment of such  
notice has been received back by the office beyond  
the period of 30 days. It is contended by the learned  
counsel for the petitioner that as per the rules if  
office does not receive back either the unserved  
cover or the acknowledgment slip of notice issued to  
the concerned respondent within 30 days then notice to  
such respondents must be deemed to be considered as

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served and office should not report to the court that they are yet not served. Similar situation is arising in almost all cases. It is to be considered that at present notices to the respondents are being served by Private Courier Agency, appointed by the Registry for the purpose. In some of the cases it is noted that even cover or notices addressed to the Government offices like State of Gujarat or even Registrar General of some High Courts are not returned back and in some cases even for such Government authorities the courier has endorsed the cover that " not found" . Therefore, it is difficult to rely upon the services procedure of the courier company when they endorsed " not found", even for public officer and to presume that service is effected to concern party when acknowledgment slip or cover is not received back beyond 30 days, because such presumptions in all cases may result into multiplicity of proceedings.

Though service by courier company is now permitted in the CPC it would be difficult to presume deemed service for the respondents whose services are not received back for more than 30 days.

Since such dispute is involved in almost all the cases, it would be appropriate to refer the matter to Hon'ble Chamber Judge for appropriate directions.

Learned counsel for the petitioners has submitted facts and submission with reference to the service of the show cause notice upon respondents in writing on 20th of September, 2006. This may also be placed before the Hon'ble Chamber Judge. List the matter before the Hon'ble Chamber Judge.

(S.G.Shah)  
Registrar