

LISTED ON 22.10.2013

COURT NO. 4

ITEM NO.

SEC.IVA

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. 25567 OF 2011

WITH

INTERLOCUTORY APPLICATION NO. 3

(Application for exemption from filing O.T.)

Ganeshi Bai Pal

...PETITIONER

VERSUS

Ram Kumar Kushwaha & Ors.

...RESPONDENTS

OFFICE REPORT

The matter above mentioned was listed before the Hon'ble Court on 5.9.2011 with an office report dated 3.9.2011, when the Court was pleased to pass the following Order:

'Delay condoned.
Issue notice.'

Accordingly, show cause notice was issued to all the three Respondents on 5.11.2011 through Regd. A.D and dasti in addition pursuant to Ld. Registrar's Order dated 1.11.2011. Unserved cover containing the notice has been received back in respect of Respondent No. 1 with postal remark "Incomplete address". A.D card duly signed has been received back in respect of respondent nos. 2 & 3 but no one has entered appearance on their behalf. Counsel for the petitioner has not filed affidavit of dasti service.

Service of show cause notice is not complete on Respondent No.

1.

Thereafter, the matter above mentioned was listed before the Registrar's Court on 14.12.2011 with an office report dated 13.12.2011, when he was pleased to pass the following Order:

'Outcome of dasti service is to be filed on record on or before 25.1.2012.'

It is submitted that Counsel for the petitioner has on 24.1.2012 filed affidavit of dasti service stating therein that dasti notice has been sent by speed Post on 14.12.2011 and a copy of postal receipt is enclosed which is not a proper proof of service.

Thereafter, the matter above mentioned was listed before the Registrar's Court on 1.2.2012 with an office report dated 31.1.2012, when he was pleased to pass the following Order:

'It is unfortunate that even after repeated directions, litigants are filing improper proof of service. In the present case also, proof of service filed on 24.1.2012 is not in accordance with law and rules. Petitioner has to file proper proof of service on or before 14.3.2012. If necessary, petitioner can take help of the nearest civil court or trial court for confirming service upon the unserved respondents.

If it is not filed within time, list before the Hon'ble Judge in Chambers for non-prosecution. Served respondents may file counter affidavit till then.'

It is submitted that Counsel for the petitioner has not filed proper affidavit of dasti service within stipulated time as directed in the aforesaid order.

It is further submitted that Mr. Rajesh K. Gupta, Advocate has on 13.3.2012 filed Vakalatnama on behalf of Respondent No. 3 and has also filed counter affidavit and the same has been included in the paper books.

It is lastly submitted that Mr. Santosh Kumar Tripathi, Counsel for the petitioner has on 10.5.2012 filed affidavit of dasti service but the same is not in accordance with the rules. It is mentioned in the affidavit of dasti service that notice has been sent on 23.4.2012 through Regd. A.D post and a proof of postal receipt is enclosed with

affidavit of dasti service.

Service of show cause notice is not complete on Respondent No.

1.

Office report on default was listed before the Hon'ble Judge in Chambers on 17.09.2012 when His Lordship was pleased to pass the following order:

'Four weeks' time is granted to the counsel for the petitioner for filing affidavit of dasti service in respect of Respondent No.1.'

It is submitted that pursuant to the aforesaid Order, Counsel for the petitioner has not filed affidavit of dasti service in respect of Respondent No. 1, so far.

Office report on default was listed before the Hon'ble Court on 17.04.2013 when the Court was pleased to pass the following order:

"Let proof of dasti be filed within two weeks in respect of Respondent No.1."

It is submitted that instead of filing the proof of Dasti, counsel for the petitioner has on 01.05.2013 filed the application for substituted service by way of publication but the same is defective for the reasons the names of two news papers has not been furnished by the Counsel despite this registry's letter dated 21.05.2013. Copy of the same has been placed with the main paper books.

The matter is listed before the Hon'ble Court with this report.

Dated this the 22nd day of October, 2013.

ASSISTANT REGISTRAR

SK/-