

nsc.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

***APPEAL NO.169 OF 2015
IN
SUIT NO.3977 OF 1998
WITH
NOTICE OF MOTION NO.601 OF 2015***

ICICI Securities Primary Dealership Limited ...Appellant
Versus
Goodwill Enterprises Limited and Ors. ...Respondents

Mr.Nimay Dave a/w Mr.Vijayendra Purohit i/b Manilal Kher Ambalal &
Co., for the Appellant

None for the Respondents.

***CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.***

DATE : 5th JANUARY, 2016

P.C. :

1. Pursuant to the directions given by this Court, the respondents, original defendant nos.2 and 3 have been served by substituted service. Affidavit of service is filed. It is submitted that defendant no.4 has accepted the service and therefore there was no occasion for the appellant to serve the defendant no.4.

2. The grievance of the appellant is that though liberty was granted by the learned Single Judge for serving the defendant nos. 2 and 3 by substituted service, by the impugned order the learned Single Judge has dismissed the suit as against defendant nos.2, 3 and 4 on the ground that there was no material to show that the writ of summons was issued and served on defendant nos.2, 3 and 4.

3. In our view there was no occasion to set aside or ignore the orders passed by the learned Single Judge. In our view the order to the extent dismissing the suit as against defendant nos.2, 3 and 4 is set aside. The matter is remanded back to the learned Single Judge.

4. Appeal is allowed and accordingly disposed of.

5. In view of the aforesaid, Notice of Motion does not survive and is accordingly disposed of.

REVATI MOHITE DERE, J.

V.M. KANADE, J.