

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

**NOTICE NO.1422 OF 2012
IN
EXECUTION APPLICATION NO.806 OF 2012
IN
ARBITRATION PROCEEDING NO.CSG-365 OF 2006**

M/s.Kotak Mahindra Bank Ltd.Plaintiffs

V/s.

Vinayak Chandrakant AjgaonkarDefendant

Ms.Sonali Namsale i/by O.M.Gujar Chamber for claimant/applicant.
None for the defendant.

**CORAM : K.R.SHRIRAM,J
DATE : 15.6.2016**

P.C.:-

1 On 12.2.2016 the court directed issuance of fresh notice under order XXI Rule 22 of the Code of Civil Procedure, 1908 returnable on 18.3.2016 and it was also made clear that if fresh notice is not served and affidavit of service is not filed on or before 17.3.2016, the fresh notice shall stand dismissed. The plaintiffs have filed a joint affidavit of service affirmed on 1.4.2016 of one P.Venkateshan who is described in the affidavit as Sheriff of Bombay and one Sanjay Gund the representative of the decree holder. To the knowledge of this court, there is no Sheriff of Bombay.

2 Ms.Sonali Namsale appearing for the claimant states that P.Venkateshan is a bailiff in the office of the Sheriff of Bombay and by

mistake he has been described as Sheriff of Bombay. Mr.Venkateshran to explain as to how he has affirmed the affidavit as Sheriff of Bombay. This explanation to be filed within one week. In the affidavit of service it is stated that the notice has been served upon one Sushla Ajgaonkar supposedly the mother of the respondent and that Sushla Ajgaonkar has accepted service and put her right hand thumb as acknowledgment in the original notice. That itself shows that Sushla Ajgaonkar is illiterate. There is nothing in the affidavit to show how the Bailiff knew that the person whose thumb impression in the original of the notice is the mother and who identified her. It is also not explained as to why the notice was not served upon the respondent in person. In the Sheriff's report annexed it states that the representative of the claimant Sanjay Gund pointed out to the Bailiff Sushla Ajgaonkar as the mother. The affidavit does not disclose that Sanjay Gund pointed out Sushla to the Bailiff and he knew her personally.

3 In the circumstances, in my view, the notice has not been properly served upon the respondent. In the circumstances, as mentioned in the order dated 12.2.2016, Execution Application is dismissed. Notice is discharged.

4 The applicant to serve copy of this order upon the Sheriff's

Bailiff within one week from today. Stand over to 22.6.2016 for directions.

(K.R.SHRIRAM,J)