

*sbw***IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.2932 OF 2017**

M/s. Simm Samm Airways Pvt. Ltd.

... Petitioner

vs.

M/s. M. D. Helicopters Inc., & Ors.

... Respondents

Mr. Pradeep Rajagopal a/w Ms. Drishti Shah i/b. Rekha Rajagopal for the Petitioner.

Mr. S. V. Gavand, APP, for the Respondent-State.

CORAM : A.K. MENON, J.**DATE : 3rd AUGUST, 2017****P.C.**

1. By this writ petition, the petitioner challenges two orders;

Firstly an order dated 21st April, 2017 whereby the applicant was directed to take steps for serving notice upon the respondent no.1 to 4 by adopting proper procedure. This order came to be passed in view of the fact that notice of the application pending before the lower Court was sought to be served by substituted service pursuant to orders passed by the Sessions Court on 20th October, 2015 and 11th August, 2016.

2. The impugned order recorded that since Cr. P.C. does not provide for substituted service it was not be possible to hold that service of notice upon the respondents by publication of the notice in a newspaper was proper. As far as this order is concerned, there is no reason to find fault with the same.

3. The second order impugned in this petition is dated 24th July, 2017 which was challenged after this petition was filed. By this second order dated 24th July, 2017, Misc. Application no.2395 of 2013 which sought condonation of delay in filing of the main revision application came to be dismissed. The dismissal occasioned upon failure to serve respondent nos.1 to 4 in accordance with law and hence operates against only respondent nos.1 to 4.
4. Today, Mr. Rajagopal, the learned counsel for the petitioner states that the petitioner will take appropriate steps to serve respondent nos.1 to 4 in accordance with law.
5. In view of the same, the impugned order dated 24th July, 2017 can be set aside since it is an application seeking condonation of delay and will be crucial to the case of the present petitioner in the main revision application. In the circumstances, I pass the following order:-
 - (i) Rule. Rule returnable forthwith. By consent taken up for final disposal.
 - (ii) Order dated 24th July, 2017 passed by the Sessions Court is set aside.
 - (iii) Rule made absolute in the above terms.

(A. K. MENON, J.)