

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5508 OF 2017

Shri Niyam Raghuvansh Bhasin

... Petitioner

Vs.

Kapu Bros. & Ors.

... Respondents

Shri N.R. Bhasin for the Petitioner

Mr.Kunal Kumbhat with Mr.Prabal Jain for Resp. No.5

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 26, 2017**

P.C. :

1. It is informed that Respondent No.5 was served yesterday, who has contacted his advocate Mr.Kumbhat, who undertakes to file his appearance for respondent No.5.
2. The petitioner in person, who is also an advocate, submits that he wants to seek relief only against respondent No.5 and does not seek any relief against the other respondents.
3. This Writ Petition is directed against the order dated 6.8.2016 passed by the learned 13th Adhoc Assistant Judge, City Civil Court. In brief, respondent Nos.1 to 6 have filed the suit

against the predecessor of petitioner and respondent Nos.7 to 9 and defendant No.2 for possession of the suit premises. In the said suit, the petitioner has raised a question about the service on defendant No.1b i.e., respondent No.7, who is his real brother. The trial Court has made certain observations regarding service on defendant No.1b and has also stated that it is not appropriate for the plaintiff to serve defendant No.1b over and again. From the Roznama, it appears that the trial Court has specifically mentioned that from the email of Nik Bhasin dated 13.10.2015, it appears that he is having knowledge of the Suit No.4662 of 2008 and one advocate appeared on his behalf in the respondent No.1b before the trial Court. Thus, it appears the trial Court is of the view that there is a good service on Defendant No.1b and he is not required to be served further.

4. Under such circumstances, the petitioner, who is defendant No.1a, is not required to take any objection in respect of service. The Court may proceed and if defendant No.1b is served as stated, then, the trial Court will take steps as per the Civil Procedure Code.

5. If at all, there is any grievance in respect of service, it is upto defendant No.1b to agitate it before the trial Court.
6. In view of the above, the Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)