

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.4882 of 2018

**1 CIVIL APPLICATION NO.4882 OF 2018
IN
WRIT PETITION NO. 14213 OF 2017**

BAJRANG MANOHAR SONAVANE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr.Jadhav N.L.

GP for Respondent State: Mr. A.B.Girase

Advocate for respondent nos. 4 and 9.: Mr. A.S.Kakade, h/f Mr.
V.D.Salunke.

Advocate for respondent no.8 /caveator: Mr. G.K.Naik Thigle.

Advocate for respondent no.11: Mr. V.M.Chate

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CORAM : P.R. BORA, J.

Dated: April 09, 2018

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PER COURT :-

1. Learned Counsel for respondent no.4 has tendered across the Bar affidavit in reply of the said respondent. The same is taken on record.

2. The applicants have filed the present application with the following prayers:

"A. This Civil Application may kindly be allowed;

B. The notice be issued to the respondent Nos. 5, 6 and 7 and be served by affixing the copy on conspicuous part of the house in which the respondents 5, 6 and 7 known to have lastly reside or carrying on business or in addition, the applicants be permitted the to make service of notice by way

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of flashing an advertisement in the local newspaper widely circulated in Beed District;

C. Any other suitable order may kindly be passed in the facts and circumstances of the case. "

3. Shri N.L.Jadhav, learned Counsel appearing for the applicant submitted that respondent nos. 5 to 7 are avoiding service of notice. Learned Counsel submitted that these respondents are quite aware of the present proceedings, however, have intentionally avoided to accept the summons. Learned Counsel submitted that considering the urgency in the matter, the present application be allowed.

4. Shri G.K.Thigale, learned Counsel appearing for respondent no.8, submitted that no such circumstances are made out so as to allow the present application. Learned Counsel submitted that the summonses are required to be served through the process of the Court and that may be the only valid course of service of summonses.

5. After having considered the submissions made by the learned Counsel, it appears to me that there may not be any difficulty in allowing the present application. The report already received in respect of respondent no.5 reveals that the notice issued to the said respondent has been returned unserved on the ground that he is not residing on the given address. Learned

agp/-

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Counsel Shri Jadhav submits that in the earlier proceedings the same address which is given in the present proceeding is given of respondent no.5. So far as respondent no.6 is concerned, the report says that notice was refused by the said respondent, however, panchnama has not been prepared of the said refusal. In respect of respondent no.7, the report was that notice is awaited. In the above circumstances, it appears to me that no prejudice is likely to be caused if the present application is allowed and opportunity is given to serve the unserved respondents. Hence, the following order:

ORDER

1. Civil Application (No.4882 of 2018) is allowed in terms of prayer clause B. Notice is made returnable on 23rd of April, 2018. The applicants shall file affidavit of service by placing on record some tangible proof as well as copy of the public notice published in newspaper. Hamdast permitted.

(P.R. BORA, J.)

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