

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

**CIVIL APPLICATION NO. 3661 OF 2017
IN
FIRST APPEAL NO. 40 OF 2016**

David J. Pasternak ...Applicant

IN THE MATTER OF

David J. Pasternak ...Appellant

Versus

Citilights Properties Private Limited & Ors. ...Respondents

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Mr.G.S.Godbole a/w. Mr. Vaibhav Singh I/b. Mr. Ameya Gokhale
for the Applicant.

Mr. Piyush Raheja and Mr. Anish Karande I/b. Dastur Kalambi and
Associates for Respondent Nos. 1 and 2.

Mr. Jagdish Choudhary I/b. Raj Legal for Respondent Nos. 3 to 5.

Mr. Ishwar Nankani a/w. Ms. Janaki Garde I/b. Nankani Associates
for Respondent Nos. 10 and 11.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED : FEBRUARY 13 , 2018**

P.C. :

1. This Civil Application is moved by the applicant for seeking
permission to serve respondent no. 9 by advertisement in the daily
news paper.

2. The learned Counsel for the applicant submits that all the

respondents are served. Respondent no. 9 has been served by email so also by R.P.A.D. He further submits that the envelope, which was sent to respondent no. 9 to her address at USA has returned with an endorsement "unclaimed". He further submits that the applicant be allowed to serve respondent no. 9 by publication in the local news paper in USA.

3. The learned Counsel for the respondents submit that the applicant should serve respondent no.9 by following proper procedure under Hague Convention.

4. A sealed envelope sent by R.P.A.D. to respondent no.9 is taken on record and marked as **Exhibit 'A'** for identification. As per Order 5 Rule 20 of the Code of Civil Procedure, 1908, respondent no. 9 is deemed to be served. The address/destination of respondent no. 9 is not disputed. It appears that respondent nos. 8 and 9 are residing at the same address. It is informed that respondent no. 8 is also served. However, he has not filed any appearance. It appears that respondent no. 8 is avoiding to appear before this Court. On this background, the envelope sent by R.P.A.D. to respondent no. 9 has returned with

the endorsement “unclaimed” and, therefore, I consider it is a good service. The matter to proceed.

6. Civil Application is disposed of accordingly.
7. The learned Counsel for the respondents want to file reply. Registry to accept the same.
8. Place the First Appeal on board on 13th March, 2018.

(MRIDULA BHATKAR, J.)