

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

SUIT NO.182 OF 1992

Jay Jayantilal Shah & Ors.)....Plaintiffs
V/s.
Zalawad Jain Co-op. Housing Society & Ors.)....Defendants

WITH

SUIT NO.899 OF 2016

Mukhtar Hussain Mohammed Khimji alias Gowa)....Plaintiff
V/s.
Zalawad Jain Co-op. Housing Society & Ors.)....Defendants

None for plaintiffs in Suit No.182 of 1992.
Mr.Pravin B.Gole for plaintiffs in Suit No.899 of 2016.
Mr.Rajiv Hingu I/by L.H.Hingu for defendant no.14 in Suit No.182 of 1992.
Ms.J.N.Pandhi I/by Khona & Kayser for defendant no.19 in Suit 182 of 1992.
Mr.M.A.Sayeed, AGP for defendant nos.17, 18, 19 22, 29 & 30 in Suit No.899 of 2016.

**CORAM : K.R.SHRIRAM,J
DATE : 12.10.2018**

P.C.:-

SUIT NO.182 OF 1992

1. Pursuant to order dated 31.8.2018, an attempt was made by the registry to serve plaintiffs with a copy of the said order as plaintiffs were not present on 31.8.2018. Registry has filed report stating that the envelopes sent to plaintiff no.1-Jaya Jayantilal Shah,

3(a)-Devangana Ashok Mody & 3(b)-Alpana Rajesh Mall came back undelivered with endorsements as mentioned therein.

2. Therefore, suit dismissed for want of prosecution.

SUIT NO.899 OF 2016

1. Pursuant to the order dated 31.8.2018 which was served on plaintiff, plaintiff is represented today by Advocate Mr.Pravin B. Gole. Mr.Gole is unable to even state which of the defendants have been served and which of the defendants have not been served.

2. So far as defendants who have not been served, the suit shall stand dismissed for want of prosecution.

3. So far as defendants who have been served are concerned, on 31.8.2018 time was granted upto 15.9.2018 to file written statement. We are on 12.10.2018 and till date even the State has not filed written statement. Therefore, suit as against defendants who have been served to be transferred to the list of undefended suits and to be placed before the appropriate court.

4. On or before 15.10.2018 plaintiffs shall file an affidavit of service clearly stating which of the defendants have been served with proof of service. Only to consider this affidavit, stand over to 19.10.2018 for directions. It has to be noted that even before the Prothonotary & Senior Master on 20.7.2017, none had appeared for plaintiff. Cause list was prepared and released on 6.10.2018 and the least, plaintiff's Advocate should have done is to go through the records and prepare to answer which of the defendants have been served. Thrice the counsel was asked and his reply was standard "some defendants". Therefore, for wasting court's time, donation of Rs.10,000/- be paid by plaintiff before 19.10.2018 to Tata Memorial Hospital, Parel, Mumbai. Plaintiff also to file affidavit of compliance.

Jahagirdar
Kiran
Ganesh

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signed by
Jahagirdar
Kiran
Ganesh
Date:
2018.10.12
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(K.R.SHRIRAM,J)