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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
SUMMONS FOR JUDGMENT NO. 90 OF 2018
IN
SUMMARY SUIT NO. 744 OF 2018**

Pheroze H Kudianavala	...Plaintiff
<i>Versus</i>	
Satish B Raheja	...Defendant

**Mr Zal Andhyarujina, i/b J Merchant & Partners, for the Plaintiff.
Mr Pradeep Bakhru, with Ms Upasana Vasu, i/b Wadia Ghandy &
Company, for the Defendant.**

**CORAM: G.S. PATEL, J
DATED: 5th December 2018**

PC:-

1. Not on board. Mentioned. Taken on record.

2. There is an application for an extension of time to file the Affidavit in Reply. I would not ordinarily have granted this but for the fact that it is pointed out that what was served on the Defendant's Advocates was a wholly unacceptable copy of the Plaint

with annexures that were missing, illegible, incomplete and mismatched to the references in the Plaintiff.

3. It is not open to any Plaintiff seeking summary relief to proceed in this manner and at the same time demand a summary judgment.

4. It seems that while the Plaintiff corrected the copy in the court records, his advocates served an incomplete copy on the Defendant. This is no service at all. Proper service requires not only delivery of a Writ of Summons but that it be accompanied by a legible and accurate copy of the Plaintiff complete in all particulars without errors. No Defendant can be expected to respond to a Plaintiff that is in this condition.

5. What is worse is that when the Defendant's Advocate protested, on 4th December 2018, they received a letter from the Plaintiff's Advocates accepting the errors but also contending that there were only a few incomplete pages or missing pages.

6. That is unacceptable. The Defendant is deemed not to have been served. The Plaintiff will now get a fresh Writ of Summons issued and will serve it on M/s Wadia Ghandy & Company who have instructions to accept service. The Writ of Summons is to be accompanied by a copy of the Plaintiff with all its annexures corresponding exactly to the Court's original, and one that is legible and unmarked throughout. This is to be done on or before 11th January 2019, failing which the Suit will stand peremptorily

dismissed without further reference to the Court and there will be no refund of Court fees.

7. If the service is completed by that date, a fresh Summons for Judgment will be filed on or before 25th January 2019.

8. Affidavit in Reply to that Summons for Judgment may then be filed on or before 22nd February 2019.

9. Affidavit in Rejoinder, if any, to be filed and served on or before 22nd March 2019. The Summons for Judgment will be listed for hearing and final disposal last on board on 22nd April 2019.

10. The present Summons for Judgment is rejected and disposed of in view of this order.

(G. S. PATEL, J)