

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.693 OF 2018

IN

CIVIL REVISION APPLICATION NO.445 OF 2018

(Uttam Kumar Bijay Dolvi Vs. Vidyut Maji and others)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders	Court's or Judge's orders
--	----------------------------------

Mr. R. D. Vora for Applicant.

CORAM : R. G. KETKAR, J.**DATE : 9TH JANUARY, 2019****P.C.:**

Heard Mr. Vora, learned Counsel for the applicant.

2. This is an application for serving the respondent No.4 by pasting and by way of publication in daily newspaper "The Free Press Journal". Respondent No.4 herein, Paritosh Bhupati Nath was defendant No.2 in the Suit. In paragraph 8 of the order dated 30.10.2013, the learned trial Judge observed that defendant No.2 was duly served but he did not appear. Hence, the Suit was set ex-parte against the defendant No.2. The Suit was contested by respondent No.1 and 2 herein, who were defendants No.3 and 4 in the Suit. By order dated 30.10.2013, the learned trial Judge decreed the Suit. The learned trial Judge declared that the applicant-plaintiff is a tenant of room No.34, 3rd floor, 47, Ashok Bhavan, Opp.

Adarsh Baug, Dady Seth Agiary Lane, Bombay 400 002 (for short 'suit premises'). The learned trial Judge directed the defendants to deliver vacant and peaceful possession of the suit premises to the plaintiff within 3 months from the date of the order.

3. Aggrieved by that decision, defendants No.3 and 4 (respondents No.1 and 2) preferred Appeal No.32 of 2014. In paragraph 16, the Appellate Court observed that defendant No.2 has neither filed his written statement on record nor took part in the proceedings of the Suit. By order dated 01.03.2018, the Appellate Court allowed the Appeal and set aside the trial Court's decree and dismissed the Suit. It is against this order, plaintiff has instituted C.R.A.No.445 of 2018.

4. In C.R.A.No.445 of 2018, the present Civil Application is taken out for effecting service on respondent No.4 / defendant No.2. As defendant No.2 did not participate in the trial as also did not challenge the trial Court's decree, he has accepted the trial Court's judgment. Hence, service on respondent No.4 / defendant No.2 is dispensed with. Civil Application is disposed of accordingly.

(R. G. KETKAR, J.)