

Sharayu Khot.

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

CHAMBER SUMMONS NO. 709 OF 2019

IN

CHAMBER SUMMONS NO. 1162 OF 2016

IN

EXECUTION APPLICATION NO. 38 OF 2006

Mittal Tower Premises Co-operative Society Ltd. ...Applicant

In the matter between

Mittal Tower Premises Co-operative Society Ltd. ...Disputant

Versus

Manjulaben Shrimankar & Ors. ...Opponents

And

Spice Islands Apparel Ltd. ...Applicant

Mr. Nikhil Wadikar, Mr. Nandu Pawar, for the Applicant.

Ms. Bijal Gandhi, i/by Jayakar & Partners, for the Opponents No. 1 and 2.

Mr. Aditya Manjrekar, i/by MLS Vani & Associates, for the Applicant in CHS/1162/16.

CORAM : R.I. CHAGLA J.

DATE : 30 September 2019

ORDER :

1. This Chamber Summons is seeking substituted service, as the Applicant has been unable to serve the Chamber Summons on Respondent No. 3 at the address mentioned in the cause title of the Chamber Summons. An attempt had been made to serve the Respondent No. 3 by communication dated January ____ 2019, pursuant to the order dated 23rd February 2017 passed by this Court. Further, the Respondent No. 3 was not at the address at which the communication was sent and hence, was returned by the postal department. Accordingly, the Applicant has sought for publication of notice in two newspapers viz. Times of India and Dainik Loksattas notifying the Respondent No. 3 of the Chamber Summons, pursuant to the order dated 23rd February 2017. In addition to substituted service the Respondent No. 3 is permitted to annex notice thereof in a conspicuous place of the house of the Respondent No. 3, as per prayer clause (c).

2. Considering that in the order dated 23rd February 2017, this Court had recorded that the Respondent No. 3 had made a claim in which she had got the Receiver appointed for the property in a

partition Suit. She would undoubtedly need to be heard before an order of the sale of the property. The learned Counsel had stated that the Advocate for the Applicant would arrange to give notice separately to the Respondent No. 3. In addition, the Registry was to issue notice to the Respondent No. 3.

3. Thereafter, the notice had been sought to be served to the Respondent No. 3, but Respondent No. 3 was not at the address mentioned in the cause title of the Chamber Summons and hence, service was not possible.

4. Accordingly, it would be appropriate to permit the Applicant as and by way of substituted service prayed for in prayer clause (b) to publish notice in two newspapers viz. Times of India and Dainik Loksatta in order to serve Respondent No. 3 pursuant to the order dated 23rd February 2017. Prayer (c) or Chamber Summons is not required to be granted.

5. Accordingly, the Chamber Summons is made absolute in terms of prayer clause (b).

6. The Chamber Summons is disposed of.

[R.I. CHAGLA J.]