

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2550 OF 2019

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff aggrieved by the order dated 19.08.2019 passed in I.A.No.274 of 2019 in O.S.No.297 of 2019 by the XXVI Additional Chief Judge, City Civil Court, Hyderabad, whereby the learned Judge directed the revision petitioner to serve summons to the respondent/defendant for judgment on defendant in Form 4-A through Court and Registered Post

2. Heard learned counsel for the revision petitioner/plaintiff, learned counsel for the respondent/defendant and perused the record.

3. The point that is required to be decided is, whether the notice sent to the respondent/defendant, which was returned with an endorsement as "door locked", is valid service or not, in terms of Order XXXVII Rule 3 of CPC.

4. Admittedly, when the counsel for the petitioner/plaintiff before the Court below tried to serve summons for judgment to the counsel for the respondent/defendant, in terms of Order XXXVII Rule 5 of CPC, he refused to receive the same. Thereafter, the summons for judgment was sent to the address of the respondent furnished by her counsel, but it was returned with an endorsement "door locked".

5. Before the Court below, the revision petitioner has placed reliance on the decision reported in *N.Parameshwaran Unni v. G.Kannan and another*¹, wherein it was observed that when a notice is sent by registered post and is returned with postal endorsement “refused” or “not available in the house” or “house locked” it shall be treated as valid service.

6. It is pertinent to note that in her absence, the respondent/defendant ought to have made some arrangements to receive the summons issued to her.

7. As per the decision of the Hon’ble Apex Court in *N.Parameshwaran Unni’s* case (supra), even if the door is closed when summons for judgment were sent to the correct address, it has to be treated as valid service. Under these circumstances, summons for judgment issued on the respondent/defendant in Form 4A is valid service. Accordingly, the impugned order dated 19.08.2019 is liable to be set aside. All the submissions made by the respondent/defendant are unsustainable, in view of the valid service of summons as determined supra.

8. Accordingly, the Civil Revision Petition is allowed and the impugned order dated 19.08.2019 passed in I.A.No.274 of 2019 in O.S.No.297 of 2019 by the XXVI Additional Chief Judge, City Civil Court, Hyderabad, is set aside.

¹ LAWS(SC) 2017 3 63

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

Dr. SHAMEEM AKTHER, J

Date: 23.12.2019
ssp

