

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 CIVIL APPLICATION NO.468 OF 2020
IN FIRST APPEAL NO. 3153 OF 2009

M/S. ORIENTAL INSURANCE CO.LTD., AURANGABAD
VERSUS
BALASAHEB BHAUSAHEB DESHMUKH & OTHERS

...
Advocate for Appellant : Mr.Vinayak Narayan
Upadhye
...

CORAM : V.L.ACHLIYA,J.
DATE : 16.01.2020

P.C.

1] Mentioned. Not on board, taken on board.

2] This application is taken out for recall / setting aside the order dated 05.04.2019 passed in default of taking steps to serve respondent no.3 i.e. order of dismissal, with a prayer to serve respondent no.3 by way of paper publication.

3] Heard learned counsel for the applicant-appellant. None for the respondent nos.1 and 2.

4] In brief, it is the contention of the learned counsel for the applicant-appellant that in spite of efforts made, the service could not be effected to the respondent no.3 at the given address. Except address given in the cause title of the judgment and order passed by the Tribunal and recorded with the record maintained by the RTO office as well as the police papers, no other address of the respondent no.3 is available. It is submitted that the applicant-appellant has good case to succeed on merits. The dismissal of appeal in default as against respondent no.3, resulted into serious consequences and impact on the decision in appeal.

5] On due consideration of the submissions advanced, I am of the view that the application deserves to be allowed in terms of prayer clauses-A and B. Default in taking steps not appears to be deliberate. The efforts made for service through process of court to the respondent no.3 resulted in vain. Since the applicant-appellant is not aware address other than the address mentioned in the RTO record and the police papers, the respondent no.3 deserves to be

allowed to serve through paper publication. Accordingly, the application is allowed in terms of prayer clauses-A and B. The order of publication of notice through news-paper shall be subject to payment of publication charges to be payable directly by the applicant-appellant to the concerned news-paper. Notice to respondent no.3 made returnable on 27th February, 2020.

6] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC