

OD-52.

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/69/2022
With
CS/136/2010
IA No. GA/1/2022
SMT. SABLA JAIN
VERSUS
SRI DILIP KUMAR MODI AND ORS.

.....

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

The Hon'ble JUSTICE ANIRUDDHA ROY

Date : 26th April, 2022.

Appearance:
Ms. Noelle Banerjee, Adv.
Mr. Avirup Chatterjee, Adv.

The Court :- We are satisfied that the appellant/plaintiff had taken all the steps required under the Civil Procedure Code, the Original Side Rules and the practice of our court to effect service upon the respondents/defendants and consequently obtain the required certificate from the department that specified defendants had not entered appearance in the suit. We may specially refer to the service report of the office of the Sheriff dated 26th August, 2016 at pages 27 and 28 of the stay petition, the order of the learned single judge dated 22nd September, 2017 and 10th February, 2020 directing substituted service upon the defendants on whom the summons could not be served, the newspaper advertisement in the 'Times of India' dated 18th January, 2021. We have also perused the certificate dated 24th March, 2021 of the Deputy Registrar (Ct. & J.), Original Side stating that the defendant nos. 1,2,3,4,5,6,7,8,9 to 14 and 15 to 20 had not entered appearance till 3:30 p.m. on 24th March, 2021.

On the basis of these documents the court ought to have directed the suit to appear in the undefended list. Instead, by its impugned order dated 5th April, 2022, it directed service of fresh notices on all the defendants.

We are unable to support this order. As Due effort for service on all the defendants having been made, fresh service was not at all required in the facts of this case.

We set aside the order dated 5th April, 2022 and direct the suit to be placed in the undefended list of the learned single judge subject to the convenience of that bench.

The appeal (APOT/69/2022) and the stay application (IA No. GA/1/2022) are disposed of.

(I. P. MUKERJI, J)

(ANIRUDDHA ROY , J)