

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

I.A. NO. 10463 OF 2022
WITH
CIVIL APPLICATION NO. 1520 OF 2019
IN
S.A. (ST) NO. 21631 OF 2019

Office Notes, Office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders	Court's or Judge's order
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CORAM : H.M. BHOSALE
REGISTRAR (JUDL-II)

Date : 28/11/2022

Adv. Sourabhi Waknis present on behalf of
Shri Aagam Doshi, Advocate for the Appellant

This Interim Application is moved to
allow substituted service upon unserved
Respondents.

The learned Advocate for the Appellant
is present. She pointed out from the chart
prepared by her about the reasons for
non-service. The office has also prepared chart
(marked as "A") showing the position of unserved
Respondents coupled with reasons recorded by
the bailiff.

As per the bailiff report, the notices were
not served upon Respondent No. 1A, 1C, 8A, 9C as
they are not residing within the jurisdiction of the

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Small Causes Court, Mumbai. It appears that the notices were wrongly sent for the purpose of service to the Small Causes Court, Mumbai.

As far as Respondent No.1B, 7E, 6E, 14, 15A, 16 and 17, the notices were returned unserved as they were not present at the time of service.

In this backdrop, it would not be just and proper to allow the substituted service upon above numbered Respondents as notices issued to them are returned either on the ground of non-availability at the time of service or notices were sent to the Court within whose jurisdiction Respondents are not residing. The mode provided under Order V Rule 20 is last resort to serve the party.

Thus, the office shall re-issue the notices to Respondent Nos. 1A to 1C, 6E, 7E, 8A, 9C, 14, 15A, 16 and 17 through Bailiff of the Court within whose jurisdiction the above numbered Respondents are residing.

The office shall make specific endorsement that the notices shall be served and if there are any reasons, then the bailiff shall mention the same specifically, without fail.

Returnable after four weeks.

As far as Respondent Nos. 5, 8B, 8C, 6A, 6C 7F, 7I, 7J, 13, it is reported that either they have left the premises or not residing on the given address. The Appellant is not aware about their present address. Thus, the only option left is to allow the substituted service provided under Order V Rule 20 of the Code of Civil Procedure. Thus, Interim Application to the extent of Respondent No. 5, 8B, 8C, 6A, 6C, 7F, 7I, 7J, 13 is allowed. The learned Advocate shall do the needful by providing names of newspaper i.e. one National and one regional within a week in order to comply this Order. It is matter of record that from last three years, this C.A. is pending only for service upon the Respondents. Thus, no further extension will be granted for compliance of these directions.

As far as Respondent Nos. 6B, 6F, 6G, 7G, and 7H , they are reported dead as per the bailiff report. Already on last date, it was made clear to the learned Advocate to take steps. However, no steps have been taken. Thus case is pending for more than three years and there is inordinate delay on the part of Advocate in taking steps.

Thus, on the request of learned Advocate for the Appellant, four weeks time is granted with specific directions that if no proper application is moved on next date, the present

Interim Application for delay would stand abated against deceased Respondents automatically, without further reference to the Court of Registrar.

sd/-
REGISTRAR (JUDL-II)