

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1565 OF 2022
IN
WRIT PETITION NO. 4806 OF 2016**

M/s. Ganaraj Enterprises
Through its Partner
Shri. Sanjay Walku Ghorpade ..Applicant

IN THE MATTER BETWEEN

M/s. Ganaraj Enterprises
Through its Partner
Shri. Sanjay Walku Ghorpade ..Petitioner

Versus

Shri. Vitthal Jayram Gavali & Ors. ..Respondents

Mr. Rupesh R. Lanjekar, for the Applicant/Petitioner.

CORAM : NITIN W. SAMBRE, J.

DATE : 22nd MARCH, 2022

PC.

1. In a suit for declaration and injunction being RCS No.250 of 2013, the prayer of the respondent/defendant moved by way of Exh.15 came to be partly allowed, whereby vide impugned order dated 14th December, 2015, the petitioner/plaintiff is directed to go for proper valuation of the suit claim based on provisions of Section 6(iv)(ha) of the Bombay Court Fees Act, 1959. As such, this

petition.

2. Present petition is pending adjudication since 2016 and the respondents are not served.

3. I am informed that suit is not proceeded ahead because of the pendency of the petition.

4. In the aforesaid background, petitioner has taken out an application for substituted service.

5. The aforesaid application stands allowed to the extent of prayer clause (a) only.

6. In this background, let there be fresh notice to the unserved respondents returnable on 19th April, 2022.

7. Liberty to serve the unserved respondents in pending proceedings i.e. above referred RCS No.250 of 2013. Provided they are represented through a lawyer. Notice can be served on lawyer representing such respondents.

8. If the service is not complete by returnable date, the petition shall stand dismissed without further reference to the Court.

9. Service by private mode is also permitted.

(23)-IA-1565-22 & WP4806-16.doc.

10. Needless to clarify that Trial Court shall proceed ahead with the suit.

11. Deletion of respondent No.1 is permitted at the risk and peril of the petitioner.

[NITIN W. SAMBRE, J.]