

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
[COMMERCIAL DIVISION]

INTERIM APPLICATION NO.1714 OF 2021

IN

COMMERCIAL SUMMARY SUIT NO.63 OF 2018

The State Trading Corporation of India Ltd. .. Applicant-Plaintiff

Vs.

Mehek Overseas Pvt. Ltd. and Ors. .. Defendants

Mr. Benny Joseph, with Ms. Pallavi Kamath, i/by B.J. Law Offices LLP, for the
Applicant-Plaintiff.

None for the Defendants.

CORAM : A. K. MENON, J.

DATE : 27TH JANUARY, 2022.

[THROUGH VIDEO CONFERENCE]

P.C. :

1. By this IA, the applicant-plaintiff seeks an order permitting them to serve a writ of summons upon defendant nos.2(a) to 2(d), the legal heirs of original defendant no.2, via substituted service in view of their inability to serve these defendants personally.

2. Mr. Joseph appearing in support states that the Sheriff of Mumbai has deputed his bailiff for service of writ of summons on defendant nos.2(a) to 2(d) and the bailiff has reported his inability to serve the summons since the defendants 2(a) to 2(d) were not found at the address available in the cause-

title. The Sheriff's bailiff has filed an affidavit jointly with that of the plaintiff's deponent, confirming his inability to serve for the reason set out in that affidavit. Mr. Joseph further states that despite attempts to contact the said defendants, Advocate appearing in testamentary petitions filed by defendant nos.2(a) and 2(b) has also informed Mr. Joseph that he has not been able to contact his clients.

3. Thus, it appears that the plaintiff is unaware of current whereabouts of defendant nos.2(a) to 2(d) and despite their best efforts, they have not been able to ascertain their current whereabouts. In view thereof, I am of the view that substituted service is the only option available to the plaintiff and accordingly, I pass the following order :-

- (i) Interim Application is allowed in terms of prayer clause (a).
- (ii) Summons shall be made returnable on 14th March 2022.
- (iii) Affidavit-of-service, both by publication and by pasting, and attempts at postal service shall be filed not later than 10th March 2022.
- (iv) IA is disposed in the above terms.

(A.K. MENON, J.)