

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10080 OF 2009

Prakash Narayan Joshi

.. Petitioner

Versus

The Assistant Charity Commissioner, Ratnagiri
and Ors.

.. Respondents

WITH
INTERIM APPLICATION NO.19465 OF 2022
WITH
INTERIM APPLICATION NO.2504 OF 2022
IN
WRIT PETITION NO.10080 OF 2009

Swati Ravindra Chiney

.. Applicant

IN THE MATTER BETWEEN:

Prakash Narayan Joshi

.. Petitioner

Versus

The Assistant Charity Commissioner, Ratnagiri
and Ors.

.. Respondents

WITH
INTERIM APPLICATION NO.4141 OF 2021
WITH
INTERIM APPLICATION NO.19466 OF 2022
IN
WRIT PETITION NO.10080 OF 2009

Swami Swarupanand Seva Mandal

.. Applicant

IN THE MATTER BETWEEN:

Prakash Narayan Joshi

.. Petitioner

Versus

The Assistant Charity Commissioner, Ratnagiri
and Ors.

.. Respondents

WITH
INTERIM APPLICATION NO.4139 OF 2021
IN
WRIT PETITION NO.10080 OF 2009

Ramchandra Jayant Desai

.. Applicant

IN THE MATTER BETWEEN:

Prakash Narayan Joshi

.. Petitioner

Versus

The Assistant Charity Commissioner, Ratnagiri
and Ors.

.. Respondents

WITH

INTERIM APPLICATION NO.19464 OF 2022

IN

INTERIM APPLICATION NO.4139 OF 2021

WITH

WRIT PETITION NO.10080 OF 2009

Ramchandra Jayant Desai

.. Applicant

IN THE MATTER BETWEEN:

Prakash Narayan Joshi

.. Petitioner

Versus

The Assistant Charity Commissioner, Ratnagiri
and Ors.

.. Respondents

.....

- Mr. Venkatesh Shastry, Advocate for Petitioner
- Mr. P. G. Sawant, AGP for Respondent No.1 – State
- Mr. S. S. Patwardhan, Advocate for Respondent No.2
- Mr. Purushottam G. Chavan, Advocate for Respondent Nos.12, 14, 16, 21, 24 and 30
- Ms. Kiran Yadav i./by Mr. A. M. Gokhale, Advocate for Respondent Nos.35 and 37
- Mr. Manmath S. Athalye for Respondent No.4 and for Applicant in Interim Application No.4141/2021 and Interim Application No.19464/2022

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 16, 2023

P.C.:

- 1.** Heard learned Advocates appearing for the respective parties.
- 2.** Perused the order dated 20.04.2022 passed in Interim Application No.4139 of 2021.

3. The order records service having been effected on six Respondents out of 369 Respondents and further directing the Applicant to serve the unserved Respondents.

4. The Applicant (original Respondent No.45) has filed Affidavit of service dated 22.06.2022 which Mr. Shastry has urged me to have look at. The Affidavit of service has been filed by Mr. Shastry himself on record.

5. Perusal of the said Affidavit would show that 41 Respondents out of the unserved Respondents have expired. At the outset, Mr. Shastry fairly submits that he may be granted leave to amend to delete the 41 Respondents who are shown against serial No.3 in the said Affidavit.

6. Leave to amend is granted.

7. Necessary amendment to be carried out within a period of four weeks from today.

8. Re-verification is dispensed with.

9. Mr. Shastry has thereafter urged the Court to permit the Applicant to serve the unserved Respondents shown against serial Nos.2, 4, 5, 6 and 7. To that effect, Mr. Shastry and Mr. Athalye, both the learned Advocates would submit that in order to serve the unserved Applicants, they have filed three Interim Applications namely Interim Application Nos.19464 of 2022, 19465 of 2022 and 19466 of

2022. Interim Application No.19466 of 2022 is mentioned and taken on board.

10. I have perused the contents of the three Interim Applications. What is stated in the Affidavit of service of Mr. Shastry is explained and reproduced in the said Applications.

11. Mr. Patwardhan and Mr. Chavan, both the learned Advocates have vehemently raised their objections to the Applicant seeking the desired relief of serving the unserved Respondents through substituted service. According to them, the Applicant is seeking the said relief dehors the provisions under Order V Rule 20 of the Civil Procedure Code, 1908 as well as the Appellate Side Rules. He would submit that the Rules provides that in the event if the Court issues notice and Humdast is permitted, it would be duty of the Applicant to approach the Registry and submit the service packets and effect service by depositing the process fee (bhatta) as per law.

12. Perusal of the order dated 22.04.2022 would show that the Applicant was simpliciter directed by this Court to serve the unserved Respondents and file the Affidavit of service Humdast was not granted.

13. Perusal of the Affidavit of service dated 22.06.2022 filed by Mr. Shastry would show that he has complied with the order dated 22.04.2022 and therefore seeks further relief for serving the unserved

Respondents as observed and alluded to hereinabove.

14. For the reasons mentioned in all three Interim Applications, the three Interim Applications stand allowed in terms of prayer clause (A). Applicant is directed to complete substituted service on all unserved Respondents as mentioned against serial Nos.2, 4, 5, 6 and 7 as stated in the Affidavit of service of Mr. Shastry.

15. With the above directions, all three Interim Applications stand disposed.

16. After completion of service and filing of appropriate Affidavit of service, the Applications for seeking intervention and transposition namely Interim Application No.4139 of 2021, Interim Application No.4141 of 2021 and Interim Application No.2504 of 2022 shall be taken up by this Court for hearing and final disposal.

17. Liberty to apply.

[MILIND N. JADHAV, J.]

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