

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.17943 OF 2023
IN
MISCELLANEOUS CIVIL APPLICATION NO.235 OF 2023
WITH
MISCELLANEOUS CIVIL APPLICATION NO.235 OF 2023

KAVITA PRITAM GAVALI)
@ KAVITA JAGDISH AHIRE)...APPLICANT

V/s.

PRITAM BABAN GAVALI)...RESPONDENT

Ms.Deepali A. Bagla, Advocate for the Applicant in IA and MCA through
Legal Aid.

CORAM : ABHAY AHUJA, J.

DATE : 13th DECEMBER 2023

PC. :

1. This is an Application seeking substituted service upon the
Respondent.

2. Ms.Bagla, learned Counsel appearing for the Applicant through
legal aid, referring to the bailiff's remark stating that the Respondent
had left the said premises two months before and the present
whereabouts are not known, submits that this Application is therefore
being preferred under Order V Rule 20 of the Code of Civil Procedure,
1908 (CPC).

3. Ms.Bagla submits, on instructions, that the service was attempted on the last known address of the Respondent mentioned in the cause title. That, the Applicant provided the said address for effecting service. That, earlier the Respondent has always accepted service on the said address but failed to remain present on the returnable date for reasons best known to him.

4. Learned Counsel submits, on instructions from the Applicant, who is present in Court, that on the last date before the Family Court at Dhule, in the restitution proceedings, the Respondent's Counsel had appeared and sought time on the ground that this Miscellaneous Civil Application is pending before this Court. Learned Counsel submits that, it is therefore clear that the Respondent is deliberately avoiding service in order to delay the proceedings, and therefore, this Court allow substituted service as prayed for.

5. A perusal of Rule 20 of Order V of the CPC indicates that where the Court is satisfied that there is reason to believe that the Defendant is keeping out of the way for the purpose of avoiding service or for any other reason, the summons cannot be served in the ordinary way, the Court shall get the summons to be served by affixing copy thereof in

some conspicuous place in the Court-house and also upon some conspicuous part of house in which the Defendant/Respondent is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court thinks fit.

6. Having heard the learned Counsel and having perused the Application and the supporting documents, this Court is of the view that the Application be allowed, as prayed for, in terms of Prayer clause (a), which reads thus :

“That this Hon’ble Court be pleased to allow this Application for substituted service by affixing and pasting the Notice/Summons at the outer door of Respondent on the address as provided hereinbelow :

*Mr.Pritam Baban Gavali
Flat No.441, Room No.B/19,
Nirankar Society, Sector No.4, Charkop,
Near Saraswat Bank, Kandivali West,
Mumbai – 400 067.”*

7. The Application, accordingly, stands disposed.

MISCELLANEOUS CIVIL APPLICATION NO.235 OF 2023

8. Ad-interim relief granted earlier to continue till the next date.

9. List the Miscellaneous Civil Application for hearing on **12th January 2024.**

ARTI
VILAS
KHATATE

Digitally signed by
ARTI VILAS
KHATATE
Date: 2023.12.14
15:36:40 +0530

(ABHAY AHUJA, J.)