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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.278 OF 2022

IN

COMM EXECUTION APPLICATION NO.28 OF 2021

Doha Bank

...Applicant /
Decree Holder

Versus

Dimple Girish Ragoowanshi & Anr.

...Judgment
Debtors

Mr. Kezer Kharawala i/b. Lex Juris for the Applicant / Decree Holder.

CORAM : R.I. CHAGLA J

DATE : 16 February 2023

ORDER :

1. By this Interim Application, the Applicant / Decree Holder has sought permission to serve Notice issued under Order XXI Rule 22 of the Code of Civil Procedure, 1908 on the Judgment Debtor Nos.1 and 2 as and by way of substituted service as mentioned in prayer Clause (a).

2. The Applicant has stated that the bailiff of the Deputy Sheriff's office had been unable to serve the Judgment Debtor Nos.1 and 2 at the address mentioned in the cause title with the notice under Order XXI Rule 22 of the Code of Civil Procedure, 1908 as Judgment Debtors were not found at the address. After enquiry with the mother in law of Judgment Debtor No.1, the Bailiff was informed that Judgment Debtor No.1 had visited occasionally and Judgment Debtor No.2 died in 2018. However, death certificate was not shown. Thereafter, another visit has been made to the address of Defendant Nos.1 and 2, wherein the Bailiff had been informed that the Judgment Debtors have not been residing at the address and the cousin of Judgment Debtor No.1 is residing at the said address. There have been repeated visits by the bailiff from the Deputy Sheriff's office to the address of the Judgment Debtors but the service has not been effected as the Judgment Debtors have not found at the address. Affidavit of Service dated 17th December, 2021 of the bailiff of the Deputy Sheriff's office is annexed at Exhibit D to the Interim Application.

3. The Applicant has stated that there is no further option than to serve the notice on the Judgment Debtors by way of

substituted service by publishing the Notice in two newspapers having circulation in Maharashtra.

4. Having considered the averments in the Interim Application as well as taking note of the fact that the bailiff from the office of Deputy Sheriff, Mumbai has made repeated visits at the address of the Judgment Debtor in order to serve them the notice under Order XXI Rule 22 of the Code of Civil Procedure, 1908. However, these visits have been unsuccessful as the Judgment Debtors are not residing at the address mentioned in the cause title of the Commercial Execution Application.

5. In view thereof, the relief sought for by the Applicant by way of substituted service requires to be granted. Hence, the following order:-

(i) The Applicant / Decree Holder is permitted to serve notice No.21221 of 2021 issued under Order XXI Rule 22 of the Code of Civil Procedure, 1908 to the Judgment Debtor Nos.1 and 2 by way of substituted service by publication of notice in two news papers viz. Free Press Journal in English language and Navshakti

newspaper in vernacular Marathi language circulating in the locality where Judgment Debtor Nos.1 and 2 have actually or voluntarily resided at the last known address within a period of six weeks from today.

(ii) The Applicant / Decree Holder is also permitted to affix a true duplicate copy of Notice No.21221 of 2021 on the conspicuous part of the last known address of Judgment Debtor Nos.1 and 2 through bailiff of the Court.

(iii) The affixing of a duplicate copy of Notice No.21221 of 2021 on the notice board of this Court, permitted.

(iv) Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]