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

INTERIM APPLICATION NO.277 OF 2022

IN

COMM EXECUTION APPLICATION NO.27 OF 2021

Doha Bank

...Applicant /
Decree Holder

Versus

Shyam Ayinippully S/o. Subramanian
Ayinippully

...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 Office, Mumbai had been unable to serve the Judgment Debtors at the address mentioned in the cause title of the Execution application with Notice under Order XXI Rule 22 of the Code of Civil Procedure, 1908 as the address of the Judgment Debtors was upon the visit of the bailiff found to be locked and after inquiry with the security guard, it was informed that the Judgment Debtors are not residing at the said address. A joint Affidavit of Service has been filed by the bailiff and the Clerk of the Advocate for the Applicant. Further visit was also made at the address of the Judgment Debtors but service has not been effected as the Judgment Debtors were not found at the address. A joint Affidavit of Service dated 18th December, 2021 has been 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.21220 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.21220 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.21220 of 2021 on the notice board of this Court, permitted.

(iv) Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]