

K.S. Jadhav

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

**INTERIM APPLICATION NO.3696 OF 2022
IN
SUIT NO.106 of 2022**

Suryanarayan Synthetics Pvt. Ltd. ...Applicant/Plaintiffs

Versus

**Atithi Builders & Construction Pvt. Ltd. ...Defendants
& Ors.,**

Mr. Anoop Sharma, Advocate for Applicant/Plaintiffs.

CORAM : R.I. CHAGLA J

DATE : 12TH JANUARY, 2023.

ORDER :

1. By this Interim Application, the learned Counsel appearing for the Applicant/Plaintiff are seeking permission to carry out amendment in the Plaint in terms of Schedule annexed to the Interim Application.

2. The Applicants have referred to the Report of the Bailiff appointed and deputed by the office of the Sheriff of Mumbai for service of Writ of Summons alongwith true copies of the Plaint on the Defendants. The said Report is annexed at Exhibit-A to the Interim Application.

3. The Bailiff has stated in said Report that the Writ of Summons could not be served on the Defendant No.1 to 3 in view of the change in the address and which was informed to the Bailiff upon enquiries made that the Defendants had left the premises and their whereabouts were not known. This was upon visiting of the Bailiff at the address mentioned in the cause title of the Suit on 5th May, 2022.

4. The Applicants have thereafter found out the current address of the Defendants which by this Application, the cause title of the Plaintiff is sought to be amended.

5. It is further stated that the current registered address of Defendant No.3 is beyond the jurisdiction of this Court and accordingly, it is preferred that process of service of Writ of Summons be effected upon Defendant No.3 by sending one copy of Writ of Summons alongwith copy of the Plaintiff by Registered Post AD at the current address of Defendant No.3.

6. Having considered the averments in the Interim Application as well as taking note of the fact that the Bailiff has filed the Report on 5th May, 2022 which states that the Writ of Summons had not been served on the Defendant Nos. 1 to 3 in view of their having already

left the premises and their present whereabouts are unknown and further taking note of the fact that the Applicants by the present Interim Application, has found the current address of the Defendants, and accordingly amendment of the cause of title to the Plaint is required.

7. Thus, a case has been made out for grant of relief sought for in the Application. Further, considering that the current address of Defendant No.3 is in Gurugram, service of Writ of Summons is required to be effected by Registered Post AD. Hence, the following order is passed :

- i) The Applicants are permitted to carry out the amendment in the Plaint in accordance with the Schedule annexed to the Interim Application and also consequential amendments are permitted.
- ii) The Writ of Summons is also extended and returnable date of Writ of Summons is four weeks from today.
- iii) The service of Writ of Summons alongwith copy of Plaint shall be by Registered Post AD sent to the current/amended address of Defendant No.3.

- iv) Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]