

02-01-2026
ct no. 13
Sl. 19
pk

FMA 820 of 2012
Vijay Singh
-Versus-
Sewdas Shaw and others

Mr. Biswanath Chatterjee,
Mr. J. Badsha
... for the appellant.

1. Affidavit of service filed in Court is taken on record.

2. Respondents were not represented on the last two occasions. Even today no one appears on behalf of the respondents.

3. The appeal is directed against an order dated 13.01.2012 passed by the learned Judge XI Bench, City Civil Court at Calcutta in Misc. Case No. 3865 of 2006. By the said judgement and order the court rejected an application of the defendant in the suit and the appellant before us, under Order 9 Rule 13 of the Code of Civil Procedure.

4. The brief facts relevant to the case are that the decree holder/plaintiff filed a suit for declaration and permanent injunction against the appellant/defendant. The report of the bailiff before the court indicates that notice of the suit i.e. summons was refused by the appellant/defendant. It further transpires that the bailiff report considered by the trial court shows that when the

appellant/defendant refused to receive the notice of the summons from the bailiff, the same was affixed on the premises of the appellant.

5. The Registry also received back postal acknowledgement due card of service by post of the summons of the suit.

6. Based on the above, the trial judge was of the view that the appellant/petitioner has deliberately and willfully chosen to avoid receipt of summons in the suit. Refusal of the summons constitutes good service.

7. In the back drop of the above facts, this Court finds no reason to interfere with the impugned order dated 13.01.2012 passed by the trial court rejecting the appellant's application under Order 9, Rule 13 of the Code of Civil Procedure.

8. With the aforesaid observations, FMA 820 of 2012 is hereby dismissed. Consequently, all pending connected applications are also dismissed.

9. There will be no order as to costs.

10. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)

