

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

INTERIM APPLICATION (L) NO. 37462 OF 2025
IN
INTERIM APPLICATION NO. 3426 OF 2023
IN
EXECUTION APPLICATION NO. 3335 OF 2024

TATA CAPITAL FINANCIAL SERVICES LTD.)...APPLICANT

V/s.

KISHORKUMAR DESHMUKH AND ANOTHER)...RESPONDENTS

Ms.Bijal Gogri i/by O M Gujar Law Chambers, Advocate for the
Applicant.

None for the Respondents.

CORAM : ABHAY AHUJA, J.

DATE : 11th FEBRUARY 2026

PC. :

1. This Interim Application seeks substituted service by paper publication with respect to the Respondent no.2 of a fresh show cause notice under Order XXI Rule 37 of the Code of Civil Procedure, 1908 (“CPC”).

2. Ms.Gogri, learned Counsel, appears for the Applicant - finance company and submits that although the order dated 19th June 2024 directing disclosures could be served at the address of the Respondent no.2 as per the cause title, however, the notice under Order XXI Rule 37

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of the CPC has been returned with the remark “insufficient address”. That, therefore, this Court may permit substituted service by paper publication.

3. Order V Rule 20 of the CPC which pertains to substituted service reads as under :

“20. Substituted service – (1) 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 that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house (if any) in which the defendant 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.

(1-A) Where the Court acting under sub-rule (1) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the defendant is last known to have actually and voluntarily resided, carried on business or personally worked for gain.

(2) **Effect of substituted service** – Service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

(3) **Where service substituted, time for appearance to be fixed** – Where service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

4. As can be seen, only 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 if service cannot be effected in the ordinary way, the Court is to direct service by affixation in some conspicuous place in the Court-house and also upon some conspicuous part of the house in which the defendant 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. That, the Court may also order advertisement in a daily newspaper known to be circulating in the locality in which the Defendant was last known to have actually and voluntarily resided or carried on business or personally worked for gain.

5. Considering that the order directing disclosures was served upon the Respondent no.2 at the address mentioned in the cause title of the execution proceedings and when the service of the notice under Order XXI Rule 37 of the CPC was attempted, the same has been returned unserved with the remark “insufficient address”, this Court is of the view that instead of advertisement in newspaper, affixation of the show cause notice at the conspicuous place in the Court-house and also upon a conspicuous part of the earlier address of the Respondent no.2, would

be the proper mode of substituted service, although it is made clear that substituted service is not to be sought for on the asking without making reasonable endeavours through the regular / ordinary mode. However, in the facts of this case, this Court has reason to believe that the Respondent no.2 is avoiding service and keeping out of the way, and therefore, directs substituted service by affixation in a conspicuous place i.e. by affixation of the show cause notice order under Order XXI Rule 37 of the CPC in a conspicuous place in the Court-house and also on some conspicuous part of the address of the Respondent no.2 as contained in the cause title.

6. Let service in the aforesaid manner be effected within a period of four weeks and an appropriate Affidavit of service be filed.

7. The Interim Application is allowed and stands disposed as above.

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8. List on 8th April 2026.

(ABHAY AHUJA, J.)