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C.M.P(MD)No.1048 of 2022

C.M.P(MD)No.1048 of 2022

in

S.A.(MD)No.19 of 2020

S.M.SUBRAMANIAM, J.

This Civil Miscellaneous Petition is filed to permit the petitioner to bring on record the proposed appellants No.3 and 4 as the legal heirs of the deceased second appellant in S.A(MD)No.19 of 2020.

2.The civil miscellaneous petition was filed on 15th December 2021.

Notice is yet to be served.

3.The learned counsel for the petitioners states that the petitioners are unable to secure the correct address of the respondents and therefore, he made a submission to order for publication.

4.This Court is of the considered opinion that publication to serve notice in the second appeal cannot be ordinarily issued by the appellate Court. The parties to the suit participated in the trial proceedings and they



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have contested the appeal suit before the First Appellate court, while so, notice must be served to all the parties for the purpose of deciding the second appeal.

5.The question arises while large number of miscellaneous petitions and the second appeals are pending for want of service of notices to the opposite parties. In many such cases, the plaint and appeal suit do not contain the correct addresses of the parties, as the original suits are filed before the trial Court. The respective learned counsels appearing before the trial Courts are mentioning the name of the village and place, without providing the correct address including the door numbers, name of the street, place and district. Such insufficient address is routinely repeated in the second appeal proceedings also. When the second appeal proceedings are instituted before the high courts, then it would be difficult for the parties to serve notice to the opposite parties. This exactly is the issue, in many such second appeals and the miscellaneous petitions filed for various reliefs.



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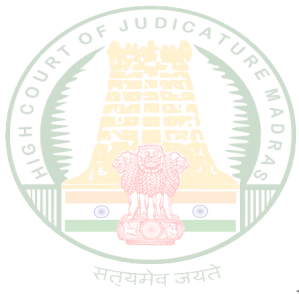
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6.Many miscellaneous petitions for impleadment or for other relief in the second appeals are kept pending for many number of years. Even the miscellaneous petitions are pending for years together for want of service of notice. This system is being continued. This Court is of the considered opinion that the litigant will lose faith in the justice delivery system and the Courts are expected to thrive hard for early disposal of these civil disputes as far as possible. The fact remains that the second appeals are kept pending for many years, without even serving notice to the opposite parties or kept pending at the miscellaneous petitions stages or for want of disposal of such miscellaneous petitions. All such circumstances are to be improved by serving notices to all the parties in a quick manner, by mentioning the correct address and particulars of the parties.

7.It is relevant to consider Order 7 Rule 1 of C.P.C., which deals about plaint. Order 7 Rule 1 of C.P.C stipulates the particulars to be contained in the plaint. Accordingly, the plaint shall contain the following particulars:

“(a)the name of the Court in which the suit is brought;

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- (b)the name, description and place of residence of the plaintiff;*
- (c)the name, description and place of residence of the defendant, so far as they can be ascertained;*
- (d)Where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to the effect;*
- (e)the facts constituting the cause of action and when it arose;*
- (f)the facts showing that the Court has jurisdiction;*
- (g)the relief which the plaintiff claims;*
- (h)where the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished; and*
- (i)a statement of the value of the subject-matter of the suit for the purpose of jurisdiction and of Court-fees, so far as the case admits.”*

Order 7 Rule 1 (b) of C.P.C., stipulates that the name, description, and place of residence of the plaintiff. Sub-class(c) contemplates the name, description and place of the defendant, so far as they can be ascertained.

8.The above rule is to be interpreted in a constructive manner, so as to form an opinion that the name, description, place of residence of the

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plaintiff and defendant must be described in a clear and legible manner,

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more specifically, for the purpose of serving of notice both by the parties as well as through the Courts. Insufficient or unclear address should not be entertained in the plaint and all those plaints are to be returned by the Court Registry itself. Therefore, the appeal examiners of the Court Registry must ensure that the name, description, place of residence and other details are clearly mentioned in the plaint and in the Interlocutory applications filed by the plaintiff(s) and the defendant(s). In the absence of mentioning clear address, the petitions are liable to be returned for want of production of correct description, which is mandatory under Order 7 Rule 1 of C.P.C. Mechanically examining the plaint or written statement at no circumstances be permitted, as the Civil Procedure Code unambiguously stipulates that the particulars to be contained in the plaint and all those particulars as contemplated under Order 7 Rule 1 of C.P.C., are to be complied with and in the event of lapses in this regard, the appeal examiners are to be held for their lapses or negligence or dereliction of duty.

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9.The Registry in all the Courts must ensure that the mandatory procedures under Order VII Rule 1 of Code of Civil Procedure, 1908 have been complied with strictly in all respects, including the mentioning of name description, place of residence and all other necessary details. In view of the present day technology advancement and to made the procedures user friendly to the litigants, lawyers as well as to the Courts, the Registry shall ensure that mobile numbers / phone numbers / email addresses are mentioned and a copy of the self-attested Aadhar card is enclosed along with the case papers and documents at the time of filing.

10.In many second appeals and miscellaneous petitions, notices are not served to the opposite parties for years together for want of correct name and address of the parties. All such errors and mistakes are to be complied with by the litigant concerned at the time of numbering the case before the Registry by complying with the mandatory procedures contemplated under Order VII of the Code of Civil Procedures, 1908.



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11. In view of the facts and circumstances, in the present case, the petitioners are directed to secure the correct addresses of the respondents and serve notice to them, enabling this Court to proceed with the petition.

12. The Registry of High Court is directed to communicate the copy of this order to all the Courts across the State of Tamil Nadu and Pandicherry.

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