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Whether Legal Notice Sent Via Whatsapp & Email Is Valid Or Not

India has been leading the globe in digital technology advancements since it introduced UPI payments. India has yet to make significant strides in the judiciary. The Indian Supreme Court still did not deem a legal notice sent by email or WhatsApp to be valid. The Apex Court of India has ruled that a legal notification sent via email or Whatsapp does not qualify as valid, according to the Registrar's unambiguous order statement in the *Hardev Ram Dhaka v. Union of India* case.¹

WhatsApp and email notices are legally regarded as valid notices until the Supreme Court rules rejecting the legal notice. In high court jurisdictions such as Bengaluru, Delhi, and Bombay, rules and regulations pertaining to electronic mail services have been established such as Bombay High Court Service of Processes by electronic mail services (Civil Proceedings) Rules, 2017, Delhi High Courts Services of Processes by Courier, Fax And Electronic Mail Service (Civil Proceedings Rules, 2010 and The Karnataka Courts-Service of Summons /Notices /Processes /Documents (Civil Proceedings) by Electronic Mail Rules, 2023.

The legal system frequently has been unable to keep up with the rapid advancements in technology. However, the Civil Procedure Code provides for such an opportunity in Part X and Order V, Rule 9, permitting High Courts to establish norms and guidelines for both their own judicial process and those of the Civil Courts' that fall under their jurisdiction. The High Court of Delhi took advantage of this to set guidelines for summon serving. In order to give the means of serving summons, it established the Delhi Court's Service of Processes by Courier, Fax and Electronic Mail Service (Civil Proceedings) Rules, 2010. In civil procedures, Chapter 4 (Rules

¹ *Hardev Ram Singh v. Union of India*, Writ Petition(s) (Civil) No(s). 611/2020.

12, 13, and 14) states that the other parties may serve one another by electronic mail. Nevertheless, the entire possibility of this clause remains untapped.

In *Central Electricity Regulatory Commission v National Hydroelectric Power Corporation Ltd*², the court ordered for email notices to be issued alongside traditional methods. The court stated that this method should be adopted in business litigations and instances seeking urgent interim relief from the Supreme Court. To file an appeal or petition, the advocate-on-record should provide the respondent company's email address and a soft copy of the petition/appeal in PDF format. Notices should be delivered by mail in addition to traditional delivery methods.

In *Ksl and Industries Ltd v Mannalal Khandelwal and the State of Maharashtra*³, the Bombay High Court noted the significance of email-based summons service. The court noted that it was:

“a matter of common experience that enormous time is spent in service of summons on the accused for a variety of reasons and the most important reason is the accused's tendency of avoiding service. Therefore, the Court must adopt all pragmatic methods of services on the accused. Repeated summons be sent by employing all methods, including email, to ensure service of summons.”

In 2014, the position was once again reiterated by the Supreme Court in the context of issuing summons in cases involving Section 138 of the Negotiable Instruments Act, 1881 in *Indian Bank Association v Union of India*⁴. As a result of this judgment, it is now a common practice of banks to send notices for violation of Section 138 via email. In fact, HDFC Bank reportedly got 214 court summonses served through WhatsApp and email in just two months. These were served through courts in Tamil Nadu, Gujarat, Punjab, Haryana, West Bengal, Rajasthan, Assam, Uttar Pradesh, and others.⁵ Even though service through messaging applications has been recognised as a means of serving summons, one of the limitations often being cited has been the lack of proof

² *Central Electricity Regulatory Commission v National Hydroelectric Power Corporation Ltd*, (2010) 10 SCC 280.

³ *Ksl and Industries Ltd v Mannalal Khandelwal and the State of Maharashtra*, (2005) CriLJ 1201.

⁴ *Indian Bank Association v Union of India*, (2014) 5 SCC 590.

⁵ Raghav Ohri, 'Banks serving summons to defaulters through WhatsApp, emails' *Economic Times* (01 September 2018) accessed 15 April 2024.

of delivery of service. To ensure that this method is used widely across courts, this limitation will have to be remedied.⁶

In *Bhim Rathke v RK Sharma*, Patiala House Courts, New Delhi denied the complaining party's request to serve notice via email and WhatsApp. The court system did not allow for electronic delivery of notice via WhatsApp.⁷

The Indian judicial system should embrace legal notice, i.e., summons, via electronic means of communication as soon as practicable. It should also include a proper statute addressing electronic notice in the uniformity rules and regulations for the Indian court system. The Indian Courts system will not be concerned with whether the defendant received the notice, and if not, the courts will not have to postpone the hearing because they did not receive the notice via mail service.

⁶ (2020) *Summons in the digital age: ICT integration in the service of summons*. rep. Vidhi, Centre for Legal Policy.

⁷ *Bhim Rathke v RK Sharma* Cr Revision No. 16/2018 decided on 22 February 2018.