*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 14th December, 2018*

\+ FAO(OS) 189/2018 & CM. Nos. 52394/2018 and 52395/2018

HEMA BHANDARI ..... Appellant

Through: Mr. Rajeshwar Singh, Adv. with Ms. Aishwarya, Adv.

versus

HDFC BANK LTD & ORS ..... Respondents

Through:

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

CM. No. 52394/2018

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM. No. 52395/2018 (for condonation of 146 days delay in re-filing the appeal)

For the reasons stated in the application, the delay of 146 days in re-filing the appeal is condoned. Application stands disposed of.

FAO(OS) 189/2018

1. This appeal has been filed by the appellant challenging the orders passed by the learned Joint Registrar and learned Single Judge dated May 08, 2018 and May 22, 2018 respectively.

2. Vide order dated May 08, 2018, the learned Joint Registrar has rejected the application filed by the appellant in IPA NO. 08/2016 being IA 7024/2016 for declaring her as an indigent person. The facts are that the appellant has filed the suit for declaration and recovery of damages to the tune of ₹3,17,44,518/- against the defendants i.e HDFC Bank Ltd. and ors. As per the valuation of the suit done by the appellant the court fee of ₹3,12,170/- is required to be paid. The appellant filed an application being IA 7024/2016 seeking exemption from payment of court fee as an indigent person as per provisions of Order XXXIII Rule 1 CPC.

3. It was her case that she has no resources to pay the court fee. A report from the SDM was called for. The learned Joint Registrar has examined the report of the SDM and also asked her to lead evidence. In the evidence, it has come on record that the appellant has a Bank account in HDFC bank. During her cross examination, it was revealed that in her affidavit, she has given the details of her expenses including personal loan of ₹15 lakhs, car loan of ₹11,29,550/- and education loan of ₹9,97,720/- with EMI of ₹34,130/- ₹18,900/- and ₹9977/- respectively. The elder son is

studying Hotel Management from Manipal and the younger one is studying in 5th standard at Springdales School, Dhaula Kuan. It has also come on record, she also takes services of driver and maid. It was her case in the affidavit that she is unable to save any monthly amount from her salary and her savings as on date is 'Nil'. It has also come on record that she has taken personal loan at various times for various family requirements. She has received an amount of ₹14-16 lakhs from the Bank after termination, as benefits. She has gone abroad twice in the year 2015 or 2016.

4. The learned Joint Registrar has, on the basis of the material available on record held that the appellant is a woman of resources and living a sort of luxurious life. The possibility of the appellant concealing her actual income cannot be ruled out and rejected the IA.

5. The learned Single Judge on May 22, 2018 noting the order passed by the learned Joint Registrar and the fact that the appellant has not deposited the court fee, has dismissed the petition.

6. It is contended by the learned counsel for the appellant, that the learned Joint Registrar has overlooked the report of the SDM. He states, that the appellant being an indigent person, cannot pay

the court fee. From the record, it is clear that the learned Joint Registrar has considered the report of the SDM and taking into consideration various facts, has come to the conclusion that the appellant is not an indigent person. We concur with the view taken by the learned Joint Registrar.

7. That apart, based on the order of the learned Joint Registrar, the learned Single Judge has dismissed the petition being IPA No. 08/2016, with which order we concur. The appeal is dismissed. No costs.

V. KAMESWAR RAO, J

CHIEF JUSTICE

DECEMBER 14, 2018/*ak*