

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

+ **RFA No. 485/2016**

% **27th August, 2018**

ROMILA MAYANK SHARMA Appellant

Through: Mr. Sanjeev Dubey and Ms.
Rekha Rani Dey, Advocates
(Mobile No.9999780148).

versus

M/S ZEE NEWS LIMITED Respondent

Through: Mr. Bhagabati Prasad Padhy,
Advocate (Mobile No.
9350209833).

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This Regular First Appeal under Section 96 of the Code of Civil Procedure, 1908 (CPC) is filed by the plaintiff in the suit impugning the Judgment of the Trial Court dated 7.5.2016 by which the trial court has rejected the plaint under Order VII Rule 11 CPC as the suit was found to be time barred.

2. Appellant/plaintiff was the employee of the respondent/defendant. The services of the appellant/plaintiff were terminated vide Termination Letter dated 15.4.2009 and which was received by the appellant/plaintiff admittedly on 27.5.2009. Appellant/plaintiff by the subject suit seeks the relief of reinstatement in services/declaration of illegal termination of services and with consequential monetary reliefs of salary etc. The prayer clauses of the plaint read as under:-

- “1) To grant a decree in favour of the Plaintiff and against the Defendant Company declaring thereby that the termination vide termination letter dated 15.04.2009 of the Plaintiff from the services of Defendant company was wrongful, illegal and bad in law and the same is liable to be set aside.
- 2) To grant a decree in favour of the Plaintiff and against the Defendant Company awarding her an amount of Rs.20,00,000/- for the loss of income due to the wrongful termination of services of the Plaintiff by the Defendant Company, for all the mental trauma and harassment she has been subjected to and the injury to her career throughout this period since the wrongful termination of her services.
- 3) To grant a decree for Mandatory Injunction in favour of the Plaintiff and against the Defendants ordering the Defendant Company to immediately transfer registration of the car being Maruti MA-SX4 ZXI, bearing registration No. UP 16V 0894 in the name of the Plaintiff.
- 4) To grant any other relief to which the Plaintiff may be entitled to and which this Hon’ble Court may deem fit and proper under law and equity and in the facts and circumstances of the case.”

3. Trial court has held that since the suit has been filed on 7.1.2013 i.e. after a period of three years on receiving of the Termination Letter dated 15.4.2009 on 27.5.2009 i.e. limitation of three years commence from 27.5.2009, and therefore the subject suit which had to be filed on or before 27.5.2012, but was filed on 7.1.2013, was barred by time.

4. It is an undisputed position that appellant/plaintiff seeks quashing of her termination of services by the respondent/defendant/employer, and once that is so, challenge is to the Termination Letter/Order dated 15.4.2009 received on 27.5.2009 and therefore the suit had to be filed on or before 27.5.2012, and therefore trial court has committed no illegality in rejecting the plaint as time barred as the subject suit was filed on 7.1.2013 i.e. after the period of expiry of three years on 27.5.2012.

5. Learned counsel for the appellant/plaintiff, however, argued that the respondent/defendant had filed one other suit for recovery of amounts against the appellant/defendant, allegedly taken as loan by the appellant/plaintiff from the respondent/defendant, and in this other suit, which I am informed has already been decreed in favour of the

respondent/defendant, the appellant/plaintiff had made an application on 6.8.2012 to seek leave to amend her written statement to file a counter-claim against the respondent/defendant herein. This application was dismissed by the concerned court vide Order dated 7.11.2012 giving liberty to the appellant/plaintiff to file proper suit and giving the appellant/plaintiff benefit of limitation under Section 14 of the Limitation Act, 1963, and therefore it is argued that by excluding the period under Section 14 of the Limitation Act, the subject suit should be held to be within limitation.

6. Admittedly, the application filed by the present appellant/plaintiff, in the earlier suit filed by the respondent/defendant seeking the liberty to file counter claim is dated 6.8.2012. Along with this application counter claim was also filed. Therefore taking the date of filing of the application as the date of filing of the counter-claim in the earlier suit, the counter-claim at best is deemed to have been filed on 6.8.2012. However, the date of 6.8.2012 is also beyond three years of 27.5.2009, when the appellant/plaintiff received the Termination Letter dated 15.4.2009. Therefore, even if period of limitation has to be extended, in favour of the appellant/plaintiff, the

limitation exclusion will commence on 6.8.2012 and which date in any case is beyond the period of three years from 27.5.2009. Therefore, even taking the present suit has having been filed on 6.8.2012, the present suit would be beyond the prescribed period of three years.

7. There is no merit in the appeal and the same is hereby dismissed.

AUGUST 27, 2018

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VALMIKI J. MEHTA, J



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