

Sharayu Khot.

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

INTERIM APPLICATION NO. 2853 OF 2022

IN

COMMERCIAL SUIT NO. 151 OF 2021

Babita Jayantilal Jain & Ors.

...Applicants (Original  
Defendant Nos. 4 to 6)

*In the matter between*

Nilesh Bipinchandra Sanghvi

...Plaintiff

*Versus*

M/s. Sambhav Enterprises & Ors.

...Defendants

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Mr. Aman Kacharia i/by Sanjeev S. Hariakar for the  
Applicants/Original Defendant Nos. 4 to 6.

Ms. Nidhi B. Singh i/by Rishabh D. Singh for the Plaintiff.  
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CORAM : R.I. CHAGLA J

DATE : 2 August 2022

ORDER :

SHARAYU  
PANDURANG  
KHOT

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signed by  
SHARAYU  
PANDURANG  
KHOT  
Date:  
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1. Learned Counsel appearing for the Applicants/Original Defendant Nos. 4 to 6 has tendered draft amendment for addition of prayers in the Interim Application. The draft amendment is taken on record and marked "X" for identification.

2. Leave is granted to the Applicant/original Defendant Nos. 4 to 6 to amend the Interim Application in terms of the draft amendment marked X.

3. Amendment shall be carried out forthwith.

4. Re-verification is dispensed with.

5. The present Interim Application has been taken out for condonation of delay in filing the Written Statement in the captioned Suit. The delay is stated to be of 44 days beyond the period of 30 days to file the Written Statement in the captioned Suit.

6. In paragraph 3 of the Interim Application, it is stated that there is 70 days delay in filing the Written Statement due to shortage of staff and time consumed in procuring the details for the Written Statement. The Applicants have further stated that the delay is neither intentional nor willful, but due to good and sufficient reasons. Accordingly, present Interim Application has been filed.

7. Learned Counsel appearing for the Plaintiffs has brought

to the notice of this Court that delay in fact is of 70 days beyond the statutory period of 30 days for filing the Written Statement. However, the Plaintiff is not objecting to acceptance of filing of the Written Statement.

8. Having considered the submissions, there appears to be some dispute as to the delay in filing of the Written Statement. However, it is clear that the delay is not beyond the 120 days from being served with the writ of summons, which was served on 30th October 2021 and considering the period of limitation excluded by the suo motu order dated 10th January 2022 of the Supreme Court. The period of limitation would accordingly, have commenced from 1st March 2022 and is expiring on 29th June 2022. The Application has been taken out on 10th June 2022.

9. In view thereof, the relief sought for in the Interim Application is required to be granted. Hence the following order is passed. :-

- (i) Delay in filing the Written Statement is condoned.

(ii) The Registry shall accept the Written Statement, if  
filed within a period of one week from the date of  
uploading of this order.

(iii) Interim Application is disposed of in the above terms.

**[R.I. CHAGLA J.]**