

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
INTERIM APPLICATION NO.4911 OF 2022
IN
COMMERCIAL SUMMARY SUIT NO.74 OF 2022**

Universal Edu-Infra Services Pvt. Ltd.

& Ors.

... Applicants/Defendants

Vs.

Rudra Infra

... Respondent

In the matter of :

Rudra Infra

... Plaintiff

Vs.

Universal Edu-Infra Services Pvt. Ltd.

& Ors.

... Defendants

Mr. Akash Menon for the Applicants/Defendants.

Mr. Shreejit A. Singh i/by M/s. Khandelwal Associates for the Respondent/
Plaintiff.

CORAM : ARIF S. DOCTOR, J.

DATE : 04TH JANUARY 2023

P.C. :

1. By the present Interim Application, the Applicants seek
condonation of delay of a period of four days in filing the Vakalatnama.

2. The Interim Application sets out that the Summons was served upon the Applicants/Defendants on 19/10/2022 and accordingly the Applicants were required to file the Vakalatnama of their advocates within a period of ten days, i.e., on or before 31/10/2022. It is stated that after service of the Summons there was a slight delay in procuring the signatures of all the Applicants on the Vakalatnama on account of the ensuing Diwali Vacation. It is further stated that the delay in procuring the signatures on the Vakalatnama was unintentional.

3. The Interim Application sets out that on 01/11/2022, i.e., one day after the period of ten days expired, the Applicants attempted to file the Vakalatnama in the Registry of this Court, however, the Registry refused to accept the same. It is in this backdrop, the Applicants have preferred the present Interim Application praying that the Vakalatnama on behalf of the Applicants may be taken on record by condoning the delay of four days.

4. The Plaintiff has filed the Affidavit-in-Reply opposing the present Interim Application.

5. The learned Counsel appearing on behalf of the Plaintiff submits that the primary ground for opposing the present Interim Application is that the Applicants/Defendants have failed and neglected to explain what prevented them during the period of ten days post service of the Summons from obtaining

the signatures of all the Applicants/Defendants. He submitted that since the Applicants/Defendants had not adequately explained this, the present Interim Application ought to be dismissed. He additionally submitted that the Applicants/Defendants were aware of filing of the present Suit and thus could not plead any ignorance of the same.

6. I have heard both the learned Counsel and I am satisfied that the opposition on behalf of the Plaintiff to this Interim Application for condonation of delay is entirely without any merit and that the Interim Application deserves to be allowed in the interest of justice.

7. The contention of the learned Counsel appearing on behalf of the Plaintiff that, the Applicants have not explained what they did during the period of ten days time post service of the summons, is belied from a plain reading of Paragraph 2 of the Interim Application wherein the Applicants have plainly stated that it was on account of the ensuing Diwali Vacation that there was delay in obtaining the signatures of all the Applicants. Therefore, the contention raised by the learned Counsel for the Plaintiffs is entirely misplaced and untenable.

8. The interim Application deserves to be allowed and is accordingly allowed in terms of prayer clauses (i) and (ii) of the Interim Application.

9. The Interim Application is disposed of.

(ARIF S. DOCTOR, J.)