

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

INTERIM APPLICATION NO. 2370 OF 2023

IN

SUIT NO. 265 OF 2022

Sanjeev Sat Prakash Goyal & Ors.

...Applicants

(Ori. Defendant Nos. 1,5 & 8)

IN THE MATTER BETWEEN :

Aruna Rathi

...Plaintiff

Versus

Sanjeev Sat Prakash Goyal & Ors.

...Defendants

WITH

INTERIM APPLICATION NO. 3716 OF 2022

IN

SUIT NO. 265 OF 2022

WITH

INTERIM APPLICATION NO. 2368 OF 2023

WITH

INTERIM APPLICATION NO. 2358 OF 2023

IN

SUIT NO. 265 OF 2022

* * *

- Mr. Rahul Moghe, Ms. Sweta Moghe and Mr. Dhruva Gandhi i/b Sweta Mehta & Girdharlal, for Plaintiff.
- MR. Saif Dingankar a/w Mr. Aniket Mokashi i/b Amit Karkhanis, for Defendant Nos. 1, 5 and 8
- Ms. Aneesa Cheema, Mr. Zulfiqar Jariwala and Mr. Shabbir Jariwala i/b MDP & Partners, for Defendant Nos. 2,6, 7, 8, 10 and 11.

* * *

CORAM : MANISH PITALE, J.

DATE : 23rd FEBRUARY, 2024.

P. C. :

INTERIM APPLICATION NO. 2370 OF 2023

1. By this application, the defendant Nos. 1, 5 and 8 are seeking condonation of delay of 70 days in placing their written

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statement on record.

2. The prayer made in the said application is opposed on behalf of the plaintiff. In fact, reliance is also placed on an order dated 12th June, 2023, passed by this Court (*Coram : Kamal Khata, J.*) in Interim Application No. 1256 of 2023 in Suit No. 265 of 2022, whereby cost of Rs. 25,000/- was imposed on defendant Nos. 2, 6, 7, 9, 10 and 11, in the context of taking their written statement being on record.

3. This Court has considered the present application. The learned counsel for the applicants invited attention of this Court to paragraph No. 4 of the application, to contend that the reasons for delay are stated in the said paragraph. This Court has perused the same. It is stated that defendant Nos. 1 and 5 are residents of Ludhiana while defendant No. 8 is a resident of Mumbai. It is further stated that defendant Nos. 1 and 5 are senior citizens and that they were unable to travel due to health problems, resulting in delay in giving instructions and preparation of the written statement. It is further stated that the preparation of the written statement required perusal of bulky documents, also contributing to the delay in filing the written statement.

4. The statement regarding defendant Nos. 1 and 5 being residents of the Ludhiana is disputed on behalf of the plaintiff.

5. Despite the objection raised on behalf of the plaintiff, this Court is inclined to allow the present application, as sufficient cause is made out in paragraph No. 4 of the application for condonation of delay.

6. The order dated 12th June, 2023, passed in Interim Application No. 1256 of 2023 is distinguishable, for the reason that this Court imposed cost of Rs. 25,000/- in the said order, for the reason that the application sought recall of an order passed by the Prothonotary and Senior Master of this Court, whereby the suit as against defendant Nos. 2, 6, 7, 9, 10 and 11, was placed in the category of undefended Suits. No such order has been passed against the applicants (defendant Nos. 1, 5 and 8) in the present application.

6. For the reasons stated above, the application is allowed in terms of prayer clauses (a) and (b), which read as follows :

- “a) The Hon’ble Court be pleased allow this Application and delay of 70 days be please Condone.*
- b) The written statement of defendant Nos. 1, 5 and 8 be please taken on record.”*

7. Consequently, the written statement of defendant Nos. 1, 5 and 8 shall be taken on record.

8. As regards the other pending applications, the applicants are permitted to file their rejoinder affidavits within a period of one

week from today.

9. List all pending applications, for further consideration on 19th March, 2024, “High on Board.”

(MANISH PITALE, J.)