

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

***INTERIM APPLICATION NO. 850 OF 2024
IN
SUIT NO. 44 OF 2023***

Indusind Bank Limited ... Applicant

In the matter between

Sunita Sharma and Anr. ... Plaintiffs
V/s.

Indusind Bank Limited and Ors. ... Defendants

Ms. Rabia Thakur (through V.C.) with Mr. Pushkal Mishra, Mr. Chetan Mhatre and Mr. Ashutosh Shrivastav for the Applicant

Mr. Pushpvijay Kanoji i/b. Bhumika Chulani & Shariq Shaikh for the Respondent – Original Plaintiffs

CORAM : ABHAY AHUJA, J.

DATE : 21 NOVEMBER 2024

P.C. :-

This Interim Application has been filed by Defendant No.1 in the Suit seeking to set aside the order dated 19th December 2023, whereby the Suit against the Applicant has been transferred to the list of Undefended Suits and thereafter, to condone the delay of 270 days in filing the Vakalatnama and written statement and directions to allow the Defendant No.1 to file the written statement.

2. When the matter is called out, Mr. Kanoji, learned Counsel appears for the Plaintiffs and submits that although earlier objections were taken to the said application on the basis of reply filed, now that

the rejoinder has been filed, all the objections seem to have been complied with except that there has been a delay of almost nine months in filing the Interim Application and that therefore, this Court may allow the Interim Application subject to payment of costs to the Plaintiffs.

3. Upon a query from the Court to the learned Counsel appearing for the Defendants through video conferencing, the learned Counsel submits that reasonable costs may be imposed.

4. It is observed that the Suit has been filed against the Defendants for damages of Rs.76,47,10,595/- along with interest for loss of reputation, harassment, trauma and mental agony suffered by the Plaintiffs on account of initiation of enquiry of sexual harassment against Rajiv Biyala (now deceased), the brother of Plaintiff No.1 and the son of the Plaintiff No.2 and to quash such proceedings. The brother was an employee of Defendant No.1 – Bank. Mr. Mishra, learned Advocate for the Defendant No.1 – Bank has submitted that since the complaint was received, as a matter of procedure, POSH enquiry had been initiated against the brother and son of the Plaintiffs and that filing of written statement is important.

5. It has been submitted that the suit papers were received on 8th March 2023 and that the written statements were to be filed by 7th April 2023 as per Order VIII Rule 1 of the Code of Civil Procedure, 1908. That upon receiving the plaint, the same had been forwarded to the relevant team within a particular branch to procure necessary

information and documents related to the matter. This process required co-ordination with multiple branches and took a considerable amount of time. It has been submitted that since the matter involved an incident of sexual harassment during the COVID-19 pandemic, which occurred over four years ago, many personnel involved in the incident, including the complainant, had since left the organization and therefore, the process of collection of relevant information was complicated and time consuming. It is submitted that once the information was gathered, a final draft of the application and written statement along with Vakalatnama was prepared, signed, notarized and finally filed on 6th February 2024. It is submitted that the delay has neither being intentional nor deliberate and that in view of the no objection by the learned Counsel for the Plaintiffs, this Court condone the delay, subject to reasonable costs.

6. I have heard the learned Counsel for the parties and considered the submissions. Since there is no objection by the learned Counsel for the Plaintiffs to allow this application and also in view of what has been stated above, in view of the principles reiterated by this Court in the case of ***Vijay Krishnaji Sawant and Ors. v/s. Francis John Quinny and Ors.***¹, I am of the view that the delay be condoned, subject of course, to costs of Rs. 25,000/- for the delayed period to be paid by the Defendant No.1 to the Plaintiffs within a period of three weeks.

7. Subject to the payment of the above costs, the subject delay is hereby condoned and the Interim Application is allowed. The order

¹ IA(L) 22817 of 2024 in Suit No. 45 of 2020

dated 19th December 2023 of the Prothonotary and Senior Master, High Court, Original Side is set aside and the Registry to accept the written statement, subject to the aforesaid compliance.

JYOTI
PRAKASH
PAWAR

Digitally signed
by JYOTI
PRAKASH
PAWAR
Date: 2024.11.22
17:45:49 +0530

(*ABHAY AHUJA, J.*)