



Presented on : 21/02/2018
Registered on : 07/03/2018
Decided on : 29/02/2024
Duration : 06 Y 0 M 8 D

**IN THE COURT OF THE 5th ADDITIONAL JUDGE,
SMALL CAUSES COURT AND JOINT CIVIL JUDGE,
SENIOR DIVISION, PUNE.**
(PRESIDED OVER BY S. A. Bajaj)

REG.SUM. SUIT No.31/2018

CNR No.: MHPU02-001393-2018

EXH.No.29.

Sheetal Dattajirao Shinde

Age: 28 years , Occ.: Currently unemployed

R/at: P S. Terrace, E-Building, 1st Floor,

Sasane Nagar, Hadapsar, Pune

..Plaintiff

Versus

- 1. Indelible IT Solutions**
Having its Registered Address at
201, Sule Classic, BT Kawade Road,
Next to Bharat Petroleum, Ghorpadi,
Pune-411001.
- 2. Ankit Kumar Sinha**
Partner Indelible IT Solutions
Age: Adult, Occupation: Business
R/at: Cantt Staff Quarter, Ps-Ramgrah
Pune 829122

3. **Sagar Bhanudas Yadav**
Partner Indelible IT Solutions
Age: Adult, Occupation: Business
R/at: Mamawadi Mu. Malshiras,
Tal:- Purandar, Dist: Pune
Malshiras 42104
4. **Ashish Dhandar**
Partner Indelible IT Solutions
Age: Adult, Occupation: Business
R/at: Sr. No. 59/2B, Purandar Colony,
Near Purandar Medical, Klewadi,
Pune-411017
- ..Defendants

Ld. Advocate for the Plaintiff : C.A. Auti (Kathale)
Ld. Advocate for the Def. Nos.1 & 2: -----
Ld. Advocate for the Def. Nos.3 & 4: S.C. Kaduskar

JUDGMENT

(Delivered on the 29th day of February 2024)

This is a suit for recovery of Rs. 1,97,500/-.

01] **The plaintiff's case in short is that ;**

Defendant no.1 is registered partnership firm and other defendants are its partners, who deals in the business of software development and software solutions provider. She was appointed by defendants has business development manager sales and marketing at the yearly salary of Rs.5,10,000/-. She was under employment of defendants from 01/02/2017 to 30/09/2017. The defendants have paid her salary for the month of February, March and April 2017. Thereafter, the defendants have paid her only Rs.10,000/- as a part payment towards the outstanding salary. The defendants are evading and neglecting the outstanding

3] Jud. in Reg. Sum. Suit No.31/2018

payment to her, despite issuing notice to the defendants on 13/01/2018. Hence, she has filed this suit claiming outstanding amount of Rs.1,97,500/-. Lastly, she has prayed that suit may be decreed and the defendants may be directed to pay principal sum of Rs. 1,97,500/- and interest at the rate of Rs.24% on principal amount from the date of first salary due till filing of the suit and interest at the rate of Rs.24% from filing of the suit till actual realization be given to her.

02] The defendant no. 3 and 4 have appeared and filed application for leave to defend vide **Exh. 12** which came to be partly allowed subject to condition that they shall deposit amount of Rs.1,00,000/- within 15 days. But the defendants failed to comply the said order hence, the said order automatically vacated. Therefore, there is no participation of the defendants in this suit.

03] The points for determination along with my findings following the reasons are as under :

S.No.	Points	Findings
1	Whether the plaintiff is entitled to recover amount of Rs. 1,97,500/- from the defendant ?	Yes, from defendant nos. 1, 3 and 4.
2	What Order	Suit is partly decreed.

REASON

04] In order to prove her claim, the plaintiff Sheetal Dattajirao Shinde / Nanavati has given her evidence by way of an affidavit of evidence (**Exh.17**). Thereafter, closed her evidence by

filing pursis vide (**Exh.28**). The plaintiff has filed copy of letter of employment (**Exh.21**), Bank statement of I.C.I.C.I. Bank (**Exh.22**), Bank Statement of H.D.F.C. Bank (**Exh.23 and 24 respectively**), experience letter (**Exh.25**), copy of notice (**Exh. 26**) and returned notice envelopment as not claimed by defendant no.1 (**Exh.27**) in support of her claim. On the other hand the defendants have not lead evidence. Heard Learned Advocate for the plaintiff. Defendants remained absent hence, no argument on behalf of defendants. Perused the record.

AS TO POINT No. 1

05] It has come in the evidence of plaintiff Shital Shinde that defendant no. 1 is a registered LLP having the business of software development and provider of software solutions. She was appointed by defendant nos. 2 to 4 vide offer letter dated 27/01/2017 as business development manager sales and marketing in the said L.L.P. Her salary was fixed at Rs.5,10,000/- per year i.e. Rs.42,500/- per month. Accordingly, she has joined her duty as business development manager sales and marketing on 01/02/2017 with defendant no.1 and under employment of defendant nos. 2 to 4. She did her duty diligently, regularly and with utmost punctuality and with full devotion by doing manual job with her own hands in accordance with the well settled provisions of the law. The defendant has paid the salary of Rs.42,500/- per month to her for her job in the month of February, March and April 2017, some time by cash, by cheque and by bank transfer that to after regular follower by her.

06] After that defendants did not paid monthly salary to her from the month of May 2017 and when she asked for salary the defendants gave her false reasons and promised her to pay the salary in the next month. By consistent follow up, the defendants have paid Rs.10,000/- only once as a part of payment towards outstanding salary. Thereafter, defendants have not paid single paisa to her towards her salary. She requested defendants several times through personal meets, phone calls and messaging through whats app and text SMS that she is in need of money and want her five months salary. But, defendants did not paid any heed to her request and in fact promised her that they will pay all salary to her gave the reason of financial crunches of the L.L.P. She has attended her job regularly for which defendants have issued experience letter to her, when she got knowledge that defendants are cheating her by false promises and getting their work done by selfish motive, she has decided to leave her job with defendants. The defendants have not paid her salary for five months from May to September 2017 which comes to Rs.2,07,500/- and after deducting amount of Rs.10,000/- it comes to Rs.1,97,500/-. She has sent legal notice to defendants through her advocate on 13/01/2018 and thereby requested them to make the payment of the outstanding amount due against them. But the defendants refused to make the payment to her hence, she has filed this suit.

07] The evidence of the plaintiff is not challenged by the defendants as they have not conducted cross-examination of the plaintiff. On perusal of letter of appointment (**Exh. 21**) it shows

6] Jud. in Reg. Sum. Suit No.31/2018

that the plaintiff was appointed as business development manager sales and marketing in defendant no. 1 partnership firm from 27/01/2017 and her annual salary was fixed at Rs. 5,10,000/-. On perusal of letter (**Exh. 25**) issued by defendants, it shows that the plaintiff has worked with the defendant as business development manager from 01/02/2017 to 30/09/2017. On perusal of copy of notice (**Exh. 26**) it shows that the plaintiff demanded outstanding amount of Rs.1,97,500/- from the defendants. The defendants have not produced any evidence to show that the outstanding amount is paid to the plaintiff. The oral as well as documentary evidence produced by the plaintiff clearly shows that the plaintiff was under employment of defendants for the period 01/02/2017 to 30/09/2017 and the defendants have gave her salary only for three months and Rs.10,000/- as part payment for remaining five months.

08] It further shows that the defendants have not paid remaining outstanding salary of Rs.1,97,500/- to the plaintiff despite she issued notice to them. There is no reason to disbelieve the evidence of the plaintiff. On the other hand the defendant no. 3 and 4 have not paid amount of Rs.1,00,000/- as per the order passed on their application for leave to defend. Their conduct shows that they have no defence against the claim of the plaintiff therefore they have not paid the said amount as per the order of this court. In view of above discussion, the defendants have not paid outstanding salary of Rs. 1,97,500/- to the plaintiff. Record shows that the plaintiff has not served suit summons to defendant

7] Jud. in Reg. Sum. Suit No.31/2018

no. 1 and 2. Defendant no. 1 is represented by defendant no. 3 and 4 who have been appeared but no opportunity is given to defendant no. 2 as the plaintiff has not served suit summons on defendant no. 2. Therefore, the plaintiff is entitled to recover the said amount from defendant nos. 1, 3 and 4 hence, I answer point no. 1 accordingly.

As to Point no. 2 :

09] It is held that the plaintiff is entitled to recover an amount of Rs. 1,97,500/- from the defendant nos. 1, 3 and 4. The plaintiff has further claimed interest at the rate of Rs.24% but she has not produced any evidence regarding her claim of such interest therefore, she is not entitled to get interest as claimed by the plaintiff. However, it will just and proper to grant her future interest at the rate of Rs. 6% from the date of this order till its realization. She is also entitled to get costs of the suit from the defendant nos. 1, 3 and 4. The suit is liable to be dismissed against defendant no.2. Hence, the suit is liable to be partly decreed against defendant nos. 1, 3 and 4. In answer to point no. 2, I pass the following order.

ORDER

- 1] Suit is partly decreed with costs against defendant nos. 1, 3 and 4.
- 2] Defendant nos. 1, 3 and 4 shall pay an amount of Rs. 1,97,500/- to the plaintiff.

8] Jud. in Reg. Sum. Suit No.31/2018

- 3] Defendant nos. 1, 3 and 4 shall pay future interest at the rate of Rs. 6% on the amount of Rs.1,97,500/- to the plaintiff from the date of this order till satisfaction of entire decretal amount.
- 4] Suit is dismissed against defendant no. 2.
- 5] Decree be drawn up accordingly.

Sd/-

Place : Pune.

Date : 29/02/2024

(S. A. Bajaj)

5th Addl. Judge, Small Causes Court
and Jt.C.J.S.D. Pune.

9] Jud. in Reg. Sum. Suit No.31/2018

CERTIFICATE

I affirm that the contents of this PDF file order are same word for word as per original order.

Name of Steno	:	Vishal Khirid, Stenographer [Grade-II]
Court Name	:	S. A. Bajaj 5 th Addl. Judge, Small Causes Court and Jt. C.J.S.D.Pune.
Order date	:	29/02/2024
Order signed by Presiding Officer on	:	29/02/2024
Order uploaded on	:	29/02/2024