

*rrpillai*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
COMMERCIAL SUIT NO. 3 OF 2026  
WITH  
INTERIM APPLICATION NO. 227 OF 2026**

Habib Esmail Memorial Trust ... Plaintiff / Applicant

Vs.

Shoreline Hotels Private Limited ... Defendant

**WITH  
INTERIM APPLICATION NO. 5550 OF 2025  
IN  
COMMERCIAL SUIT NO. 3 OF 2026**

Shoreline Hotels Private Limited ... Applicant

**In the matter between**

Habib Esmail Memorial Trust ... Plaintiff

Vs.

Shoreline Hotels Private Limited ... Defendant

Mr. Aseem Naphade a/w. Shaista Pathan and Mr. Dev Mistry  
i/b. YNA Legal LLP for the Plaintiffs

Mr. Rohaan Cama a/w. Ms. Bhakti Mehta and Ms. Letishiya  
Chaturvedi i/b. Wadia Ghandy & Co. for the Defendants.

**CORAM : GAURI GODSE, J.**

**DATE : 30<sup>th</sup> MARCH 2026**

**ORDER :**

1. Pursuant to the last order dated 9<sup>th</sup> March 2026 the report dated 26<sup>th</sup> March 2026 by the learned Assistant and

Prothonotary (Judicial) is placed on record through the learned Prothonotary and Senior Master. The report states that the registry had not accepted the original plaint, however on search it was found that the original plaint was kept by the learned advocate for the plaintiff in the tray kept at the suit board department. The original plaint is placed before me by the registry.

2. It appears that the plaint is amended on 3<sup>rd</sup> July 2025 pursuant to order dated 8<sup>th</sup> May 2025 and it is reverified before the notary.

3. As per Rule 152 of Chapter XI of the Bombay High Court (Original Side) Rules any amendment made pursuant to an order shall be attested by the Prothonotary and Senior Master or the Master and Assistant Master Prothonotary or any one of the Assistant Master or Associates. The original plaint is not endorsed as contemplated under Rule 152.

4. Learned counsel for the plaintiff submits that the amended plaint is e-filed through e-filing portal on 8<sup>th</sup> July 2025.

5. I have perused the original plaint with the amendments.

The plaintiff has carried out amendment for adding documents and the supporting pleadings based on order dated 8<sup>th</sup> May 2025. By order dated 8<sup>th</sup> May 2025 the plaintiff was permitted to amend the plaint in view of the objection about maintainability of the suit and on the ground that suit is concerned with commercial cause.

6. According to the learned counsel for the plaintiff since the plaintiff had requested to amend the plaint appropriately and the court had granted liberty to carry out amendment and also all consequential amendments, the plaint was amended and plaintiff's documents were added. He submits since the plaintiff is required to file all the documents in possession and power of the plaintiff at the filing of the suit, amendment was carried out to convert the suit into commercial suit and all the documents were also added.

7. Learned counsel for the defendant submits that two different set of plaints are served upon the defendant containing different prayers. Learned counsel for the plaintiff submits that inadvertently copy of the plaint that was filed in the court was not served upon defendant. He submits that since there was a change in the prayer clause, a fresh copy

of the plaint was affirmed and the same was filed. However, inadvertently the first version of the plaint which was not filed was served upon the defendant. However, after amendment was carried out as per order dated 8<sup>th</sup> May 2025, the correct amended plaint as filed in the court was served upon defendant.

8. I have perused the order dated 8<sup>th</sup> May 2025. In my view order does not permit plaintiff to add any documents and carryout any amendment to add pleadings. Even otherwise, the amended plaint is not endorsed as required under Rule 152.

9. Learned Prothonotary and Senior Master shall make necessary inquiry and file appropriate report as to why the original plaint was maintained and preserved in the suit board department and the filing of the amended plaint through e-filing portal was accepted without the endorsement as required under Rule 152.

10. Stand over to 21<sup>st</sup> April 2026.

**[GAURI GODSE, J.]**