

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Bhandary v. Ghatak

Bhandary v. Ghatak · No. 25-cv-04464-BLF · Decided June 23, 2025

OPINION

Bhandary v. Ghatak

PER CURIAM.

1 2

3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 SAN JOSE DIVISION

6 7 SAMITA BHANDARY, Case No. 25-cv-04464-BLF 8 Plaintiff, ORDER SCREENING
COMPLAINT;

DISMISSING COMPLAINT WITHOUT

9 v. LEAVE TO AMEND; AND

TERMINATING MOTION FOR

10 AGRADOOT GHATAK, et al., PRELIMINARY INJUNCTION AS
MOOT

11 Defendants. [Re: ECF No. 1, 12] 12 13 On May 29, 2025, the Court granted pro se Plaintiff
Samita Bhandary's ("Plaintiff") 14 application to proceed in forma pauperis. However, after
screening the complaint as required under 15 28 U.S.C. § 1915, the Court finds that the complaint
is subject to dismissal for failure to state a 16 claim giving rise to federal subject matter
jurisdiction. Accordingly, the Court DISMISSES this 17 matter WITHOUT LEAVE TO AMEND.
The Court TERMINATES Plaintiff's Motion for 18 Preliminary Injunction at ECF 12 AS MOOT.
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I. BACKGROUND

20 Plaintiff filed this pro se action against Defendants Agradoot Ghatak, Klearnow Corp., 21
Asvin Srivatsangam, Sandra Vindiola, Madan Ahluwalia, and Judge Stuart Scott ("Judge Scott")
in 22 his official capacity (collectively, "Defendants"). See ECF 1 ("Compl."). Plaintiff is the
former 23 spouse of Defendant Agradoot Ghatak ("Ghatak"). ECF 1 ¶ 6. Plaintiff entered the U.S.
under a 24 dependent H-4 visa that is tied to Ghatak's H-1B status. ECF 2-1 at 4. On August 29,
2024, Plaintiff 25 and Ghatak ended their marital status. ECF 1 at 166. On September 18, 2024,
the Superior Court of 26 California, County of Santa Clara entered a divorce judgment in
Bhandary v. Ghatak (Case No. 27 22FL000012) ("State Court Action"). See id. at 166-67. Plaintiff
alleges that Defendants "carried 1 out a multi-year campaign of coercive control, legal

manipulation, and surveillance to deprive 2 Plaintiff of her parental rights, immigration status, property, and liberty.” Compl. ¶ 20. In the 3 Complaint, Plaintiff asserts the following claims: 1) Violation of Civil Rights under 42 U.S.C. § 4 1983; 2) Conspiracy to Violate Civil Rights under 42 U.S.C. § 1985; 3) Fraud Upon the Court; 4) 5 Obstruction of Justice; 5) Declaratory and Injunctive Relief under 28 U.S.C. §§ 2201-02; and 6) 6 Fraudulent Concealment and Intentional Infliction of Financial Harm. See Compl. at 15-18. 7 On May 27, 2025, Plaintiff filed a motion for a temporary restraining order to enjoin 8 Defendant Agradoot Ghatak, his agents, and any officers of the Santa Clara County Superior Court 9 from enforcing the divorce judgment entered on or about “September 18, 2025” [sic], in Bhandary 10 v. Ghatak (Case No. 22FL000012) (“State Court Action”). See Motion for a Temporary Restraining 11 Order, ECF 2 at 9; ECF 2-1 at 3. On May 29, 2025, the Court denied Plaintiff’s Motion for a 12 Temporary Restraining Order without prejudice to filing a noticed motion for a preliminary 13 injunction. ECF 9 at 4. On June 16, 2025, Plaintiff filed a motion for a preliminary injunction. ECF 14 12.

15 II. LEGAL STANDARD

16 Plaintiff’s application to proceed in forma pauperis is governed by 28 U.S.C. § 1915, which 17 provides in relevant part that “any court of the United States may authorize the commencement, 18 prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without 19 prepayment of fees . . . by a person who submits an affidavit . . . that the person is unable to pay 20 such fees[.]” 28 U.S.C. § 1915(a). 21 When a district court grants in forma pauperis status, the court must screen the complaint 22 and dismiss the action if it “is frivolous or malicious,” “fails to state a claim on which relief may be 23 granted,” or “seeks monetary relief against a defendant who is immune from relief.” 28 U.S.C. § 24 1915(e)(2)(B); see also *Lopez v. Smith*, 203 F.3d 1122, 1126-27 & n.7 (9th Cir. 2000) (screening 25 requirement of § 1915(e) applies to all in forma pauperis complaints). 26 If the complaint survives the initial screening, the court must “order that service be made by 27 a United States marshal or deputy marshal or by a person specially appointed by the court.” Fed. R. 1 process, and perform all duties in such cases.”).

2 III. DISCUSSION

3 On the face of the complaint, the potential basis for federal subject matter jurisdiction is 4 federal question jurisdiction arising from Plaintiff’s § 1983 claim (Claim 1), § 1985 claim (Claim 5 2), and a claim seeking declaratory and injunctive relief under 28 U.S.C. §§ 2201-02 (Claim 5). 6 Plaintiff’s complaint does not allege any facts suggesting the existence of diversity jurisdiction. The 7 Court analyzes Plaintiff’s claims in turn. 8 A. Claim 1: Violation of 42 U.S.C. § 1983 9 As to Claim 1, Plaintiff alleges that Defendants deprived her of constitutional rights 10 including: “the right to due process of law” under the Fifth and Fourteenth Amendment, “the right 11 to access the courts,” and “the right to equal protection.” Compl. at 15. Plaintiff alleges that she was 12 improperly designated as a “vexatious litigant.” *Id.* As to her claims against Judge Scott, Plaintiff 13 alleges that “Judge Scott issued rulings that infringed upon Plaintiffs legal, parental,

and 14 constitutional rights by failing to adequately address evidence of misconduct and due process 15 violations.” Compl. ¶ 13. 16 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege: (1) that a right secured by 17 the Constitution or laws of the United States was violated, and (2) that the alleged violation was 18 committed by a person acting under the color of state law. *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 19 U.S. 40, 49–50 (1999). “[T]he under-color-of-state-law element of § 1983 excludes from its reach 20 merely private conduct, no matter how discriminatory or wrongful.” *Id.* at 50 (internal quotation 21 omitted). There are four tests to determine whether private entities or individuals qualify as state 22 actors: “(1) public function; (2) joint action; (3) governmental compulsion or coercion; and (4) 23 governmental nexus.” *Pasadena Republican Club v. W. Just. Ctr.*, 985 F.3d 1161, 1167 (9th Cir. 24 2021). 25 Here, Plaintiff cannot bring claims under § 1983 against Defendants Agradoot Ghatak, 26 Klearnow Corp., Asvin Srivatsangam, Sandra Vindiola, and Madan Ahluwalia because those 27 defendants are private persons, not state actors. See *Perryman v. Schwarzenegger*, No. C 06 4197 1 how wrongful, is not covered under § 1983.”). 2 Plaintiff’s § 1983 claim against Judge Scott in his official capacity is also barred for 3 additional reasons. To the extent that Plaintiff seeks damages for acts performed in his judicial 4 capacity, Plaintiff’s claim is barred by judicial immunity. *Jernigan v. Superior Ct. of State of 5 California for Cnty. of Santa Clara*, No. C03-2530WHA(PR), 2003 WL 21640489, at *2 (N.D. Cal.

6 July 7, 2003) (“State judges are absolutely immune from civil liability for damages for acts 7 performed in his judicial capacity.”). To the extent Plaintiff seeks injunctive relief against Judge 8 Scott, Compl. ¶ 13, § 1983 provides that “in any action brought against a judicial officer for an act 9 or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a 10 declaratory decree was violated or declaratory relief was unavailable.” 42 U.S.C. § 1983. Here, 11 Plaintiff does not allege that her § 1983 is based on a declaratory decree or allege that declaratory 12 relief was not available. *Miroyan v. Manley*, No. 16-CV-00958-JCS (PR), 2016 WL 2606727, at *2 13 (N.D. Cal. May 6, 2016) (dismissing § 1983 claim because “there anything in the complaint to 14 support an inference, that a declaratory decree was violated, or that declaratory relief was 15 unavailable.”). 16 For the above reasons, the Court DISMISSES Plaintiff’s Claim 1. 17 B. Claim 2: Violation of 42 U.S.C. § 1985 18 As to Claim 2, Plaintiff alleges that Defendants deprived Plaintiff of her civil rights “through 19 a pattern of coordinated actions.” Compl. at 16. Plaintiff alleges that Defendants took actions to 20 “silence, punish, and disenfranchise Plaintiff.” *Id.* 21 § 1985(3) prohibits a conspiracy between two or more persons “for the purpose of depriving, 22 either directly or indirectly, any person or class of persons of the equal protection of the laws.” 42 23 U.S.C. § 1985(3). To state a claim under 42 U.S.C. § 1985(3), a plaintiff must allege: “(1) a 24 conspiracy; (2) for the purpose of depriving, either directly or indirectly, any person or class of 25 persons of the equal protection of the laws, or of equal privileges and immunities under the laws; 26 and (3) an act in furtherance of this conspiracy; (4) whereby a person is either injured in his person 27 or property or deprived of any right or

privilege of a citizen of the United States. *Sever v. Alaska* 1 a state actor, § 1985(3) requires at least one of the wrongdoers in the alleged conspiracy to be a state 2 actor.” *Pasadena Republican Club v. W. J. Ctr.*, 985 F.3d 1161, 1171 (9th Cir. 2021). 3 The Court finds that Plaintiff has failed to adequately plead her § 1985 claim. Plaintiff has 4 failed to allege a conspiracy by a state actor. The only conspiracy alleged by Plaintiff in her 5 complaint is that “Defendant Ghatak, in concert with Defendant Asvin Srivatsangam, jointly 6 concealed a prepared but unfiled wrongful termination lawsuit against Klearnow.” Compl. ¶ 24. As 7 discussed above, Defendants Agradoot Ghatak, Klearnow Corp. and Asvin Srivatsangam are private 8 persons, not state actors. See *Perryman*, No. C 06 4197 JSW(PR), 2007 WL 105532, at *1. Plaintiff 9 does not allege Judge Scott participated in the alleged conspiracy. Compl. ¶ 29. Plaintiff has not 10 alleged any facts in Claim 2 to support that Judge Scott was part of conspiracy. See Compl. at 16. 11 Accordingly, the Court DISMISSES Plaintiff’s Claim 2. 12 C. Claim 5: Declaratory Judgment and Injunctive Relief under 28 U.S.C. §§ 2201-02 13 As to Claim 5, Plaintiff seeks prospective declaratory and injunctive relief to 1) “prevent 14 continued reliance on or enforcement of unlawful family court orders” in *Bhandary v. Ghatak* (Case

15 No. 22FL000012) 2) “restore her constitutional rights and access to the courts;” and 3) “protect her

16 foreign property, legal standing, and immigration status from irreparable harm.” Compl. at 17. 17 The Court finds that abstention is appropriate under *Younger v. Harris*, 401 U.S. 37 18 (1971). *Younger* abstention arises out of the federal statute regarding a federal court’s ability to 19 enjoin state court proceedings. *Younger*, 401 U.S. at 43. In addition, the principle of “Our 20 Federalism” requires that “the National Government, anxious though it may be to vindicate and 21 protect federal rights and federal interests, always endeavors to do so in ways that will not unduly 22 interfere with the legitimate activities of the states.” *Id.* at 44. The Supreme Court extended *Younger* 23 to declaratory judgments that have “the same practical effect on a state court proceeding as an 24 injunction.” *Samuels v. Mackell*, 401 U.S. 66, 72 (1971). The Supreme Court further extended 25 *Younger* to state proceedings when important state interests are involved. *Middlesex Cty. Ethics 26 Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432 (1982). The Ninth Circuit, using the test 27 from *Middlesex*, has defined four factors that must be met for *Younger* abstention to apply: “(1) 1 there is an adequate opportunity in the state proceedings to raise constitutional challenges; and (4) 2 the requested relief seeks to enjoin or has the practical effect of enjoining the ongoing state judicial 3 proceeding.” *Arevalo v. Hennessy*, 882 F.3d 763, 765 (9th Cir. 2018). The Ninth Circuit has held 4 that “*Younger* principles apply to actions at law as well as for injunctive or declaratory relief because 5 a determination that the federal plaintiff’s constitutional rights have been violated would have the 6 same practical effect as a declaration or injunction on pending state proceedings.” *Gilbertson v. 7 Albright*, 381 F.3d 965, 968 (9th Cir. 2004). 8 As to the first factor, the Court finds the state court divorce proceeding is ongoing, with a 9 hearing for Plaintiff’s Motion to Compel Court Process and Restore Access to Judicial Relief 10

currently set on October 28, 2025. See ECF 1 at 22. As to the second factor, the State Court Action 11 implicates important state interests. The determination of the status of the domestic relationship, 12 including divorce, is a matter of state law. See *Ankenbrandt v. Richards*, 504 U.S. 689, 706, 112 S.

13 Ct. 2206, 2216, 119 L. Ed. 2d 468 (1992); *Thompson v. Thompson*, 798 F.2d 1547, 1558 (9th Cir.

14 1986), *aff'd*, 484 U.S. 174, 108 S. Ct. 513, 98 L. Ed. 2d 512 (1988) (“[F]ederal courts decline to 15 hear disputes which would deeply involve them in adjudicating domestic matters.”). Additionally, 16 the State Court designated Plaintiff as a vexatious litigant and placed Plaintiff on a statewide 17 vexatious litigant list. See ECF 1 at 30, 50. As to the third factor, Plaintiff has the opportunity to 18 raise the constitutional challenges in the State Court. Indeed, Plaintiff has presented constitutional 19 challenges in State Court. See ECF 1 at 104. As to the fourth factor, the Court finds that granting 20 the declaratory or injunctive relief sought by Plaintiff in this action would have the effect to enjoin 21 the State Court Action and would interfere with the State Court Action in a way that Younger 22 disapproves. 23 Accordingly, the Court finds that the requirements for Younger abstention are met, and the 24 Court **DISMISSES** Plaintiff’s Claim 5. 25 D. Remaining Claims 26 Absent a viable federal claim, the Court declines to exercise supplemental jurisdiction over 27 Plaintiff’s state law claims. “A district court ‘may decline to exercise supplemental jurisdiction’ if 1 625 F.3d 550, 561 (9th Cir. 2010) (quoting 28 U.S.C. § 1367(c)(3)). Accordingly, the entire 2 || complaint is **DISMISSED**. The Court **TERMINATES** Plaintiff’s Motion for Preliminary Injunction 3 || at ECF 12 AS MOOT. 4 E. Leave to Amend 5 In deciding whether to grant leave to amend, the Court must consider the factors set forth by 6 the Supreme Court in *Foman v. Davis*, 371 U.S. 178 (1962), and discussed at length by the Ninth 7 Circuit in *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048 (9th Cir. 2009). A district court 8 || ordinarily must grant leave to amend unless one or more of the Foman factors is present: (1) undue 9 delay, (2) bad faith or dilatory motive, (3) repeated failure to cure deficiencies by amendment, (4) 10 || undue prejudice to the opposing party, or (5) futility of amendment. *Eminence Capital*, 316 F.3d at 11 1052. “[I]t is the consideration of prejudice to the opposing party that carries the greatest 12 || weight.” *Jd.* However, a strong showing with respect to one of the other factors may warrant denial 5 13 of leave to amend. *Jd.* 14 Here, Plaintiff has failed to allege that her Claims under § 1983 and § 1985 involve state 3 15 actors. Younger abstention also applies to Plaintiff’s claim for declaratory judgment and injunctive a 16 relief under 28 U.S.C. §§ 2201-02. The Court finds that further amendment would be futile. 3 17 || Accordingly, Plaintiffs Complaint is **DISMISSED WITHOUT LEAVE TO AMEND**. The state law 18 claims are dismissed without prejudice to filing in state court.

19 || **IV. ORDER**

20 For the foregoing reasons, **IT IS HEREBY ORDERED** that: 21 (1) Pursuant to the initial screening required under 28 U.S.C. § 1915, the complaint is 22 **DISMISSED WITHOUT LEAVE**

TO AMEND for failure to state a claim. 23 (2) The Court TERMINATES Plaintiff's Motion for Preliminary Injunction at ECF 12 AS 24 MOOT. 25 (3) The Clerk SHALL close the file. 26
Dated: June 23, 2025 Pow afaccan
TH LABSON FREEMAN
28 United States District Judge