



A.No.3807 of 2023 in C.S. No.258 of 2020

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ABDUL QUDDHOSE, J.

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1.M.R.Vidhyasagar

2.Datasolve Analytics Pvt. Ltd.,
represented by its Director
M.R.Vidhyasagar

.. Applicants/defendants

VS

E-merge Tech Global Services P. Ltd.,
represented by its Authorised Signatory
R.Venkatesh

.. Respondent/plaintiff

This application has been filed seeking to condone the delay of 462 days in filing an application to set aside the exparte decree dated 15.12.2021.

2.The applicants are the defendants in the suit in C.S. No.258 of 2020. The respondent is the plaintiff in the said suit.

3.The suit was filed for permanent injunction as well as for damages.

4.According to the respondent/plaintiff, certain confidential information of the respondent/plaintiff were stolen by the first applicant/



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first defendant while the first applicant/first defendant had resigned from the respondent/plaintiff. The respondent/plaintiff has filed various documents, which are marked as Exhibits.

5.This Court, by its judgment and decree dated 15.12.2021 passed in C.S. No.258 of 2020, decreed the suit in favour of the respondent/plaintiff by issuing the following directions:

a)The applicants/defendants were directed to pay a sum of Rs.96,51,264/- to the respondent/plaintiff towards damages along with interest at the rate of 9% per annum from the date of presentation of the plaint till the date of realisation;

b)The applicants/defendants were restrained by a decree of perpetual injunction, from acting in any manner which could divulge and/or enable others to divulge the respondent's/plaintiff's confidential information, which are described in Schedule-B of the Plaint;

c)The applicants/defendants were restrained, by a decree of perpetual injunction, from acting on their behalf from directly or indirectly soliciting



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business from PI Healthcare Holdings Limited and any of the customers/
clients of the respondent/plaintiff;

d)The applicants/defendants were directed to disclose in an affidavit the confidential information/data and trade secrets and any other such details pertaining to the operation of the respondent's/plaintiff's companies that are in the possession of the applicants/defendants, which belong to the respondent/plaintiff and to return all such confidential information/data that are in possession of the applicants/defendants to the respondent/plaintiff and to consequently return all the confidential information/data, trade secrets and other such details in whatever form that are stored by the applicants/defendants, back to the respondent/plaintiff;

e)Costs of Rs.2,50,000/- was also imposed on the applicants/defendants, which was payable to the respondent/plaintiff.

6.The applicants/defendants have stated in the affidavit filed in support of this application that they have not received the suit summons. It is also the case of the applicants/defendants that the suit summons was not



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served on the first applicant/first defendant in his house address despite the fact that the respondent/plaintiff knows the house address of the first applicant/first defendant. It is also contended that only through substituted service that too, by effecting paper publication in a vernacular daily which does not have wide circulation and due to the non appearance of the applicants/ defendants, this Court had set them exparte and had passed an exparte decree. It is also contended by the applicants/defendants that only due to Covid-19 pandemic lock down, the office of the second applicant/second defendant was kept locked and only due to the said reason, the suit summons sent earlier by the respondent/plaintiff on the second applicant/ second defendant was returned with an endorsement 'door locked'.

7.As seen from the counter affidavit filed by the respondent/plaintiff, it is seen that the service of the suit summons to the address of the second applicant/second defendant is correct. Being a Managing Director of the second applicant/second defendant, the first applicant/first defendant is well aware of the suit proceedings. It is also the contention of the respondent/plaintiff as seen from the counter affidavit that only after the suit summons



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were returned 'unserved' on both the applicants/defendants with the endorsement 'door locked', this Court had permitted the respondent/plaintiff to effect substituted service on the applicants/defendants and accordingly, substituted service was also effected in terms of this Court's directions and only thereafter, the applicants/defendants were set exparte by this Court. According to them, no sufficient cause has been shown by the applicants/defendants to condone the delay in filing an application to set aside the exparte decree. It is also their case that even on merits, the applicants/defendants did not have any merit to defend.

8.This Court has also perused and examined the judgment and decree dated 15.12.2021 passed in C.S. No.258 of 2020. The reliefs granted by this Court in the said judgment and decree in favour of the respondent/plaintiff have also been extracted earlier. The respondent/plaintiff has filed 53 documents, which were marked as Exs.P1 to P53. The learned Judge, while passing the judgment and decree, has considered those documents and only thereafter, passed an exparte decree dated 15.12.2021 in C.S. No.258 of 2020 granting reliefs to the respondent/plaintiff.



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9.It is also brought to the notice of this Court by the learned counsel for the respondent/plaintiff that an Execution Petition has also been filed to execute the judgment and decree dated 15.12.2021 passed in C.S. No.258 of 2020. At this stage, this application has been filed by the applicants/defendants seeking to condone the delay of 462 days in filing an application to set aside the exparte decree dated 15.12.2021 passed in C.S. No.258 of 2020.

10.Though the learned counsel for the applicants/defendants would submit that the suit claim does not deserve any merit, this Court is of the considered view that the applicants/defendants will have to be put on terms for allowing this application in view of the fact that the learned Judge while decreeing the suit in favour of the respondent/plaintiff through the exparte decree dated 15.12.2021 passed in C.S. No.258 of 2020 has considered the documents filed by the respondent/plaintiff which have been marked as Exs.P1 to P53 as well as the pleadings of the respondent/plaintiff and only thereafter, has passed an exparte decree by giving a categorical finding that the applicants/defendants had stolen the confidential information of the respondent/plaintiff at the time of resignation of the first applicant/first



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defendant from the service of the respondent/plaintiff.

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11.After giving due consideration to the aforementioned factors, this Court is inclined to allow this application subject to the condition that the applicants/ defendants deposit to the credit of the suit a sum of Rs.10,00,000/- on or before 31.10.2023.

12.This application seeking to condone the delay of 462 days in filing the application to set aside the exparte decree passed in C.S. No.258 of 2020 is allowed on condition that the applicants/defendants deposit to the credit of the suit a sum of Rs.10,00,000/- on or before 31.10.2023, failing which this application shall stand automatically dismissed.

13.Registry is directed to number the application filed to set aside the exparte decree dated 15.12.2021, once proof has been produced by the applicants/defendants that they have deposited to the credit of the suit a sum of Rs.10,00,000/- on or before 31.10.2023 and list the same for hearing thereafter.



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14.Learned counsel for the respondent/plaintiff has also not raised any serious objection if such a condition is imposed by this Court.

vga

04.10.2023

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