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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CM(M) 107/2016

M/S ALTECH TECHNOLOGIES PVT LTD

..... Petitioner

Through Mr. Praveen, Adv.

versus

ASHOK KUMAR BATRA

..... Respondent

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **02.02.2016**

CM(M) 107/2016 & C.M. No.3832/2016 & C.M. No.3833/2016

The petitioner before this Court is the defendant in the Trial Court.

He is aggrieved by the order dated 24.08.2015 vide which application seeking setting of an ex-parte order dated 06.06.2014 in terms of his application under Order 9 Rule 7 of the CPC had been declined.

The plaintiff had filed the present suit for recovery of Rs.4,23,800/-. The defendant was served. Learned counsel for the defendant filed his vakalatnama in Court on 21.03.2014. Matter was adjourned to 17.05.2015. Matter was re-adjourned to 06.06.2014 on which date none had appeared for the defendant. He was proceeded ex-parte on 06.06.2014. Matter was adjourned to 17.07.2014. On 17.07.2014, the counsel for the defendant appeared. He thus became fully aware of the order dated 06.06.2014. Matter was adjourned to 19.11.2014. The contention of the defendant/petitioner before this Court is that the file was inspected by him only on 22.09.2014 when he learnt about the fate of his case that he had proceeded ex-parte. He had moved

an application under Order 9 Rule 7 of the CPC on 13.10.2014. The Court had noted the inordinate delay in filing the application seeking setting aside of the ex-parte order dated 06.06.2014 and even presuming that the file had been inspected on 22.09.2014 yet the application having been filed more than three weeks after that date i.e. 13.10.2014 without any justifiable reason did not entitle the defendant/petitioner to any further indulgence and the application was accordingly dismissed.

Even before this Court, the submissions made are lackadaisical. Dates are not clear. Admittedly the defendant/petitioner had been proceeded ex-parte on 06.06.2014. He had appeared on the following date i.e. 17.07.2014 and his submission that he did not know about the fate of his case and as to what had transpired on 06.06.2014 is absolutely impossible to believe and presuming that he did not know the fate of his case on 06.06.2014, inspite of his appearance on 17.07.2014, it is a fit case where the Court should presume that the defendant and his counsel were wholly negligent. That apart the admission of the petitioner that he had inspected the record on 22.09.2014 and having filed the present application after three weeks again shows laxity on his part. The Courts cannot wait endlessly for the matter to culminate.

In this background, the impugned order suffers from no infirmity. Petition is without any merit. Dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

FEBRUARY 02, 2016

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