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2] The suit came to be initiated against the Applicant-Defendant for recovery of an amount of Rs 11,98,920.22. Applicant has admitted that the suit summons was served on the Applicant. However, clerk of the Applicant-Firm since was not aware about contents therein, has not intimated the concerned authorized person of the Applicant-Firm. The suit came to be initiated sometime on 31/08/2015. The representative of the Applicant appeared on 27/07/2016 and raised an oral objection as is reflected in the record. However, no written objection was placed on record.

3] Thereafter, on 13/10/2016, time was sought by the Applicant to move the Notice of Motion for setting aside the ex-parte order and accordingly time was allowed, subject to payment of costs of Rs 5,000/- on or before the next date.

4] I am informed that the present Applicant-Defendant has already paid the costs on 19/12/2016 and was permitted to file vakalatnama.

5] The Notice of Motion for setting aside the ex-parte order came to

be moved on 26/07/2017 being Notice of Motion No.2809 of 2017. It is this Notice of Motion which came to be rejected by the impugned order.

6] The submissions are, the order impugned is based on misplaced consideration of position of law and also facts. According to the learned Counsel for the Applicant, once the appearance was marked on record through the representative on 27/07/2016, thereafter time was granted on 13/10/2016 for moving the Notice of Motion for setting aside the ex-arte order, which was allowed subject to payment of costs of Rs 5,000/-. Present Notice of Motion was taken out on 26/07/2017, is sufficient to demonstrate bonafides in support of the claim for setting aside the order whereby Applicant-Defendant was proceeded ex-parte. As such, according to the learned Counsel for the Applicant, the order impugned is liable to be quashed and set aside and the Applicant be granted liberty to defend the suit by setting aside the ex-parte order.

7] The learned Counsel for the Respondent-Plaintiff supports the order impugned.

8] The suit in question is a summary suit required to be conducted in accordance with procedure provided under Order 37 of the C.P.C.

9] From the copy of the roznama produced by the learned Counsel for the Applicant-Defendant, it can be inferred that on 27/07/2016, after the summons was served on the Applicant-Defendant, one Mr. Vivash Bose, claiming to be the representative of the Applicant, appeared and tried to raise some oral objection that too without placing on record any authorization or any written objection. It is worth to clarify here that the suit summons was duly served on the Applicant-Defendant on 06/10/2015 and there is no convincing reason as to why the Applicant-Defendant remained absent from the date of service of summons i.e. 06/10/2015 till the date of alleged appearance of Mr. Bose on 27/07/2016 i.e. almost eight months.

10] It is further required to be noted that the time was sought on 13/10/2016 with a prayer for permission to move the Notice of Motion for setting aside the ex-parte order, which was granted on the very same day, subject to payment of costs which was paid by the

Applicant-Defendant on 19/12/2016 and the appearance was given. As such, Applicant delayed the suit proceeding.

11] The Applicant-Defendant thereafter remained silent almost on four dates and on 26/07/2017, Notice of Motion came to be moved for setting aside the ex-parte order i.e. almost after a period of more than 17 months from the 1st date.

12] I have perused the pleadings of the Applicant-Defendant and Notice of Motion for setting aside the ex-parte order.

13] No convincing reason is coming forward as to why the Applicant-Defendant remained absent from 06/10/2015 till filing of vakalatnama on 19/12/2016 and as to why further time on four dates i.e. for almost seven months was taken for moving the Notice of Motion for setting aside the ex-parte order.

14] Considering the nature of claim proceeding, this court has called upon the to the Applicant-Defendant to demonstrate its bonafides by depositing an amount of Rs 12 lakhs i.e. principal claim made in the

suit to which Applicant-Defendant is not in agreement with and seeks further time of two weeks.

15] In the aforesaid background, as the Applicant-Defendant has failed to demonstrate its bonafides, it can be inferred from the record that the Applicant-Defendant with obvious reasons is trying to prolong the proceedings which are summary in nature. No interference is therefore warranted in the impugned order. Revision Application fails and the same is dismissed. In view of dismissal of Revision Application, Civil Application taken out therein does not survive and the same is also disposed of.

16] After order of dismissal of the Revision Application was dictated in the open Court, on instructions of Applicant-Defendant, a statement was made that the Applicant-Defendant is ready and willing to deposit Rs. 12 lakhs in this Court within a period of two weeks. The learned Counsel for the Applicant as such, was called upon by this Court to furnish an undertaking.

17] When the matter is called out at 3.00 p.m.i.e. in second session, the

learned counsel for the Applicant-Defendant submits that instructions could not be received.

18] In view of above, order of dismissal of the Revision Application stands maintained.

(NITIN W. SAMBRE, J.)