

A.No.9115 of 2019
in C.S.No.163 of 2018

Dr.G.Jayachandran, J.

Heard the learned counsel for the applicant/defendant.

2. This application is taken out to set aside the *ex parte* decree passed by this Court on 11.10.2018 in the matter arising from the suit filed for injunction restraining the defendant from using deceptively similar character of the plaintiff's trade mark.

3. The contention of the learned counsel for the applicant is that, the applicant is the resident of Taiwan. The suit summon was not served on them. Based on the private notice served on the defendant in the interlocutory application has deemed it as completed service and set the defendant *ex parte* on 18.09.2018. Thereafter on 11.10.2018, *ex parte* decree was passed. Only after showing the paper advertisement placed by the plaintiff, the defendant has come to know about the suit filed by the plaintiff and *ex parte* decree was passed in it.

4. Verification of the Court records substantiates the submission made

by the applicant, therefore, this Court in order to provide an opportunity to the applicant/defendant the *ex parte* decree passed on 11.10.2018, is set aside.

5. The learned appearing for the respondent/plaintiff submits that till the disposal of the suit by setting aside the decree, the interim relief enjoyed by the plaintiff should not be disturbed.

6. Considering the submission and the balance of convenience involved in this case, the request of the learned counsel for the plaintiff is accepted. While setting aside the decree passed by this Court on 11.10.2019, consequently, the suit is restored on file. The interim order granted by this Court shall continue till 15.02.2020. Meanwhile the defendant shall file the Written Statement.

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