

A.No.8329 of 2019
in C.S.No.218 of 2018

SENTHILKUMAR RAMAMOORTHY, J.

This application is filed to condone the delay of 258 days in filing the A.D.No.114536 of 2019 in C.S.No.218 of 2018 to set aside the *ex-parte* judgment and decree dated 20.11.2018.

2. I heard the learned counsel for the applicant and the learned counsel for the respondent.

3. The learned counsel for the applicant submitted that the suit summons was served on the applicant's son with whom the applicant does not share a good relationship. Consequently, he submits that the non-appearance of the applicant before the Court on several days including 20.08.2018 was not on account of negligence or recklessness. He further submitted that immediately after coming to know about the *ex-parte* judgment and decree in the 1st week of July 2019, the present application has been filed. Consequently, he submits that the delay is liable to be condoned.

3. In response, the learned counsel appearing for the respondent submitted that the applicant was served earlier during the leave to sue stage

and therefore the applicant entered appearance through counsel.

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Consequently he submitted that the defence that the applicant's son received the suit summons is untenable in this regard and he also submits that the father and son are living in the same house. He further submitted that the suit claim is in respect of non-refunding of the security deposit by the landlord and that this is a substantial sum of money which the landlord unlawfully retained for a considerable period of time.

4. The oral submission of both sides were considered and the affidavit and counter affidavit were examined.

5. Upon consideration thereof, I am of the view that the delay is liable to be condoned on payment of costs for the inconvenience caused to the respondent who obtained an *ex-parte* judgment and decree on 20.11.2018. Therefore, this application is allowed subject to the condition that applicant shall pay costs of Rs.10,000/- (Rupees Ten Thousand Only) to the respondent on or before 19.12.2019. In the event that the above condition is not satisfied, this application shall stand dismissed ipso facto.

05.12.2019

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